



Notice of the Chicago Paid Leave and Paid Sick and Safe Leave Ordinance

In November 2023, the City of Chicago passed the Chicago Paid Leave and Paid Sick and Safe Leave Ordinance, which was set to take effect on December 31, 2023. However, on December 13, 2023, the Chicago City Council voted to amend the effective date from December 31, 2023 to **July 1, 2024**. Until then, the current Paid Sick Leave Ordinance will remain in effect.

As the Chicago City Council continues to release additional guidance, employers have additional time to ensure their PTO policies are compliant.

The following key requirements of the Chicago Paid Leave and Paid Sick and Safe Leave Ordinance should be noted:

1. The ordinance requires covered employers to provide covered employees the ability to earn forty hours of paid leave and forty hours of paid sick and safe leave within a twelve-month period.
2. Paid leave and paid sick and safe leave provided under the ordinance will begin to accrue on July 1, 2024.
3. A “covered employee” is an employee who works at least two hours in any two-week period while physically present within the City of Chicago, or works at least eighty hours for an employer within any 120-day period while physically present in the city. Once this requirement is reached, the employee will remain a covered employee for the remainder of the employee’s employment.
4. A “covered employee” includes domestic workers, regardless of whether they are classified as employees, independent contractors, sole proprietors, or partnerships.
5. Covered employees will accrue one hour of paid leave for any reason and one hour of paid sick leave for every 35 hours worked. Employees who are exempt from overtime will be assumed to work 40 hours in each workweek for purposes of accrual. If the employee’s normal workweek is less than 40 hours, however, paid time off will accrue based on that normal workweek. If an employer provides paid leave under an accrual method, employees will be allowed to carry over up to 16 hours of paid leave for any reason and 80 hours of paid sick leave from one 12-month period to the next.
6. Employers can frontload 40 hours of paid leave and 40 hours of paid sick leave on the first day of employment or the first day of the 12-month period. If paid leave is frontloaded, no carryover is required by the Ordinance.
7. Employers must allow employees to use accrued paid sick leave 30 days after the start of their employment and must allow employees to use accrued paid leave for any reason 90 days after the start of employment. Employers also may set a minimum-increment requirement of four hours of paid leave for any reason per day and two hours of paid sick leave per day.
8. Employers with more than 100 employees must pay out all unused, accrued paid leave for any reason as part of an employee’s final compensation upon separation from employment or whenever an employee no longer meets the definition of “covered employee” as a result of transfer outside of the geographic boundaries of Chicago.
9. For medium employers (employers with 51 to 100 covered employees), the payout of unused paid leave upon termination, resignation, retirement, or other separation from employment is now limited to sixteen hours through June 2025. Effective July 1, 2025, medium employers will be required to payout all unused leave as required under the ordinance.
10. “Small employers” with 1–50 employees are not required to pay out any unused, accrued paid leave for any reason upon separation or transfer out of Chicago.
11. Regardless of how many employees they have, employers are not required to pay out unused, accrued paid sick leave upon an employee’s separation or transfer out of Chicago.
12. An employer may establish reasonable policies for the use of paid leave for any reason to:

- Require an employee to give reasonable notice, which may not exceed seven days before using such paid leave; and
 - Require an employee to obtain reasonable approval from the employer before using paid leave to maintain continuity of employer operations, subject to rules that will be promulgated by the City of Chicago's Office of Labor Standards.
13. If an employee's need for paid sick leave is reasonably foreseeable, an employer may require up to seven days' notice before leave is taken. If the need for paid sick leave is not reasonably foreseeable, an employer may require an employee to give notice as soon as is practicable on the day the employee intends to take paid sick leave. "Reasonably foreseeable" needs for paid sick leave include, but are not limited to, prescheduled appointments with healthcare providers for the employee or for a family member and court dates in domestic violence cases. Where an employee is absent for more than three consecutive workdays, the employer may require certification that the use of paid sick leave was authorized by the Ordinance.
 14. The ordinance includes notice and recordkeeping requirements: posting a notice to be provided by the city in a conspicuous place in all required languages, providing employees with a written notification of the paid time off policies, providing a notice of rights with each employee's first paycheck and then on an annual basis beginning in July 2024, providing written notice with each paystub of the employee's accruals and usage, and retaining applicable records for five years.
 15. When complying with the ordinance's notice requirements, employers are now required to provide written notices in the employee's primary language.
 16. Employers must provide a written statement including an updated accounting of the employee's available paid leave and paid sick leave and the applicable accrual rates. This statement must include paid time off earned since the last notification, reduced paid time off since the last notification, and any unused time available for use. This notice may be provided via paystub or available through an online system that employees can access.
 17. The Department of Business Affairs and Consumer Protection may impose fines between \$1,000 and \$3,000 for each offense. Aggrieved employees may bring a private action. For covered employees to bring a private right of action for an employer's violation of the paid leave requirements of the ordinance, the employee must wait until "(A) an alleged violation occurs; and (2) the payday for the next regular payroll period or 16 days after the alleged violation occurred passes, whichever is the shorter period." These requirements are only effective until July 1, 2026.
 18. Employees working in the construction industry who are part of a collective bargaining agreement are exempt from this ordinance. Collective bargaining agreements in other industries that are in place as of July 1, 2024, may remain in effect. After that date, however, new collective bargaining agreements can only waive the requirements of the ordinance if the waiver is contained in the agreement in clear and unambiguous terms.

As you can see from the above, compliance with the Chicago Paid Leave and Paid Sick and Safe Leave Ordinance, is complicated. Further, there are multiple ways to comply with the Ordinance. As such, we urge you to seek the advice of competent labor and employment counsel to ensure that you are in compliance with the Ordinance. **SPLI is not responsible for ensuring your compliance with this law.**

If you are in need of compliance advice, we recommend that you either contact your current labor & employment counsel or, if you do not have labor & employment counsel, Christopher C. Johnson at Ford Harrison. Mr. Johnson may be reached at 813-261-7800 or cjohnson@fordharrison.com. Please note that SPLI is not responsible for any legal fees or costs associated with your company seeking or obtaining compliance advice.