

Chicago to Provide up to 10 Days of Paid Leave Per Year to Covered Employees

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On November 9, 2023, the Chicago City Council passed the Chicago Paid Leave and Paid Sick and Safe Leave Ordinance (the “Ordinance”), which will, effective December 31, 2023, supersede Chicago’s sick leave law and require employers to provide covered employees with up to five (5) days of Paid Sick Leave and five (5) days of Paid Leave each year. The Ordinance comes as Illinois employers are already scrambling to update their policies and practices to comply with the Illinois Paid Leave for All Workers Act (the “Illinois Act”), which will be effective on January 1, 2024 (our previous article on the Illinois Act is available [here](#)).

Which employees will be covered? Any employee who, in any particular two (2) week period, performs at least two (2) hours of work for an employer while physically present in Chicago will be covered by the Ordinance. Of note, the Ordinance will apply to a broad array of employees who may typically work at an office located outside of Chicago, but who work from home, in the city, as part of a hybrid schedule.

Which employers will be covered? Any employer with one (1) or more employees.

What is Paid Leave and how does it compare to Paid Sick Leave? “Paid Leave” (“PL”) is time off that may be used for any purpose whatsoever other than Paid Sick Leave. “Paid Sick Leave” (“PSL”) is time off that may be used to care for the employee’s own health condition, that of a covered family member or for other reasons covered by the current Chicago sick leave law.

How much PL and PSL will employees be entitled to? Covered employees will accrue one (1) hour of PL and one (1) hour of PSL for every thirty-five (35) hours worked, up to a maximum of forty (40) hours of each type of leave per twelve (12) month period. The twelve (12) month period (“Accrual Period”) is measured from the date the employee begins to accrue leave under the Ordinance. Employers may also choose to frontload a full forty (40) hours of each type of leave.

In other words, covered employees now have up to ten (10) days of paid leave available to them every twelve (12) months, a dramatic increase in the five (5) days of sick time available under the current Chicago sick leave law, and more than that which will be required under the Illinois Act.

Will there be carry over requirements? Yes, if leave time is accrued, up to sixteen (16) hours of PL and up to eighty (80) hours of PSL will carry over to the next Accrual Period. PL that is frontloaded will not need to carry over, while frontloaded and unused PSL will carry over.

Will employers be able to mandate how much PL and PSL an employee can use at one time? Employers will not be permitted to require employees to use PL in greater than four (4) hour increments, or to use PSL in greater than two (2) hour increments.

Will an employer be entitled to advanced notice of the need for PL and PSL? Much like the Illinois Act and Chicago’s current sick leave law, if the need for leave is reasonably foreseeable, an employer may require up to seven (7) days’ advanced notice of the need for leave. If the need for leave is not reasonably foreseeable, an employer may only require that a covered employee provide as much notice as reasonably practicable.

Will PL and PSL need to be paid out at termination? PSL will not need to be paid out, but, depending on the size of an employer, accrued and unused PL will be due (in full or part) at termination or when an employee no longer qualifies as a covered employee.

How will the Ordinance interact with Paid Time Off policies? The Ordinance addresses only unlimited paid time off policies, and provides that if such a policy grants covered employees unlimited leave for any reason at the start of employment, and otherwise complies with the Ordinance requirements, it will be permissible. Of note, however, employers will be required to pay out the monetary equivalent of forty (40) hours of PL, less any PL used in the last twelve (12) months, at the time a covered employee is terminated or no longer qualifies as a covered employee under the Ordinance.

How will the Ordinance interact with collective bargaining agreements? The Ordinance will not supersede any collective bargaining agreements.

What will happen to sick leave banks under the current Chicago sick leave law? Paid sick leave under a policy that is compliant with the current Chicago sick leave law, but not the Ordinance, will convert to PSL effective January 1, 2024.

Are there any notice/posting requirements? Each time a covered employee is paid, an employer will be required to provide the employee with information regarding the amount of PL and PSL accrued, used and available to the Covered Employee.

Will there be penalties for non-compliance? Violations of the Ordinance may result in fines of up to \$3,000, and may be liable for damages equal to three (3) times the amount of leave denied or lost, plus interest and attorney's fees. The Ordinance also creates a private right of action for employees.

What are the practical impacts of the Ordinance? Chicago has doubled the amount of paid leave an employer must provide to employees who work only in Chicago, as compared to employees elsewhere in Illinois who will be eligible for only forty (40) hours of paid leave under the Illinois Act. Employers with employees who work in Chicago and/or elsewhere in Illinois, in particular, may need to rethink their overall paid leave programs and, possibly, how to align those programs to alleviate the potential headaches associated with the administration of leave and ensure compliance with the law. All employers are encouraged to promptly review their leave policies with legal counsel.

If you have any questions about this article, please contact **Elizabeth N. Hall** at ehall@vedderprice.com, **Alex Weinstein** at aweinstein@vedderprice.com, **Carissa A. Townsend** at ctownsend@vedderprice.com or any other Vedder Price attorney with whom you have worked.

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