

Publications

Illinois Mandates Paid Leave for All Employees

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CLIENT ALERT | 2.16.2023

Illinois will join Maine and Nevada in requiring that employers provide paid time off for any reason. In January 2023, Illinois enacted the Paid Leave for All Workers Act to establish a minimum amount of paid leave for all employees. The act becomes effective January 1, 2024. Employers with operations in Illinois should review their current leave policies to ensure they are complying with the act.

Covered Employers and Employees

The act applies to all private employers regardless of size. All employees are covered except for those covered by the federal Railroad Unemployment Insurance Act or Railway Labor Act; certain college student employees working for their college; and short-term employees of institutions of higher education.

An employer generally does not have to comply with the act, however, if the employer is already covered by a municipal or county ordinance that requires the employer to provide any form of paid leave, including paid sick leave (for example, in Chicago and Cook County). Additionally, an employer who has a leave policy that meets the act's requirements – and permits the use of leave for any reason – need not modify its existing policy.

Provision of Paid Leave

An employee who works in Illinois is entitled to earn and use up to 40 hours of paid leave during a 12-month period. Paid leave begins to accrue on the employee's first day of employment or March 31, 2024, whichever is later. Paid leave accrues at the rate of one hour for every 40 hours worked, up to of 40 hours of leave. Employees may carry over unused paid leave from one 12-month period to the next.

Frontloading Paid Leave

Instead of employees accruing paid leave, employers may front-load the full amount of leave (or the appropriate pro rata amount) at the beginning of the 12-month period. Employers are not required to carry

over unused leave for employees whose leave is front-loaded.

Using Paid Leave

An employee may use paid leave for **any** reason. Employees determine how much leave they need to use, but employers may set a reasonable minimum increment not to exceed two hours per day. If an employee's scheduled workday is less than two hours a day, the scheduled workday determines the amount of leave. An employee may choose whether to use this paid leave before using any other leave provided by the employer or Illinois law.

Leave is paid at the employee's hourly rate of pay. For those paid in a tipped occupation or by commission, the employee must be paid at least the applicable minimum wage.

Employees may begin using paid leave 90 days after their employment begins or March 31, 2024, whichever is later.

Employee Notice

An employer must provide paid leave upon the employee's oral or written request. An employee is not required to provide a reason for the leave, nor may an employee be required to provide documentation or certification.

If the use of leave is foreseeable, the employer may require seven calendar days' advanced notice. If the use is not foreseeable, the employee must provide notice as soon as is practicable. An employer must have a written policy that contains procedures for the employee to provide notice.

Recordkeeping

Employers must keep records documenting hours worked, paid leave accrued and taken, and remaining paid leave balance for each employee for at least three years. An employer that uses the accrual method must provide employees notice of the amount of leave accrued or used upon request.

Posting Requirements

Employers must conspicuously post a notice created by the Illinois Department of Labor (IDOL) and include it in a written document or employee manual. Violating the posting requirements subject employers to a penalty of \$500 for the first violation and \$1,000 for each subsequent violation.

Retaliation

The act prohibits employers from interfering with, denying, or changing an employee's work days or hours to avoid providing paid leave to the employee. The act further prohibits employers from taking adverse action against employees for exercising rights under the act, opposing practices believed to be violating the act, or supporting others' exercise of rights under the act. Employers may not consider the use of leave as a negative factor in employment decisions.

Penalties and Enforcement

Employees may file a complaint with the IDOL within three years of an alleged violation. There is no private right of action. Employees may recover actual damages, compensatory damages, attorneys' fees/costs, civil penalties (of up to \$2,500 per offense) and equitable relief.