

CLIENT ALERT

Cook County Enacts Paid Sick Leave

OCTOBER 13, 2016

Last week, the Cook County Board of Commissioners approved the “Establishing Earned Sick Leave for Employees in Cook County” Ordinance (Ordinance), which will provide paid sick leave to those workers employed in Cook County, Illinois. The Ordinance does not impact employers who are already covered by the Chicago Paid Sick Leave Ordinance, which we described in our client briefing, [Paid Sick Leave Likely Coming to Chicago Employees](#). The Ordinance, which largely mirrors the Chicago legislation, will go into effect on July 1, 2017.

Coverage

The Ordinance applies to virtually all employers—any business or individual within the geographic boundaries of Cook County that employs at least one covered employee is required to comply with the Ordinance’s mandates. A “covered employee” is defined as an employee, who in any particular two-week period, performs at least two hours of work while physically present within the geographic boundaries of Cook County. For purposes of employee coverage, any time spent traveling in Cook County that is compensated counts toward this two-hour threshold.

Accrual and Carry Over

For current employees, accrual begins on July 1, 2017. Employees who become employed after that date begin to accrue paid sick leave at the start of their employment. All covered employees may accrue one hour of sick time for every 40 hours worked, up to 40 total hours of sick leave, unless an employer sets a higher ceiling. Generally, covered employees may carry over up to 20 hours of accrued but unused sick from one calendar year to the next. But, employers subject to the Family Medical Leave Act (FMLA) must also allow covered employees to carry over an additional 40 hours of accrued but unused sick leave. An employer can require that this additional 40 hours of leave be used exclusively for FMLA-covered purposes, however. There is no requirement to pay a departing employee his or her accrued but unused sick time. Employers with a paid time off policy that meets all of the requirements set forth in the Ordinance need not provide additional paid sick leave.

Usage

A covered employee may use paid sick leave if: he or she is ill or injured, or is receiving medical diagnosis, care, or treatment, or preventive medical or health care; a member of his or her family is ill or injured, or to care for a family member receiving medical care, treatment, diagnosis, or preventative medical care; he or she, or a family member, is the victim of domestic violence, as defined in the Illinois Domestic Violence Act, or sexual violence or stalking, as defined in the Illinois Criminal Code; or if his or her place of business or his or her child’s school or childcare facility is closed by order of a public official due to a public health emergency.

Notice

If the need for paid sick leave is reasonably foreseeable (such as medical appointments or court dates in domestic violence cases), employers can require employees to give up to seven-days’ notice before taking leave. If the need is not reasonably foreseeable, however, employers can require that employees give notice as soon as is practicable via phone, email, or text. Employers may not require employees to search for or find a replacement worker to cover the time during which he or she is on sick leave.

Certification

Where a covered employee is absent for more than three consecutive workdays, an employer may require certification that the employee used leave for a permitted purpose only. Such certification includes documentation signed by a licensed health care provider, or where an employee is absent to care for a victim of domestic violence or covered sex offenses, a police report, court document, a signed statement from an attorney, a member of the clergy, or a victim services advocate, or any other evidence that supports the employee’s claim, including a written statement from him or her, or any other person who has knowledge of the circumstances. However, even if an employee has not yet submitted the required documentation, employers may not prevent employees from taking paid sick leave nor or delay the payment of wages.

Posting

Employers must provide employees with notice of their rights in a conspicuous place at each of its facilities within Cook County. In addition, employers must provide employees with a written notice advising them of their rights at the start of employment. Employers are prohibited from discriminating or retaliating against an employee who exercises their rights under the Ordinance. Any violation of the Ordinance may result in damages equal to three times the amount of any unpaid sick time denied or lost as a reason of the violations, as well as interest, costs, and reasonable attorney’s fees.

Employers are encouraged to review the Ordinance, the full text of which can be found [here](#), and consult with an attorney to ensure policies and procedures are in compliance prior to its effective date.

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