

# Northern Illinois University Law Review

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Volume 40 | Issue 1

Article 5

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11-1-2019

## Vol. 40, no. 1, Fall 2019: Table of Contents

Northern Illinois University Law Review

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### Recommended Citation

Northern Illinois University Law Review (2019) "Vol. 40, no. 1, Fall 2019: Table of Contents," *Northern Illinois University Law Review*. Vol. 40: Iss. 1, Article 5.

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NORTHERN ILLINOIS UNIVERSITY  
**LAW REVIEW**

VOLUME 40

FALL 2019

NUMBER 1

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**C O N T E N T S**

**ARTICLES**

Extending *Batson* to Peremptory Challenges of Jurors Based on Sexual Orientation and Gender Identity

Mark E. Wojcik ..... 1

*This Article argues that it is now time to extend Batson to all federal and state trial courts and expressly prohibit the exclusion of jurors based on their actual or perceived sexual orientation or gender identity. The lack of protection for jurors based on their actual or perceived sexual orientation or gender identity fosters discrimination in the law, violates the rights of lesbian, gay, bisexual, and transgender (LGBT) persons who may be excluded from serving on juries, violates the rights of LGBT persons whose criminal or civil cases are heard in court, and undermines public confidence in judicial proceedings that discriminate against entire categories of individuals.*

Of Dangers, Conditions, Children, and Maturity: A Plea for a Comprehensible Standard in Long-standing Rules

Maureen Straub Kordesh .....44

*This Article explores the common law doctrine of attractive nuisance in Illinois and proposes a more detailed explication of the rule. The doctrine lies in the junction between tort and contract, which might account for the incompleteness of its presentation. It argues that because law students are a significant audience for case law, the language of such rules should be as detailed and clear as possible.*

## NOTES AND COMMENTS

### Seeking Equality in Wages for Employees with Intellectual and Developmental Disabilities

Kate McIlvanie .....70

*This Comment discusses the little-known exception to the minimum wage within the Fair Labor Standards Act that allows individuals with intellectual and developmental disabilities to be paid at a rate below the federal minimum wage rate. Starting with background information regarding the progression of labor laws, this Comment addresses the current paradigm of the “sheltered workshop” and the current protections for persons with intellectual and developmental disabilities in the workforce. It will provide specific examples of exploitation that has occurred as a result of this practice, as well as an overview of opposing arguments in the controversy surrounding the subminimum wage. Additionally, this Comment will provide a look into how developments in this area are being addressed at the federal and state levels and why the allowance for a subminimum wage as applied to intellectually and developmentally disabled persons should be discontinued.*

### Moving Forward from the Scoop Era: Providing Active Efforts Under the Indian Child Welfare Act in Illinois

Cassandra Crandall.....100

*This Comment argues that Illinois should adopt the view that active efforts are a higher standard than reasonable efforts and implement procedures encouraging state agencies and courts to implement these requirements. Following the Supreme Court’s rationale in Mississippi Choctaw Band of Indians v. Holyfield, one of the only Supreme Court cases addressing the ICWA, this Comment argues that a uniform definition and application of “active efforts” should exist in every jurisdiction. Furthermore, this Comment emphasizes that “active efforts” require more than “reasonable efforts,” and that these standards are different. Part I of this Comment reviews the history of the ICWA. Part II of this Comment examines the Congressional hearings concerning the ICWA to establish Congress’ intent when passing the legislation more than thirty years ago. Part III examines the 1979 Guidelines promulgated by the Bureau of Indian Affairs. Part IV examines the evolution of case law regarding the ICWA. Part V discusses the application of active efforts in state courts, with an examination on the variation between jurisdictions. Part VI reviews the 2016 release of new Guidelines for the ICWA by the Bureau of Indian Affairs. Part VII discusses current challenges to the constitutionality of the ICWA and criticisms the active efforts standard has recently received. Part VIII makes recommendations to remedy the current shortage of guidance surrounding “active efforts” in section 1912(d) of the ICWA by examining the active efforts guide produced by Wisconsin under the Wisconsin Indian Child Welfare Act.*

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\*Whitni Hart and Katlin Kiefer are hereby recognized for their superb efforts and talents in the editing process and are thus named Best Cite Check Performers for Volume 40, Number 1.

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*Special thanks to our dedicated staff and faculty members who continue to support the journal and serve as mentors year after year. We appreciate all you do.*