

Worker Misclassification

Background

In February 2017, **SB1978** was filed by State Sen. Bill Cunningham and had its first reading on 2/10/17. The purpose of the bill was to create a **Home Care and Worker Protection Act**. The intent was to make it a violation of the Act for a private duty home care provider not to designate an individual as an employee unless the private duty home care provider complies with specific provisions for worker classification [individual as either an employee (W-2) or an independent contractor (1099)]

SB1978 eventually was modified, passed both houses, and signed by the Governor to create the ***Employee Misclassification Referral System Act*** whereby an interested party may file a complaint online through the website of the Department of Labor against a private duty home care provider if there is a reasonable belief that the employer is in violation of the Act.

The HCAOA Illinois Chapter spearheaded this effort, wrote the language for the bill, and submitted it to LRB in December 2016 for drafting it into legislative language. Tom Nolan and Patty Riplinger were our lobbyists on this initiative.

The following documents will give you a background on the bill, the statute, and the online complaint reporting process:

- Bill Status of SB1978 – 100th General Assembly
- Public Act 100-0536: Employee Misclassification Referral System Act.
- Illinois Department of Labor Guidance on Employer Misclassification
- Employee Classification Act Complaint Form (from IDOL website)