

insights

City of Chicago Expands Paid Time Off for All Chicago Workers

Just when we were getting our heads around the upcoming Illinois Paid Leave for All Workers Act and feeling confident with the parameters of Chicago's 2017 Paid Sick Leave ordinance, another leave law has entered the fray.

Late last week, the Chicago City Council passed its Paid Leave and Paid Sick and Safe Leave ordinance, which goes into effect December 31, 2023 (a day before the Illinois law). It repeals the 2017 ordinance and instead guarantees up to five days of paid time off AND five days of sick time for all Chicago workers.

Specifically, the ordinance applies to "Covered Employee(s)," defined as "an Employee who, in any particular two-week period, performs at least two hours of work for an Employer while physically present within the geographic boundaries of the City." "Employer" is defined as "a person who gainfully employs at least one Employee." So the scope is wide, to say the least.

More key elements of the ordinance include:

- If an employer already has a policy that provides paid sick leave and paid time off to "all Covered Employees" "in an amount and manner that meets or exceeds" this ordinance, no additional leave is required;
- For every 35 hours worked, the covered employee accrues at least one hour of paid time off AND one hour of paid sick leave (though frontloading is allowed), up to a cap of 40 hours of paid time off AND 40 hours of paid sick leave per 12-month period;
- Employers must allow covered employees to start using their accrued paid sick leave no later than on the 30th calendar day of the commencement of their employment and using their accrued paid time off no later than the 90th calendar day;
- Covered employees can carry over up to 16 hours of paid time off AND 80 hours of paid sick leave;
- Employers must pay out accrued, unused paid time off at separation of employment, but NOT accrued, unused paid sick leave (similar to the way the 2017 ordinance worked);
- On this point, there are special rules for "Small Employers," i.e. those with 50 or fewer employees, and "Medium Employers," i.e. those with 51-100 employees. Small employers need not pay out accrued, unused paid time off at separation, and medium employees need only pay up to 16 hours of accrued, unused paid time off in 2024 and then all accrued, unused paid time off starting on January 1, 2025; and
- In an apparent nod to the increase of "unlimited paid time off" programs, this ordinance allows for such programs but provides that employers must pay out the monetary equivalent of 40 hours less time taken at separation of employment.

Finally, the ordinance speaks to policy, notice and posting requirements, as well as recordkeeping obligations and penalties.

It is important to note that - at least as of now - this ordinance only applies to Chicago workers, not Cook County at large. The Cook County paid sick leave law is not impacted.

So Chicago employers, we now have a month and a half to get our house in order to be able to comply with the December 31 effective date. If you have questions about how to approach compliance, please feel free to contact your Thompson Coburn attorney.



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