

Article Published in *Lifestyles Magazine*- February 2005

Protecting Your Legal Rights-Illinois WARN Act

by: **Joette S. Doran, J.D.**

Effective January 1, 2005, Illinois enacted the Illinois Worker Adjustment and Retraining Notification Act (WARN). The Act requires that employers with more than 75 employees must notify employees in the event of a layoff or plant closing. The Illinois Act is closely patterned after federal WARN Act. Like the federal statute, Illinois WARN requires the employer to give 60 days advance written notice to employees, including managerial and supervisory employees, to unions and certain state and local governmental officials, in the event of a plant closing, mass layoff, or relocation. While the federal act requires written notice to businesses with 100 or more employees, the Illinois law reduced the number of employees required for notice to 75 employees. Also, the Illinois Act does not require notice to an employee of an employer's decision to transfer an employee within a reasonable commuting distance.

The Illinois Act also varies from the federal law regarding the situations that require notice to employees. For instance, Illinois WARN requires notice in the case of a reduction in force at a single location even if not a plant closing and effects at least 33 percent of the employees and at least 25 employees, or 250 employees regardless of the percentage. However, the federal WARN requires notice where the reduction in force affects at least 33 percent and 50 employees, or 500 employees regardless of the percentage. A violation of the Illinois Act is investigated and enforced by the Department of Labor. Like the federal statute, penalties include up to \$500 for each day of the violation and back pay, including wages and benefits to each employee entitled to notice who loses employment where notice was required. As such, if you are being affected by a reduction in force, mass layoff or job relocation, you are well advised to have your legal rights analyzed under the Illinois and federal WARN Acts. It is also typical for employers to offer severance in WARN required situations in exchange for a general a waiver of legal rights against the employer. As such, it is especially important that the severance agreement be carefully reviewed and evaluated with counsel for protection of all legal rights under federal and state laws. For further information, please visit our web site at www.joettedoran.com.

This article is not intended as legal advice. You should consult with an attorney for individual advice regarding your own situation.

MS. DORAN IS LICENSED IN ILLINOIS, ALL ILLINOIS FEDERAL COURTS AND IS A MEMBER OF THE FEDERAL TRIAL BAR. SHE IS THE PAST CHAIRPERSON OF THE EMPLOYMENT LAW COMMITTEE FOR THE NORTHWEST SUBURBAN BAR ASSOCIATION AND IS THE PAST PRESIDENT OF BARRINGTON AREA PROFESSIONAL WOMEN.

COPYRIGHT 2006 BY JOETTE S. DORAN & ASSOCIATES, P.C. All Rights Reserved.