

2027 Illinois Employment Laws and ICE Raids

Prepared for Attendees of the WORKFORCE SUMMIT

October 1, 2026

Scott Cruz

Labor & Employment Attorney

(312) 658-6608

Scruz@Ubglaw.com

Illinois Menopause Equity and Care Act

(Effective January 1, 2027)

- On August 7, 2026, Governor JB Pritzker signed the Illinois Menopause Equity and Care Act (the “Act”), which amends the Illinois Human Rights Act (“IHRA”) and expands the IHRA’s existing protections against pregnancy discrimination and reasonable-accommodation requirements to apply to **menopause-related conditions**. The Act’s amendments to the IHRA take effect January 1, 2027.
- Applies to Illinois employers with one or more employees.
- Act expands the definition of “**pregnancy**.” to include “**menopause-related condition**.”
- “**Pregnancy**” will now be defined under the IHRA to mean “pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth, **including menopause-related conditions**.”
- A “**menopause-related condition**” is defined under the IHRA as “**perimenopause, menopause, and associated medical or symptomatic conditions that include, but are not limited to, vasomotor symptoms, sleep disruption, cognitive or mood changes, and osteoporosis-related changes**.”

Illinois Menopause Equity and Care Act

- Under the IHRA, unlawful discrimination and harassment explicitly applies to both **actual and perceived classes**.
- That is, the IHRA considers it an unlawful act of discrimination *even if* the employee does not actually meet the definition under the protected category, but so long as the employer treats the employee as if they do, **and** the employer acts adversely based on that belief (regardless if it is incorrect), the adverse action may constitute unlawful discrimination.
- Potential claims – *e.g.* **actual** discrimination on the basis of (1) sex; and (2) age; and **perceived** discrimination on the basis of (3) a menopause-related conditions.

Illinois Menopause Equity and Care Act

• Beginning January 1, 2027, employers must provide reasonable accommodations to employees or applicants for menopause-related conditions, unless doing so would create an **undue hardship**. Notably, the Act incorporates menopause-related conditions into Illinois' existing pregnancy accommodation framework. IHRA requires a timely, good-faith, and meaningful exchange between the **employee or applicant** to identify an effective reasonable accommodation, including:

- More frequent or longer rest, water, or bathroom breaks;
- Flexible scheduling
- Modified work hours;
- A temperature- or climate-adjusted workspace;
- Access to a fan, cooler work location, or modified uniform requirements when feasible;
- Temporary job restructuring, modified duties, or reassignment to a vacant position; and
- Leave when appropriate and when another effective accommodation is unavailable.

Illinois Menopause Equity and Care Act

- Any applicant or employee who believes they require accommodation(s) to perform the essential functions of the job should contact Human Resources to request such accommodation(s).
- Employees should specify what accommodation they need to perform the essential functions of the position and submit supporting medical documentation or information explaining, among other relevant information: (1) the nature of the physical or mental condition and/or disability (no diagnosis); (2) the need for the requested accommodation; (3) how the requested accommodation will permit the employee to perform the essential functions of the employee's job; and (4) the expected time period in which the employee will require the requested accommodation.
- Additionally, please note that even where the Company is required to provide reasonable accommodation(s), it is not obligated to provide the specific accommodation that you request if another accommodation would also be effective.
- Employees who are granted reasonable accommodations will generally be required to perform all essential job functions of their position and to meet the same performance standards and expectations with respect to those job functions as required of similarly situated employees, unless otherwise provided by applicable law.

Illinois Menopause Equity and Care Act

- Once the law goes into effect, Illinois employers will be prohibited from making employment decisions based on a menopause-related condition, (2) denying a reasonable accommodation for a known limitation related to a menopause-related condition absent undue hardship, (3) requiring an employee to accept an unrequested accommodation, (4) requiring leave where another effective accommodation is available, or (5) retaliating against an employee or applicant for requesting or using an accommodation.
- **Other Considerations**
- IHRA pregnancy provisions and **undue hardship factors** – (the # of persons employed at the facility; the impact otherwise of the accommodation upon the operation of the facility; the overall size of the business of the employer with respect to the # of its employees.
- FMLA (if applicable); Paid Leave for All Workers Act; Paid Sick Leave (if applicable); ADA; and the Pregnant Workers Fairness Act.

Illinois Menopause Equity and Care Act

- Required notice under the IHRA must include language relating to “the right to certain reasonable accommodations, including the right to reasonable accommodations for pregnancy, which includes the right to reasonable accommodations for menopause-related conditions.”



State of Illinois
Department of Human Rights



PREGNANCY and your **RIGHTS** in the **WORKPLACE**

Are you pregnant, recovering from childbirth, or do you have a medical or common condition related to pregnancy?

If so, you have the right to:

- Ask your employer for a reasonable accommodation for your pregnancy, such as more frequent bathroom breaks, assistance with heavy work, a private space for expressing milk, or time off to recover from your pregnancy.
- Reject an unsolicited accommodation offered by your employer for your pregnancy.
- Continue working during your pregnancy if a reasonable accommodation is available which would allow you to continue performing your job.

Your employer cannot:

- Discriminate against you because of your pregnancy.
- Retaliate against you because you requested a reasonable accommodation.

PREGNANCY and your **RIGHTS** in the **WORKPLACE**

It is illegal for your employer to fire you, refuse to hire you or to refuse to provide you with a reasonable accommodation because of your pregnancy. For more information regarding your rights, download the Illinois Department of Human Rights' fact sheet from our website at dhr.illinois.gov

Es ilegal que su empleador la despidiera, se niegue a contratarla o a proporcionarle una adaptación razonable a causa de su embarazo. Para obtener información sobre el embarazo y sus derechos en el lugar de trabajo en español, visite dhr.illinois.gov



**For immediate help or if you have questions, call
(312) 814-6200 or (217) 785-5100 or (866) 740-3953 (TTY)**

CHICAGO
555 West Monroe St.
Suite 700, Intake Unit
Chicago, IL 60661
(312) 814-6200

SPRINGFIELD
524 S. 2nd St.
Suite 300, Intake Unit
Springfield, IL 62701
(217) 785-5100

Learn more, contact IDHR, or initiate a charge at:
<https://dhr.illinois.gov>

Illinois Menopause Equity and Care Act

Ahead of the Act's January 1, 2027 effective date, employers with operations in Illinois should:

- Monitor the Illinois Department of Human Rights for its updated poster/notice and any further guidance on the Illinois Menopause Equity and Care Act.
- Plan to update its Illinois Department of Human Rights notices before the effective date.
- Update your organization's handbook provisions, accommodation policies, and forms addressing equal employment opportunity, anti-discrimination, accommodations, leave, and complaint reporting. Pregnancy-specific language should be expanded to expressly reference menopause-related conditions. Electronic posting and handbook-distribution processes should also cover remote and hybrid Illinois employees.
- Train HR staff, managers, and leave administrators on receiving workplace accommodation requests, maintaining confidentiality, and engaging in the interactive process.

Amendments to the Illinois Jury Act (Effective January 1, 2027)

Amends the **Illinois Jury Act** to now **require** employers with **more than 25 employees** (*i.e.* 26+) to **“compensate an employee at their regular rate of pay for the time serving on a jury duty.”**

- Employers with 25 or fewer employees are exempt from the new compensation requirement. They remain subject to Illinois law protecting an employee’s right to take time off for jury service.
- **Not changed** - Employees are still required to provide reasonable notice by delivering a copy of the jury summons to their employer within 10 days after the summons is issued.
- **Not changed** - Employers may not discharge, threaten to discharge, intimidate, or coerce an employee because of actual or scheduled jury service. Employers also must provide time off regardless of the employee’s assigned shift. *For example*, an employer may not require a night-shift employee to work at night while the employee is serving on a jury during the day.
- Sec. 4.1 of the JA: Jury duty; notice to employer; right to time off. (a) Any person who is not legally disqualified to serve on juries, and has been duly summoned for jury duty for either petit or grand jury service, **shall be given time off from employment to serve upon the jury for which such employee is summoned, regardless of the employment shift such employee is assigned to at the time of service of such summons.**

Amendments to the Illinois Jury Act

- **CONSIDERATIONS: Exempt** employees and jury duty **PAY**.
 - Applicable Fair Labor Standards Act (“FLSA”) regulations provide (a) “Subject to the exceptions provided in paragraph (b) of this section, **an exempt employee must receive the full salary for any week in which the employee performs any work without regard to the number of days or hours worked.** Exempt employees need not be paid for any workweek in which they perform no work.
 - Exceptions. (b)(3). **While an employer cannot make deductions from pay for absences of an exempt employee occasioned by jury duty, . . . , the employer can offset any amounts received by an employee as jury fees, . . . for a particular week against the salary due for that particular week without loss of the exemption.**

Amendments to the Illinois Jury Act

- Unanswered Questions:
- **How employers should calculate the “regular rate of pay” –**
 - Does this mean pay for *all the time* spent on jury duty, *but limited to* the time the employee *was actually scheduled to work while out on jury duty*; **or**
 - Does this mean pay for *all the time* spent on jury duty, *regardless* of the employee’s actual work schedule during the time period out on jury duty.
 - **2nd and 3rd Shift employees; part-time employees; two part-time jobs for two different employers >25 employees; weekends only; or 3/12 Hour Shifts**
- Whether jury-service pay may be charged against an employee’s accrued vacation, paid time off, or other paid-leave bank?
- Whether county-paid juror compensation may be credited against wages owed by the employer?

Amendments to the Illinois Jury Act

- Determine coverage. Confirm whether the organization has more than 25 employees, seeking advice if the headcount fluctuates or spans multiple entities or states.
- Revise jury-duty policies. Update employee handbooks, leave policies, and internal guidance to reflect paid jury leave for covered employees beginning January 1, 2027.
- Review payroll procedures. Establish a process for recording jury-service time and paying affected employees at the appropriate regular rate.
- Address related leave rules. Review the treatment of PTO, varying schedules, juror stipends, salaried and hourly employees, and extended trials.
- Standardize documentation. Establish a consistent process for receiving summonses, confirming service, retaining records, and applying the 10-day notice requirement.
- Train HR and managers. Ensure those handling attendance and scheduling understand both the new pay obligation and the existing prohibition against discouraging or retaliating against jury service.
- Review multistate practices. Determine whether national policies require an Illinois supplement or state-specific payroll procedure.

Amendment to the Illinois Human Rights Act – Civil Rights Safeguard Act

(Effective January 1, 2027)

- A policy or practice can create disparate impact when it appears **neutral on its face but disproportionately affects members of a protected group** (e.g., based on race, sex, age, disability, religion, or national origin) and is not justified by business necessity.
- The proposed amendment provides: “It is a civil rights violation for any employer, employment agency, or labor organization to use **“criteria or methods”** in any act [under] section 2-102 (e.g. recruitment, hiring, promotion, renewal of employment, discharge, discipline, termination, conditions or privileges of employment, etc.) **that have the effect** of subjecting individuals to **discrimination** on the basis of **unlawful discrimination, citizenship status, family responsibilities, work authorization status, arrest record, or conviction record.**”
- **“Criteria or methods”** is defined to include **“practices, policies, and groups of practices or policies that *may* have the effect** of subjecting individuals to discrimination prohibited under this Act.”
- Thus, the policies and/or practices do **not** have actually have to in fact cause discrimination; just **“may have”** a discriminatory effect. So, a policy and/or practice that could *theoretically discriminate* could/will seemingly be found to be unlawful.

Amendment to the Illinois Human Rights Act – Civil Rights Safeguard Act

- **“Hiring Practice:** **Example:** Only will hire US citizens and/or will not hire anyone with a green card. **Potential impact – (citizenship status and/or work authorization status):** May disproportionately affect employees who are not U.S. citizens but are legally authorized to work in the US.
- **English-Only Workplace Rules.** **Example:** Employees may only speak English while on company premises at all times. **Potential impact (national origin):** May disproportionately affect employees of certain national origins.
- **No remote work.** **Example:** Under no circumstances will we permit remote work. **Potential impact (Family responsibilities):** May disproportionately affect employees (regardless of sex) who may be the sole child carer or sole caregiver for elderly parents.
- **Criminal History Exclusion Policies/Practice.** **Example:** Any applicant or employee who has ever been arrested or has a felony conviction is automatically disqualified. **Potential impact (Arrest record and Criminal conviction):** May disproportionately affect certain racial groups because of purported disparities in the criminal justice system.
- **Prohibit certain hair styles** e.g. no braid, dreadlocks. **Potential impact (Race):** May disproportionately affect certain racial groups who commonly have those hair types.

Amendment to the Illinois Human Rights Act – Civil Rights Safeguard Act

- The **burden is on the employer** to prove that the specific practice or policy is (1) job-related and consistent with business necessity; **and** (2) that there was no better way to accomplish the need through another policy that has a less discriminatory effect.
- “Such criteria or methods are unlawful under this Section if:
 - (i) the [employer] **fails to demonstrate** that the criteria or methods are job related for the position in question and consistent with business necessity; **or**
 - (ii) **the [employer] demonstrates** that the criteria or methods are job related for the position in question and consistent with business necessity **[but] the complainant demonstrates** that the business necessity could be served by another employment practice that has a less discriminatory effect.”

Amendment to the Illinois Human Rights Act – Civil Rights Safeguard Act

- Employers should begin reviewing hiring practices, background screening practices, promotion standards, and other employment policies to assess whether they **may** have a disparate impact based on a protected class and if so, be able to articulate that the specific practice or policy is (1) job related and consistent with business necessity and (2) there is no other reasonable way to accomplish what it sets out to do in any less discriminatory manner.
- To be clear, Title VII has always (and still does) prohibit policies or practices that despite being facially neutral, have a disproportionately adverse effect on an entire protected class.
- Under Title VII, if an employee wishes to prove discrimination on a disparate impact theory, the burden remains with the employee to show that a specific practice directly caused the unequal outcomes, and they must also identify another approach that would be equally effective for employers but would result in fewer unequal outcomes.
- Under the EEOC's new guidelines, it is not investigating Charges of Discrimination alleging a disparate impact; will only review disparate treatment.

Illinois Freedom to Work Act

- **Non-Compete** - On January 1, 2027, the salary threshold to enter in a non-compete on or after this date increases from \$75,000 to \$80,000.
- **Non-Solicitation of Employers/Customers** - On January 1, 2027, the salary threshold to enter in a non-solicitation on or after this date increases from \$45,000 to \$47,500.
- Remember too . . . for a non-compete and/or non-solicitation to be legal and enforceable, employee must receive “adequate consideration” and (1) the employer must advise the employee in writing to consult with an attorney before entering into one or both; and (2) the employer must provide the employee with a copy of both at least 14 calendar days before the commencement of the employee's employment or the employer provides the employee with at least 14 calendar days to review the covenant.

Amendment to the Job Opportunities for Qualified Applicants Act

(Effective January 1, 2027)

- The proposed amendment provides that “An employer or employment agency may **not** include in any specific job posting a statement that an applicant must have a valid driver’s license, **unless driving is one of the essential functions of the posted job and is a business necessity.**”
- The proposed amendment provided “If a job requires a valid driver’s license, the employer or employment agency **shall include in the job posting a brief description explaining why a valid driver’s license is required.**”
- Under the amendment, “Driver's license” means “any license or privilege to operate a motor vehicle issued under the laws of this State.”
- Applies to employers with 15 or more employees.

Amendment to the Unemployment Insurance Act

(Effective January 1, 2027)

• “When an employer employing **75 or more employees in [Illinois]** at any point in time during the calendar year immediately preceding the calendar year in which **a layoff or separation occurs** resulting **in the separation of 50 or more employees at a single site of employment**, excluding part-time employees as defined in subsection (e) of Section 5 of the Illinois Worker Adjustment and Retraining Notification Act, the employer **shall submit to the Illinois Department of Employment Security:**

- (a) the name of each separated employee;
- (b) each separated employee’s social security number;
- (c) the beginning date of each employee's separation; and
- (d) if applicable, the return to work date for each such employee,
- (e) to the Illinois Department of Employment Security in the secure manner prescribed by the Department.”

Amendment to the Unemployment Insurance Act

(Effective January 1, 2027)

- “Submissions . . . shall be sent to the IDES as soon as practicable prior to the beginning of any such separation.”
- “Submission of the information by an employer . . . shall not be construed as a determination of eligibility for unemployment insurance benefits, and shall have no effect on an individual or employing unit's rights or responsibilities under the Act.”
- Does not apply to employers in the construction industry covered by a CBA.

Amendment to the Volunteer Emergency Worker Protection Act

(Effective January 1, 2027)

- The proposed amendment provides that “No public or private employer may terminate **or penalize** an employee who is a **volunteer emergency worker** because the employee, when acting as a volunteer emergency worker, **is absent from or late to his or her employment** in order to respond to an emergency prior to the time the employee is to report to his or her place of employment **or is participating in training that the employee is required to participate in as a volunteer emergency worker.**”
- The proposed amendment provides that “An employer may charge, against the employee's regular pay, any time that an employee who is a volunteer emergency worker loses from employment because of the employee's response to an emergency in the course of performing his or her duties as a volunteer emergency worker **or participation in training that the employee is required to participate in as a volunteer emergency worker. The employer may not require the employee to take vacation time or other compensatory time in order to respond to an emergency or participate in training**”
- “This Act does not apply to any employer that is a municipality with a population of **15,000** ~~7,500~~ or more.”

Overview of *Johnson v. Amazon.Com Services, LLC*

- The Illinois Supreme Court's March 19, 2026 decision in *Johnson v. Amazon.com Services LLC* represents a significant clarification of wage-and-hour obligations under the Illinois Minimum Wage Law ("IMWL"), particularly as they relate to compensable work time for **hourly, non-exempt employees in Illinois**.
- The case arose from claims by Amazon hourly warehouse employees who alleged they were not paid for time spent undergoing mandatory *pre-shift* COV-19 screenings. The Amazon employees argued that these mandatory pre-shift COVID screenings constituted compensable "hours worked" under the IMWL. Amazon countered that such activities were non-compensable under the IMWL because the IMWL adopted the provisions of the federal Fair Labor Standards Act ("FLSA") Portal-to-Portal Act ("PPA"), which excludes certain preliminary and postliminary activities from compensable time.
- The legal question presented to the Illinois Supreme Court was the following: Does the IMWL incorporate the FLSA's PPA provisions into its provisions?
- The Court answered that question in the **negative**, holding that the IMWL stands on its own statutory and regulatory framework and, therefore, does not incorporate the FLSA's PPA's provisions.

Key Holding: No Incorporation of the Portal-to-Portal Act

- The core of *Johnson* is the Illinois Supreme Court's clear holding that the IMWL does not incorporate the FLSA's PPA's exceptions for *preliminary and postliminary* activities (*i.e.* activities that occur on the employer's premises either before the employee punches in or after the employee punches out).
- As a refresher, the Portal-to-Portal Act amended the FLSA, and in doing so, **excludes** from "**compensable**" work time under the FLSA so-called "**preliminary or postliminary**" activities that employees may be required to perform before clocking-in for the start of their shift or after clocking-out at the end of their shift.
- Such preliminary or postliminary activities often include things like commuting (walking from the facility entrance to the time clock), changing clothes, security screenings, and donning and doffing certain work-related protective equipment.
- These kinds of activities, although ancillary to performing compensable duties, generally are **not compensable under the FLSA**, *unless* they are "integral and indispensable" to the employee's principal duties.
- In other words, job duties that the employee cannot dispense with if they are to perform their job safely and effectively.

Illinois Supreme Court Broadens the Scope of Compensable Work Time Under the IMWL

- The IMWL, and its applicable **regulations** drafted by the Illinois Department of Labor, adopt a different approach than the PPA, according to the Illinois Supreme Court and the 7th Circuit Court of Appeals.
- The concept of “hours worked” under the IMWL is central to the *Johnson* decision and to IL employer compliance more broadly.
- Under the applicable regulations interpreting the IMWL, the Illinois Department of Labor defined “hours worked” [which must be paid] broadly as: “**All the time an employee is:**
 - (1) **required to be on duty**; or
 - (2) **required to be on the employer’s premises**; or
 - (3) **required at other prescribed places of work**, and
 - (4) any additional time the employee is ***required*** or permitted to work for the employer is compensable time.
- Now, to determine whether an activity undertaken by an hourly employee either pre–or post-shift is compensable under the IMWL, the key inquiry is whether the hourly employee is ***required to be on duty, or on the employer’s premises, or at other prescribed places of work***, regardless of the reason for needing to be on the premises.

Illinois Supreme Court Broadens the Scope of Compensable Work Time Under the IMWL

One of the most significant practical effects of *Johnson* is the expansion of potentially compensable time for Illinois hourly employees. Activities that IL employers previously treated as **non-compensable** based on the FLSA and PPA—such as security screenings, certain waiting periods, or procedural requirements—must now be reassessed under the IMWL’s broader standard, because they likely are **compensable**:

- Donning or doffing required protective clothing, uniforms, or safety gear;
- Booting up/down and logging on/off computer, logging into VPN’s and opening work applications (**theory being start up tasks are vital because the computers are needed to perform primary duties**);
- Troubleshooting technical issues before starting primary duties;
- Installing or updating required software or updates;
- Completing pre- or post-shift security inspections or screenings;
- Conducting safety or equipment inspections;
- Retrieving and returning required tools or equipment.

WHEN ICE COMES KNOCKING ...

1. **Ask for the ICE officers to identify themselves.** Make a copy of the officers' business cards.
2. **Contact counsel.** When ICE officers arrive at the worksite, immediately reach out to counsel. The company representative should let the enforcement officer know that they are calling counsel. Counsel may be able to come to the worksite promptly if they are closer by or speak to the enforcement officers over the phone if they are not.
3. **Determine if a warrant exists.** Immigration officers can enter any area(s) of the workplace that members of the public can access without identification and/or security check, but must have a valid search warrant or an authorized representative's consent to enter non-public spaces.
 - a. If a *judicial warrant* exists, make sure it is signed and dated by a judge. The warrant will include a description of the premises to be searched, a list of items to be searched for and seized, and a timeframe when the search must be conducted. The warrant should be reviewed and examined to confirm the scope and that the officers are within the prescribed timeframe.

WHEN ICE COMES KNOCKING ...

4. **Assign staff to accompany the ICE officers as they go around the facility.** Assigned staff should not block or interfere with the ICE officers as they go about their activities. They should remain calm and composed and not engage in any hostilities toward the agents.
 - a. Assigned staff should take notes on all the ICE officers' actions, particularly any items seized, and request that copies be made before they are taken.
 - b. If agents want access to locked facilities, unlock them — otherwise, agents will forcibly enter locked closets or cabinets (**must be within scope of judicial warrant**).
 - c. Object to searches outside the scope of the warrant, but do not engage in an argument. Simply state the objection to the agent and make a note of it.
 - d. Ask for a copy of the list of items seized — ICE agents generally are required to provide an inventory.

WHEN ICE COMES KNOCKING ...

5. **Remember, employees have a right to talk or not to talk to ICE officers.** Staff and employees are not required to give any statements to ICE officers.
6. **Do not engage in any activities that could support a potential harboring or obstruction charge.** This includes hiding employees, aiding in their escape from the premises, providing false or misleading information, denying the presence of specific named employees, or shredding documents.
7. **Do a full debriefing of staff after the raid.** Determine whether and where any employees were arrested (e.g., during the enforcement action itself, at home, etc.); the nature of any contacts or conversations between ICE and the arrested employee(s) before, during or after the raid; and the detained employee's history with the company, especially specifics around hiring practices, personnel and I-9 documentation.
8. **Contact the families of any detained employee(s).**

WHEN ICE COMES KNOCKING ...

- Law enforcement officers will not assert an employer's rights on the employer's behalf. Therefore, it is important that employers be aware of their rights and be prepared to assert them in the event of a site visit.
- Once a company representative becomes aware of a worksite investigation or raid, swiftly notifying in-house legal counsel or an appropriate corporate officer can help the employer to preserve its rights. Note that a government official with a warrant is not required to wait for counsel to begin executing the warrant, so time will be of the essence when trying to stay on top of the situation.
- If an officer is conducting a site visit to obtain I-9 records, unless the officer is executing a search warrant, the employer has the right to three days' notice prior to turning over I-9 documents.
- An employer has the right to deny officers permission to access non-public areas of the employer's property absent a valid Judicial SEARCH AND SEIZURE warrant.
- If the officer is in possession of a warrant, the employer has a right to review the warrant to verify its validity and scope (e.g., Is it signed by a court? Has the warrant expired? What are the locations to be searched and items sought?).

WHEN ICE COMES KNOCKING ...

- Warrants apply only to law enforcement officials; an employer has the right to refuse media or news reporters access to the facility.
- If an employee is to be interviewed as a representative of the employer, the employer has the right to have counsel present during any such questioning.
- Employers may benefit from taking detailed notes of all activities being performed by the visiting government officials. If possible, employers may even wish to take video recordings of the officers' activities. The officer may insist that making recordings is not permitted; however, in many jurisdictions, employers do have that right as long as they are not interfering with law enforcement operations.

WHEN ICE COMES KNOCKING ..

-
- Your rights and obligations as an employer turn on whether agents present a judicial warrant, an administrative warrant/subpoena, or no legal documentation at all. What are the key distinctions?
 - Let's start with the **judicial warrant**. A judicial warrant is an order signed by a judge or magistrate and typically references a U.S. District Court or a state court at the top. Albeit federal courts are more common.
 - A judicial warrant is valid only for a **specific date, time, place, and purpose, such as an arrest, search, or seizure**.
 - When ICE presents a valid **judicial warrant**, employers do not have discretion to refuse entry into the non-public areas listed in the warrant. The employer's role is limited to verifying that the warrant is court issued and signed by a judge, reviewing its scope, and ensuring that agents do not exceed that scope. This is a matter of legal authority, not a cooperation preference.
 - An administrative subpoena, by contrast, is issued by an agency such as ICE or the Department of Homeland Security—not by a judge. Administrative subpoenas are commonly used in I-9 sweeps and other compliance investigations and typically seek records rather than physical entry. While an administrative subpoena carries legal obligations to respond, it does not authorize entry into non-public areas of a workplace. Consent is required for that.

JUDICIAL WARRANT

Appendix A: Sample Judicial Warrant – AO 93 (Rev. 11/13) Search and Seizure Warrant

AO 93 (Rev. 11/13) Search and Seizure Warrant

UNITED STATES DISTRICT COURT

for the

In the Matter of the Search of)
(Briefly describe the property to be searched)
or identify the person by name and address)) Case No.)
)
)
)

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the _____ District of _____
(Identify the person or describe the property to be searched and give its location):

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property described above, and that such search will reveal: *Identify the person or describe the property to be seized.*

YOU ARE COMMANDED to execute this warrant on or before _____ *(not to exceed 14 days)*
☐ in the daytime 6:00 a.m. to 10:00 p.m. ☐ at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to _____
(United States Magistrate Judge)

☐ Pursuant to 18 U.S.C. § 910(a)(b), I find that immediate notification may have an adverse result. I find in 18 U.S.C. § 2703 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized, until the appropriate time.

☐ for _____ days *(not to exceed 30)* ☐ until, the facts justifying, the later specific date of _____.

Date and time issued: _____
Judge's signature

City and state: _____
Printed name and title

ICE RAIDS

- An administrative warrant and/or subpoena, by contrast, is issued by an agency such as ICE or the Department of Homeland Security—**not by a judge in a court of law**. Administrative subpoenas are commonly used in I-9 sweeps and other compliance investigations and typically seek records rather than physical entry. While an administrative subpoena carries legal obligations to respond, it does not authorize entry into non-public areas of a workplace. Consent is required for that.
- **No legal documentation at all?** Sometimes, agents arrive without a judicial warrant or administrative subpoena but nonetheless request to speak with someone or seek consent to enter. This is commonly referred to as a “**knock and talk**.” Anyone—including ICE agents—can enter public areas of your business during operating hours without prior permission, but agents on a “knock and talk” do not have authority to enter non-public areas.

ADMINISTRATIVE WARRANT

Appendix B: Sample Immigration (DHS) Warrant – Form I-200 (Rev. 09/16)

U.S. DEPARTMENT OF HOMELAND SECURITY Warrant for Arrest of Alien

File No. _____
Date: _____

To: Any immigration officer authorized pursuant to sections 236 and 297 of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations

I have determined that there is probable cause to believe that _____ is removable from the United States. This determination is based upon:

- ☐ the execution of a charging document to initiate removal proceedings against the subject;
- ☐ the pendency of ongoing removal proceedings against the subject;
- ☐ the failure to establish admissibility subsequent to deferred inspection;
- ☐ biometric confirmation of the subject's identity and a records check of federal databases that affirmatively indicate, by the subject's or his/her own admission to other reliable information, that the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law; and
- ☐ statements made voluntarily by the subject to an immigration officer and/or other reliable evidence that affirmatively indicate the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law.

YOU ARE COMMANDED to present yourself into custody for removal proceedings under the Immigration and Nationality Act, the above-cited laws.

(Signature of Authorized Immigration Officer)

(Printed Name and Title of Authorized Immigration Officer)

Certificate of Service

Therby certify that the Warrant for Arrest of Alien was served by me at _____ (Location)

on _____ (Name of Alien) on _____ (Date of Service), and the contents of this notice were read to him or her in the _____ (Language) language.

Name and Signature of Officer _____
Name or Number of Interpreter (if applicable)

Form I-200 (Rev. 09/16)

JUDICIAL WARRANT v. ADMINISTRATIVE WARRANT

Appendix E: PowerPoint Slides: Judicial Warrants v. Immigration Warrants & Judicial Subpoenas v. Immigration Subpoenas

JUDICIAL WARRANTS v. IMMIGRATION WARRANTS

[illegible]



Scott Cruz
312.658.6608
SCruz@UBGLaw.com