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ARTICLES

The Future of Employee Job Security in Illinois
Daniel S. Alcorn

The at-will employment doctrine is more than a century and a half old. Illinois has long subscribed to the at-will employment doctrine, but the doctrine is dying a slow death. The doctrine has positive and negative aspects, but the lack of employee job security will prove to be a fatal flaw. The doctrine is not so well founded in reason or legal history to save it. Employee job security is becoming increasingly desirable and important. The legislatures and courts are making significant inroads on the doctrine to protect employee job security. A bill to abrogate the doctrine and require cause for discharge has surfaced in Illinois, and while unsuccessful this legislative effort will undoubtedly be revisited. Illinois will need to prepare for the aftermath of the doctrine’s demise. Legislation is the best bet for a quick and durable fix. A simple approach to legislation in this area has the best chances of political viability. A good fix would consist of a concise statute abrogating the at-will doctrine, requiring that any employer have just cause for terminating any non-probationary employee, and affording an aggrieved employee a private right of action for wrongful discharge (with the employee having the burden of establishing a lack of just cause) to be pursued in the Illinois Circuit Courts.

Rights Without Remedies: How the Illinois Post-Conviction Hearing Act’s Standing Requirement Has Failed Defendants
Nate Nieman

The Illinois Post-Conviction Act is a procedural mechanism that allows a criminal defendant to assert that his federal or state constitutional rights were substantially violated during trial or at sentencing. The passage of the Act expanded a defendant’s ability to challenge his conviction and sentences collaterally, where before the Act, he had only been able to raise these challenges on direct appeal. However, the Act’s strict standing requirement precludes defendants from relief once they have completed their sentence, ignoring the fact that many important, life-altering civil consequences resulting from criminal convictions occur after a sentence has concluded.

This Article argues that the Act’s standing requirement inadequately contemplates later collateral consequences flowing from a defendant’s conviction that are just as—if not more—important to a defendant than the conviction that triggered the collateral consequences in the first place. These collateral consequences place a defendant’s liberty in jeopardy, yet many defendants currently are unable to use the Act to challenge the convictions that triggered these collateral consequences. I argue that the Act’s standing requirement could be modified
to conform with twenty-first-century law in two ways: Illinois courts could dispense with the current “imprisoned”/not “imprisoned” dichotomy and instead focus on whether a petitioner is suffering an “important” consequence of his conviction; or the Act could be amended. This would give defendants a meaningful avenue to seek relief and provide a needed update to the current state of the law in Illinois—which, as of now, is effectively giving criminal defendants a right without a remedy.

NOTES AND COMMENTS

Illinois’s Marijuana Madness: A Protectionist Scheme of an Illegal Market in the Shadow of the Constitution

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From prohibition to legalization, Marijuana has had a storied legal history in the United States, but its story is not quite over. A new gray area is coming to the forefront of the legal field: Marijuana is illegal federally but legal in many states. This Note discusses how some states, including Illinois, are operating in that gray area to better their political and economic goals, but the Constitution places a barrier to do so with the Dormant Commerce Clause. States are not free to discriminate against other states or out-of-state economic actors, and Illinois does just that with the Cannabis Regulation and Tax Act and other provisions of the Illinois Administrative Code. Ultimately, these laws should be struck down for violating the Constitution, and the Illinois General Assembly should create a new, much-less regulated system for marijuana licensing to better afford social justice and equity.

A Right to Fly: Navigating the Air Carrier Access Act and the Americans with Disabilities Act Following Alexander v. Sandoval

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There are approximately 54 million disabled individuals in the United States. Those 54 million American citizens live their day to day lives differently than the average person, facing difficulties most others cannot comprehend. While legislation has come a long way in recent decades, one area that has remained stagnant is how we treat disabilities on airplanes. Despite legislation remaining relatively stagnant, judicial opinions have not. In fact, many United States Circuit Courts have determined that the Air Carrier Access Act, which provides limited protections on airplanes, does not confer a private cause of action for violations. As a result, the only remedy allowed for aggrieved airline passengers is through a complaint system set up by the Department of Transportation. No private remedy. No compensation. Only administrative inaction. This has proven to be a woefully insufficient remedy for direct harms to disabled individuals, creating a dire situation where the livelihoods of millions of Americans remain in jeopardy.