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Labor & Employment Alert

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Illinois paid leave law — What you need to know

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Employers should review their employee leave policies now to determine compliance with the upcoming Illinois paid leave law.



What's the Impact?

- / Pursuant to Illinois legislation awaiting the governor's signature, on January 1, 2024, Illinois employers will be required to give employees up to 40 hours of paid leave for any reason
- / While several states grant employees paid sick leave, Illinois becomes the third state to extend paid leave beyond sickness and family reasons to any reason at the employee's discretion
- / Illinois Governor JB Pritzker indicated that he intends to sign this legislation into law

While several other states have laws providing for paid family and/or medical leave for employees, beginning on January 1, 2024, Illinois will join Maine and Nevada as the only states that require employers to provide employees paid leave for any reason—sickness, family leave, or otherwise.

The Illinois Paid Leave for All Workers Act

Illinois will require private employers with more than one employee to provide earned paid leave to employees, to be used for any reason. Employees will not be required to give a reason for taking leave, and employers will not be allowed to require any documentation or certification of the need for leave.

The Illinois Paid Leave for All Workers Act will provide full-time and part-time employees with up to 40 hours (or a *pro-rata* number of hours) of paid leave over a 12-month period, beginning on their 90th day of employment. Employers can either frontload the leave time by providing the entire 40 hours in a lump sum or have employees accrue paid leave at the rate of one hour per every 40 hours worked, up to 40 hours of paid leave (or a greater amount if the employer chooses to provide more than 40 hours of leave). Under this future law, employers will not be required to pay out unused paid time to departing employees.

If an employee's need for paid leave is foreseeable, employers can require that employees provide up to seven calendar days' notice. If an employee's need for paid leave is not foreseeable, employees are required to provide notice as soon as practicable after the employee becomes aware of the necessity. Employers cannot require that the employee find coverage for their paid leave and are prohibited from changing the employee's workdays or hours to avoid providing paid leave.

Employers must memorialize their notice requirements regarding paid leave in a written policy, whether a stand-alone policy or one incorporated into existing policies or handbook provisions. For an employer that already has a leave policy in place on or before January 1, 2024, the new law does not require a modification to their current policy as long as the policy offers the employee the option, at the employee's discretion, to take paid leave for any reason and in the amounts provided above. We anticipate that the Illinois Department of Labor will provide guidance on open questions, applicability, and nuances of this future law prior to its January 1, 2024, effective date.

Action items

Employers should consider the following action items:

- / Review company handbooks, employee leave policies, and other relevant leave notification processes to determine compliance with the upcoming Illinois requirements
- / If applicable, review leave entitlements for employees in all states to understand the impact on whether Illinois' paid leave requirements create an unintended difference in how employees are able to take leave

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