

New Year Brings Changes to Paid Leave in Illinois, Chicago and Cook County, by Paul Daugherty, Esq., 12-21-2023

Employers in Illinois, Chicago and Cook County should be prepared to update their handbooks and policies to reflect new changes to paid leave law in the New Year. The new laws create an added layer of complexity for employers to comply with in this ever-evolving paid leave landscape. Here is a breakdown of the various laws by jurisdiction:

Illinois

As part of the Paid Leave for All Workers Act (820 ILCS 192), covered employers will be required to provide all employees with a minimum of 40 hours of paid time off (PTO) per year to be used for any reason. As a result of this new law, which takes effect Jan. 1, approximately 1.5 million workers will begin earning paid time off starting in 2024.

Under existing law, workers are not guaranteed pay when taking time off for sick leave, childcare, mental health reasons, medical appointments, vacation, or any other reason, according to the Illinois Department of Labor. But that will change under the new law.

Under the new law, employees can start using their accrued paid leave March 31, 2024, or 90 days following commencement of employment, whichever is later. Paid leave under this Act may be taken by an employee for any reason of the employee's choosing. An employee is not required to provide an employer with a reason for the leave and may not be required to provide documentation or certification as proof or in support of the leave, according to the legislation.

This new law applies to every employee working for an employer in Illinois, including domestic workers and part-time employees, but does exclude independent contractors.

The City of Chicago and Cook County (see below) have an existing paid sick leave ordinance in place; employees and employers in those two geographic regions will be subject to those ordinances. The law exempts employees covered by a collective bargaining agreement in the construction industry and parcel delivery industry.

The ILDOL is in the process of preparing guidance and other resources and materials to educate employees and assist employers with compliance.

Cook County

The Cook County Paid Leave Ordinance, which takes effect Dec. 31, will ensure employees who work in Cook County earn at least one hour of paid leave for every 40 hours worked. Notably, employees can use paid leave for any reason.

This new ordinance, which will replace the Earned Sick Leave Ordinance, is a significant shift from the existing ordinance, which outlines conditions during which earned sick leave could be used (e.g., when you or a family member are ill, receiving medical care, etc.).

There are certain exclusions including employees working in the construction industry who are covered by a bona fide collective bargaining agreement.

The new ordinance's requirements align with the State of Illinois' Paid Leave for All Workers Act including not mandating that employees provide documentation for paid leave. Employers are also subject to certain posting requirements.

Enforcement of the ordinance will begin on Feb. 1, 2024.

City of Chicago

The Chicago Paid Leave and Paid Sick and Safe Leave ordinance, which takes effect July 1, 2024, requires employers to provide employees up to 40 hours of paid leave for any reason and 40 hours of paid sick leave per year. This is a change from the existing ordinance, which does not require employers to provide paid leave in addition to paid sick leave.

The ordinance was recently passed (11.9.23) and recently amended (12.13.23) delaying the originally scheduled effective date of Dec. 31, 2023, which was a welcome reprieve for employers scrambling to be in compliance. Until then, the existing ordinance will remain in effect.

The new ordinance covers employees who work at least 80 hours for an Employer within any 120-day period within the geographical boundaries of the City of Chicago. There is no distinction between part-time, full-time or seasonal employees.

Under the new ordinance, employees will accrue one hour of paid leave and one hour of paid sick leave for every 35 hours worked (every 40 hours worked for overtime exempt employees).

There are different obligations depending upon the size of an employer's workforce regarding payout upon separation from employment. There are also various policy, notice and recordkeeping requirements employers should be aware of.

The City of Chicago Office of Labor Standards (OLS) is preparing guidance and other resources to assist with compliance.

Steps Employers Can Take

The changing laws bring a host of new obligations. To prepare, employers should consider the following:

- Review their paid leave policies to ensure compliance;
- Revisit their handbooks to see if they need to be updated;
- Prepare for a potential rise in leave requests;
- Maintain proper records for employees regarding paid leave hours accrued and used; and,
- Ensure they are complying with posting, notice and recordkeeping requirements.

Kaufman Dolowich Can Assist

The new laws add greater compliance requirements. If your company needs assistance including reviewing or revising any of your policies or updating handbooks, our team of skilled labor and employment attorneys can help.