

AN ACT concerning employment.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. The Freedom of Information Act is amended by changing Section 7.5 as follows:

(5 ILCS 140/7.5)

Sec. 7.5. Statutory exemptions. To the extent provided for by the statutes referenced below, the following shall be exempt from inspection and copying:

(a) All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act.

(b) Library circulation and order records identifying library users with specific materials under the Library Records Confidentiality Act.

(c) Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.

(d) Information and records held by the Department of Public Health and its authorized representatives relating

to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act.

(e) Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act.

(f) Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(g) Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act.

(h) Information the disclosure of which is exempted under the State Officials and Employees Ethics Act, and records of any lawfully created State or local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act.

(i) Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code.

(j) Information and data concerning the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act.

(k) Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code.

(l) Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act.

(m) Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act, except to the extent authorized under that Article.

(n) Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act. This subsection (n) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.

(o) Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act.

(p) Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Regional Transportation Authority under Section 2.11 of

the Regional Transportation Authority Act or the St. Clair County Transit District under the Bi-State Transit Safety Act.

(q) Information prohibited from being disclosed by the Personnel Records Review Act.

(r) Information prohibited from being disclosed by the Illinois School Student Records Act.

(s) Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act.

(t) All identified or deidentified health information in the form of health data or medical records contained in, stored in, submitted to, transferred by, or released from the Illinois Health Information Exchange, and identified or deidentified health information in the form of health data and medical records of the Illinois Health Information Exchange in the possession of the Illinois Health Information Exchange Authority due to its administration of the Illinois Health Information Exchange. The terms "identified" and "deidentified" shall be given the same meaning as in the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, or any subsequent amendments thereto, and any regulations promulgated thereunder.

(u) Records and information provided to an independent team of experts under Brian's Law.

(v) Names and information of people who have applied

for or received Firearm Owner's Identification Cards under the Firearm Owners Identification Card Act or applied for or received a concealed carry license under the Firearm Concealed Carry Act, unless otherwise authorized by the Firearm Concealed Carry Act; and databases under the Firearm Concealed Carry Act, records of the Concealed Carry Licensing Review Board under the Firearm Concealed Carry Act, and law enforcement agency objections under the Firearm Concealed Carry Act.

(w) Personally identifiable information which is exempted from disclosure under subsection (g) of Section 19.1 of the Toll Highway Act.

(x) Information which is exempted from disclosure under Section 5-1014.3 of the Counties Code or Section 8-11-21 of the Illinois Municipal Code.

(y) Confidential information under the Adult Protective Services Act and its predecessor enabling statute, the Elder Abuse and Neglect Act, including information about the identity and administrative finding against any caregiver of a verified and substantiated decision of abuse, neglect, or financial exploitation of an eligible adult maintained in the Registry established under Section 7.5 of the Adult Protective Services Act.

(z) Records and information provided to a fatality review team or the Illinois Fatality Review Team Advisory Council under Section 15 of the Adult Protective Services

Act.

(aa) Information which is exempted from disclosure under Section 2.37 of the Wildlife Code.

(bb) Information which is or was prohibited from disclosure by the Juvenile Court Act of 1987.

(cc) Recordings made under the Law Enforcement Officer-Worn Body Camera Act, except to the extent authorized under that Act.

(dd) Information that is prohibited from being disclosed under Section 45 of the Condominium and Common Interest Community Ombudsperson Act.

(ee) ~~(dd)~~ Information that is exempted from disclosure under Section 30.1 of the Pharmacy Practice Act.

(ff) Information and reports that are required to be submitted to the Department of Labor by registering day and temporary labor service agencies but are exempt from disclosure under subsection (a-1) of Section 45 of the Day and Temporary Labor Services Act.

(Source: P.A. 98-49, eff. 7-1-13; 98-63, eff. 7-9-13; 98-756, eff. 7-16-14; 98-1039, eff. 8-25-14; 98-1045, eff. 8-25-14; 99-78, eff. 7-20-15; 99-298, eff. 8-6-15; 99-352, eff. 1-1-16; 99-642, eff. 7-28-16; 99-776, eff. 8-12-16; 99-863, eff. 8-19-16; revised 9-1-16.)

Section 5. The Day and Temporary Labor Services Act is amended by changing Sections 10, 20, 30, and 45 and by adding

Section 33 as follows:

(820 ILCS 175/10)

Sec. 10. Employment Notice.

(a) Whenever a day and temporary labor service agency agrees to send one or more persons to work as day or temporary laborers, the day and temporary labor service agency shall provide to each day or temporary laborer, at the time of dispatch, a statement containing the following items on a form approved by the Department:

(1) the name of the day or temporary laborer;

(2) the name and nature of the work to be performed and the types of equipment, protective clothing, and training that are required for the task;

(3) the wages offered;

(4) the name and address of the destination of each day or temporary laborer;

(5) terms of transportation; and

(6) whether a meal or equipment, or both, are provided, either by the day and temporary labor service agency or the third party client, and the cost of the meal and equipment, if any.

If a day or temporary laborer is assigned to the same assignment for more than one day, the day and temporary labor service agency is required to provide the employment notice only on the first day of the assignment and on any day that any

of the terms listed on the employment notice are changed.

If the day or temporary laborer is not placed with a third party client or otherwise contracted to work for that day, the day and temporary labor service agency shall, upon request, provide the day and temporary laborer with a confirmation that the day or temporary laborer sought work, signed by an employee of the day and temporary labor service agency, which shall include the name of the agency, the name and address of the day or temporary laborer, and the date and the time that the day or temporary laborer receives the confirmation.

(b) No day and temporary labor service agency may send any day or temporary laborer to any place where a strike, a lockout, or other labor trouble exists.

(c) The Department shall recommend to day and temporary labor service agencies that those agencies employ personnel who can effectively communicate information required in subsections (a) and (b) to day or temporary laborers in Spanish, Polish, or any other language that is generally understood in the locale of the day and temporary labor service agency.

(Source: P.A. 99-78, eff. 7-20-15.)

(820 ILCS 175/20)

Sec. 20. Transportation.

(a) A day and temporary labor service agency or a third party client or a contractor or agent of either shall charge no

fee to transport a day or temporary laborer to or from the designated work site.

(b) A day and temporary labor service agency is responsible for the conduct and performance of any person who transports a day or temporary laborer from the agency to a work site, unless the transporter is: (1) a public mass transportation system as defined in Section 2 of the Local Mass Transit District Act; (2) a common carrier; (3) the day or temporary laborer providing his or her own transportation; or (4) selected exclusively by and at the sole choice of the day or temporary laborer for transportation in a vehicle not owned or operated by the day and temporary labor service agency. If any day and temporary labor service agency provides transportation to a day or temporary laborer or refers a day or temporary laborer as provided in subsection (c), the day and temporary labor service agency may not allow a motor vehicle to be used for the transporting of day or temporary laborers if the agency knows or should know that the motor vehicle used for the transportation of day or temporary laborers is unsafe or not equipped as required by this Act or by any rule adopted under this Act, unless the vehicle is: (1) the property of a public mass transportation system as defined in Section 2 of the Local Mass Transit District Act; (2) the property of a common carrier; (3) the day or temporary laborer's personal vehicle; or (4) a vehicle of a day or temporary laborer used to carpool other day or temporary laborers and which is selected

exclusively by and at the sole choice of the day or temporary laborer for transportation.

(c) A day and temporary labor service agency may not refer a day or temporary laborer to any person for transportation to a work site unless that person is (1) a public mass transportation system as defined in Section 2 of the Local Mass Transit District Act or (2) providing the transportation at no fee. Directing the day or temporary laborer to accept a specific car pool as a condition of work shall be considered a referral by the day and temporary labor service agency. Any mention or discussion of the cost of a car pool shall be considered a referral by the agency. Informing a day or temporary laborer of the availability of a car pool driven by another day or temporary laborer shall not be considered a referral by the agency.

(d) Any motor vehicle that is owned or operated by the day and temporary labor service agency or a third party client, or a contractor or agent of either, or to which a day and temporary labor service agency refers a day or temporary laborer, which is used for the transportation of day or temporary laborers shall have proof of financial responsibility as provided for in Chapter 8 of the Illinois Vehicle Code or as required by Department rules. The driver of the vehicle shall hold a valid license to operate motor vehicles in the correct classification and shall be required to produce the license immediately upon demand by the Department,

its inspectors or deputies, or any other person authorized to enforce this Act. The Department shall forward a violation of this subsection to the appropriate law enforcement authorities or regulatory agencies, whichever is applicable.

(e) No motor vehicle that is owned or operated by the day and temporary labor service agency or a third party client, or a contractor or agent of either, or to which a day and temporary labor service agency refers a day or temporary laborer, which is used for the transportation of day or temporary laborers may be operated if it does not have a seat and a safety belt for each passenger. The Department shall forward a violation of this subsection to the appropriate law enforcement authorities or regulatory agencies, whichever is applicable.

(f) If the day or temporary laborer is provided transportation from the point of application to the worksite by the hiring labor service agency operating pursuant to this Act, the day or temporary laborer shall also be provided transportation back to the point of application, unless the day or temporary laborer advises or agrees prior to leaving for the place of employment to obtain alternative transportation after the work shift is completed.

(Source: P.A. 94-511, eff. 1-1-06.)

(820 ILCS 175/30)

Sec. 30. Wage Payment and Notice.

(a) At the time of payment of wages, a day and temporary labor service agency shall provide each day or temporary laborer with a detailed itemized statement, on the day or temporary laborer's paycheck stub or on a form approved by the Department, listing the following:

(1) the name, address, and telephone number of each third party client at which the day or temporary laborer worked. If this information is provided on the day or temporary laborer's paycheck stub, a code for each third party client may be used so long as the required information for each coded third party client is made available to the day or temporary laborer;

(2) the number of hours worked by the day or temporary laborer at each third party client each day during the pay period. If the day or temporary laborer is assigned to work at the same work site of the same third party client for multiple days in the same work week, the day and temporary labor service agency may record a summary of hours worked at that third party client's worksite so long as the first and last day of that work week are identified as well. The term "hours worked" has the meaning ascribed to that term in 56 Ill. Adm. Code 210.110 and in accordance with all applicable rules or court interpretations under 56 Ill. Adm. Code 210.110;

(3) the rate of payment for each hour worked, including any premium rate or bonus;

(4) the total pay period earnings;

(5) all deductions made from the day or temporary laborer's compensation made either by the third party client or by the day and temporary labor service agency, and the purpose for which deductions were made, including for the day or temporary laborer's transportation, food, equipment, withheld income tax, withheld social security payments, and every other deduction; and

(6) any additional information required by rules issued by the Department.

(a-1) For each day or temporary laborer who is contracted to work a single day, the third party client shall, at the end of the work day, provide such day or temporary laborer with a Work Verification Form, approved by the Department, which shall contain the date, the day or temporary laborer's name, the work location, and the hours worked on that day. Any third party client who violates this subsection (a-1) may be subject to a civil penalty not to exceed \$500 for each violation found by the Department. Such civil penalty may increase to \$2,500 for a second or subsequent violation. For purposes of this subsection (a-1), each violation of this subsection (a-1) for each day or temporary laborer and for each day the violation continues shall constitute a separate and distinct violation.

(b) A day and temporary labor service agency shall provide each worker an annual earnings summary within a reasonable time after the preceding calendar year, but in no case later than

February 1. A day and temporary labor service agency shall, at the time of each wage payment, give notice to day or temporary laborers of the availability of the annual earnings summary or post such a notice in a conspicuous place in the public reception area.

(c) At the request of a day or temporary laborer, a day and temporary labor service agency shall hold the daily wages of the day or temporary laborer and make either weekly, bi-weekly, or semi-monthly payments. The wages shall be paid in a single check, or, at the day or temporary laborer's sole option, by direct deposit or other manner approved by the Department, representing the wages earned during the period, either weekly, bi-weekly, or semi-monthly, designated by the day or temporary laborer in accordance with the Illinois Wage Payment and Collection Act. Vouchers or any other method of payment which is not generally negotiable shall be prohibited as a method of payment of wages. Day and temporary labor service agencies that make daily wage payments shall provide written notification to all day or temporary laborers of the right to request weekly, bi-weekly, or semi-monthly checks. The day and temporary labor service agency may provide this notice by conspicuously posting the notice at the location where the wages are received by the day or temporary laborers.

(d) No day and temporary labor service agency shall charge any day or temporary laborer for cashing a check issued by the agency for wages earned by a day or temporary laborer who

performed work through that agency. No day and temporary labor service agency or third party client shall charge any day or temporary laborer for the expense of conducting any consumer report, as that term is defined in the Fair Credit Reporting Act, 15 U.S.C. 1681a(d), any criminal background check of any kind, or any drug test of any kind.

(e) Day or temporary laborers shall be paid no less than the wage rate stated in the notice as provided in Section 10 of this Act for all the work performed on behalf of the third party client in addition to the work listed in the written description.

(f) The total amount deducted for meals, equipment, and transportation may not cause a day or temporary laborer's hourly wage to fall below the State or federal minimum wage. However, a day and temporary labor service agency may deduct the actual market value of reusable equipment provided to the day or temporary laborer by the day and temporary labor service agency which the day or temporary laborer fails to return, if the day or temporary laborer provides a written authorization for such deduction at the time the deduction is made.

(g) A day or temporary laborer who is contracted by a day and temporary labor service agency to work at a third party client's worksite but is not utilized by the third party client shall be paid by the day and temporary labor service agency for a minimum of 4 hours of pay at the agreed upon rate of pay. However, in the event the day and temporary labor service

agency contracts the day or temporary laborer to work at another location during the same shift, the day or temporary laborer shall be paid by the day and temporary labor service agency for a minimum of 2 hours of pay at the agreed upon rate of pay.

(h) A third party client is required to pay wages and related payroll taxes to a licensed day and temporary labor service agency for services performed by the day or temporary laborer for the third party client according to payment terms outlined on invoices, service agreements, or stated terms provided by the day and temporary labor service agency. A third party client who fails to comply with this subsection (h) is subject to the penalties provided in Section 70 of this Act. The Department shall review a complaint filed by a licensed day and temporary labor agency. The Department shall review the payroll and accounting records of the day and temporary labor service agency and the third party client for the period in which the violation of this Act is alleged to have occurred to determine if wages and payroll taxes have been paid to the agency and that the day or temporary laborer has been paid the wages owed him or her.

(Source: P.A. 95-499, eff. 8-28-07; 96-1185, eff. 7-22-10.)

(820 ILCS 175/33 new)

Sec. 33. Permanent placement. A day and temporary labor service shall attempt to place a current temporary laborer into

a permanent position with a client when the client informs the agency of its plan to hire a permanent employee for a position like the positions for which employees are being provided by the agency at the same work location.

(820 ILCS 175/45)

Sec. 45. Registration; Department of Labor.

(a) A day and temporary labor service agency which is located, operates or transacts business within this State shall register with the Department of Labor in accordance with rules adopted by the Department for day and temporary labor service agencies and shall be subject to this Act and any rules adopted under this Act. Each day and temporary labor service agency shall provide proof of an employer account number issued by the Department of Employment Security for the payment of unemployment insurance contributions as required under the Unemployment Insurance Act, and proof of valid workers' compensation insurance in effect at the time of registration covering all of its employees. If, at any time, a day and temporary labor service agency's workers' compensation insurance coverage lapses, the agency shall have an affirmative duty to report the lapse of such coverage to the Department and the agency's registration shall be suspended until the agency's workers' compensation insurance is reinstated. The Department may assess each day and temporary labor service agency a non-refundable registration fee not exceeding \$1,000 per year

per agency and a non-refundable fee not to exceed \$250 for each branch office or other location where the agency regularly contracts with day or temporary laborers for services. The fee may be paid by check , ~~or~~ money order , or the State Treasurer's E-Pay program or any successor program, and the Department may not refuse to accept a check on the basis that it is not a certified check or a cashier's check. The Department may charge an additional fee to be paid by a day and temporary labor service agency if the agency, or any person on the agency's behalf, issues or delivers a check to the Department that is not honored by the financial institution upon which it is drawn. The Department shall also adopt rules for violation hearings and penalties for violations of this Act or the Department's rules in conjunction with the penalties set forth in this Act.

(a-1) At the time of registration with the Department of Labor each year, the day and temporary labor service agency shall submit to the Department of Labor a report containing the information identified in paragraph (9) of subsection (a) of Section 12, broken down by branch office, in the aggregate for all day or temporary laborers assigned within Illinois and subject to this Act during the preceding year. This information shall be submitted on a form created by the Department of Labor. The Department of Labor shall aggregate the information submitted by all registering day and temporary labor service agencies by removing identifying data and shall have the

information available to the public only on a municipal and county basis. As used in this paragraph, "identifying data" means any and all information that: (i) provides specific information on individual worker identity; (ii) identifies the service agency in any manner; and (iii) identifies clients utilizing the day and temporary labor service agency or any other information that can be traced back to any specific registering day and temporary labor service agency or its client. The information and reports submitted to the Department of Labor under this subsection by the registering day and temporary labor service agencies are exempt from inspection and copying under Section 7.5 of the Freedom of Information Act.

(b) It is a violation of this Act to operate a day and temporary labor service agency without first registering with the Department in accordance with subsection (a) of this Section. The Department shall create and maintain at regular intervals on its website, accessible to the public: (1) a list of all registered day and temporary labor service agencies in the State whose registration is in good standing; (2) a list of day and temporary labor service agencies in the State whose registration has been suspended, including the reason for the suspension, the date the suspension was initiated, and the date, if known, the suspension is to be lifted; and (3) a list of day and temporary labor service agencies in the State whose registration has been revoked, including the reason for the revocation and the date the registration was revoked. The

Department has the authority to assess a penalty against any day and temporary labor service agency that fails to register with the Department of Labor in accordance with this Act or any rules adopted under this Act of \$500 for each violation. Each day during which a day and temporary labor service agency operates without registering with the Department shall be a separate and distinct violation of this Act.

(c) An applicant is not eligible to register to operate a day and temporary labor service agency under this Act if the applicant or any of its officers, directors, partners, or managers or any owner of 25% or greater beneficial interest:

(1) has been involved, as owner, officer, director, partner, or manager, of any day and temporary labor service agency whose registration has been revoked or has been suspended without being reinstated within the 5 years immediately preceding the filing of the application; or

(2) is under the age of 18.

(d) Every agency shall post and keep posted at each location, in a position easily accessible to all employees, notices as supplied and required by the Department containing a copy or summary of the provisions of the Act and a notice which informs the public of a toll-free telephone number for day or temporary laborers and the public to file wage dispute complaints and other alleged violations by day and temporary labor service agencies. Such notices shall be in English or any other language generally understood in the locale of the day

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and temporary labor service agency.

(Source: P.A. 94-511, eff. 1-1-06.)