



Illinois Human Rights Act Amendment (HB 3773)

What the Illinois regulation requires for AI in
employment and who is exposed





Illinois Human Rights Act Amendment (HB 3773)

The Headline

Effective January 1, 2026, House Bill 3773 amends the Illinois Human Rights Act to require employers to provide formal notification when using AI in employment decisions. Furthermore, it explicitly prohibits discrimination driven by AI, including the use of zip codes as proxies for protected classes.

Key Facts

- Effective January 1, 2026
- Amends the Illinois Human Rights Act
- Mandates formal AI notice requirements
- Prohibits AI-driven discrimination

Why this regulation matters

Expansion of Liability

Employers are strictly liable if AI deployment results in a discriminatory “effect” on protected classes, regardless of whether such discrimination was intentional.

Direct Civil Rights Violations

Failure to provide required notices or the use of prohibited technical proxies (zip codes) constitutes a formal civil rights violation.

Broad Functional Scope

Regulatory surveillance extends beyond hiring to include promotion, renewal, discipline, discharge, and selection for training.

Erosion of “Vendor Defense”

Regulatory expectations place the burden of technical oversight on the deployer, requiring proactive due diligence of third-party HR tech.

What Illinois Human Rights Act Amendment (HB 3773) requires

1

Mandatory AI Notification

Employers must notify employees and applicants that AI is being used to "influence or facilitate" covered employment decisions.

2

Technical Proxy Prohibition

Systems are forbidden from using zip codes as a proxy for protected classes.

3

Accommodation Transparency

Notices must inform individuals of their right to request a reasonable accommodation and provide clear instructions for doing so.

4

Rulemaking Compliance

Employers must adhere to Department of Human Rights rules regarding the "time, means, and conditions" for providing notice.

5

Record Preservation

AI-related notices, postings, and disclosures must be maintained for a period of four years.

Who is exposed?

Direct Exposure

Employers

Anyone who employs one or more people in Illinois for more than 20 weeks in a year.

Labor Organizations

Unions with hiring halls or those dealing with grievances and apprenticeships.

Employment Agencies RPOs &

Public and private agencies undertaking to recruit, refer, or place employees.

Indirect Exposure

Public Contractors

Parties to public contracts are in scope regardless of their total employee count.

AI Technology Vendors

Must provide necessary technical documentation and bias-monitoring data to facilitate client defensibility.

Critical protected characteristics

HB 3773 protects against AI-driven discrimination across all categories defined in the IHRA, including:

Race, Color & Ancestry

Including traits associated with race, such as hair texture and protective hairstyles.

Religion & National Origin

Protection against discrimination based on religious belief and national origin.

Sex

Including pregnancy, childbirth, and related medical conditions.

Age

Individuals aged 40 and over.

Disability

Both physical and mental disability.

Sexual Orientation & Gender Identity

Full protection across orientation and gender identity categories.

- Military Status and Unfavorable Discharge from military service.
- Marital Status and Order of Protection Status.

- Arrest Record, Conviction Record, and Citizenship Status.

Zip codes as proxies: The "Evidence First" rule

Under the "Evidence First Rule," HB 3773 prohibits zip codes in AI models as an anchor against proxy discrimination. While geographically neutral, their use often functions as a high-fidelity "stand-in" for protected classes.

Mechanism of Proxy Discrimination

Indirect Bias

Proxy discrimination occurs when a non-protected variable (e.g., zip code) correlates highly with a protected characteristic, producing biased outcomes.

Algorithmic Replication

AI systems can "learn" historical patterns of segregation. Using zip codes for "top-tier talent" or "target job ads" may inadvertently exclude protected demographic groups concentrated geographically.

"Discriminatory Effect"

HB 3773 focuses on the discriminatory effect. If AI use of zip codes results in disparate impact on a protected class, employers are liable, regardless of intent.

IHRA Links to Geographic Data

Race, Color & National Origin

Historical housing patterns mean zip codes often serve as a surrogate for racial and ethnic identity, risking systemic exclusion.

Religion & Ancestry

Geographic filtering can inadvertently target or exclude specific religious groups and ancestral communities.

Socio-Economic Status

Zip codes correlate strongly with household income, creating class-based filters that disproportionately impact various protected categories.

Timing and regulatory trajectory

Effective Date

January 1, 2026, HB 3773 comes into force, mandating compliance with all AI notice and prohibition requirements.

Jurisdictional Trend

Illinois joins [Colorado](#) and [NYC](#) in establishing a clinical standard for AI technical oversight in employment.

1

2

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Ongoing Rulemaking

The Illinois Department of Human Rights is currently drafting specific regulations for implementation, including notice templates and accessibility standards.



[Watch this space:](#) IDHR rulemaking is active. Notice templates and accessibility standards are forthcoming. Organizations should monitor regulatory updates closely.

Market takeaways and actions

1 Perform System Inventory

Identify all “machine-based systems” used to facilitate decisions across the 15+ protected characteristics.

2 Technical Proxy Audit

Formally verify with vendors that zip codes are not operationalized in model training or real-time decisioning.

3 Deploy Standardized Notices

Ensure notice is provided annually to employees, within 30 days of system updates, and in all job postings.

4 Institutionalize Reasonable Accommodations

Update AI notices to include a specific point of contact and process for accommodation requests.

5 Conduct Disparate Impact Testing

While not explicitly mandated by HB 3773, proactive bias audits are essential to defend against “discriminatory effect” liability.

About Warden AI

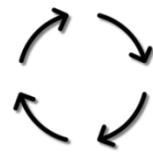


Warden helps staffing and recruitment firms buy, build and defend AI solutions with confidence.



Independent AI audits of your AI stack

AI audits for both third-party tools and in-house solutions. Meet regulatory requirements and give confidence to clients.



Continuous monitoring for in-house AI solutions

Catch and mitigate AI risks early, with always-on testing and monitoring of AI solutions.



Defensible Audit Trail

Timestamped, versioned records of AI performance over time help you withstand client and legal scrutiny.

The screenshot shows the 'sense AI Assurance Dashboard'. At the top, it says 'sense AI Assurance Dashboard'. Below that, there's a section titled 'AI Auditing and Assurance' with a 'Warden AI Assured by' badge. The text describes how Sense uses Warden AI for third-party assurance. Below this, there are four checked items: 'Independent assurance', 'Continuous bias auditing', 'Post-market monitoring', and 'Transparent reporting'. There are dropdown menus for 'Product: Candidate Matching' and 'Product: Pre-Screening Bot', and a 'Download report' button. A section titled 'Sense - Candidate Matching' describes the system's use of AI for hiring. To the right, there's an 'Audit results' section with a green donut chart showing 100% completion.



Meet regulatory requirements for AI



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