



Alerts

A Surge in Illinois Genetic Information Privacy Act (GIPA) Claims Poses Threat to Employers

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Privacy, Cyber & AI Decoded

The Illinois Genetic Information Privacy Act (“GIPA”) was enacted in 1998, and although minimal litigation followed in the years following its enactment, we are now seeing a significant surge in litigation similar to that experienced under the Illinois Biometric Information Privacy Act (“BIPA”).

Like BIPA, plaintiffs asserting claims under GIPA have suffered little or no actual damages. However, they attempt to recover significant statutory damages on their behalf and other class members like them.

Employers are the most recent targets of GIPA class actions due to their requests for medical histories from current and/or prospective employees. GIPA applies to employers, employment agencies, labor organizations, and licensing agencies that directly or indirectly “solicit, request, require, or purchase genetic testing or genetic information of a person or a family member of the person, or administer a genetic test to a person or a family member of the person as a condition of employment, employment application, labor organization membership, or licensure.” Plaintiffs’ attorneys have filed dozens of lawsuits alleging that requests for family medical histories constitute a solicitation or request for genetic information under GIPA.

The majority of complaints have only been filed within the past year. Therefore, employers and their vendors, such as healthcare facilities and insurance providers, must be aware of the potential risks involved with requesting information that may fall under GIPA. Similar to BIPA, GIPA allows for a private right of action. GIPA allows an aggrieved party to recover statutory damages of \$2,500 per negligent violation and \$15,000 per intentional or reckless violation, plus reasonable attorneys’ fees and costs.

In the ever-changing landscape of privacy litigation and the growing number of complaints filed under GIPA, employers need to choose a law firm with experience in handling these kinds of matters. Hinshaw has handled thousands of consumer class actions and individual suits wherein the plaintiff seeks recovery for statutory damages and attorneys’ fees. We have defended these cases at all levels of the state and federal court system and recently obtained a favorable decision for a client before the Illinois Supreme Court in a case involving alleged BIPA violations.

Attorneys

Liam McGing

John P. Ryan

David M. Schultz

Service Areas

Biometric Information Privacy Act

Privacy, Security & Artificial Intelligence



Other entities such as a DNA company called Sequencing, LLC have been facing suits related to their handling of genetic information. Sequencing, LLC had a class certification motion granted against it for a GIPA claim. *Melvin v. Sequencing, Ltd. Liab. Co.*, 344 F.R.D. 231, 237 (N.D. Ill. 2023).

410 ILCS 513/25(c)(1)