



Illinois Enacts Employee Sick Leave Act Effective January 1, 2017

IN OUR APRIL 2016 *Employment Law Trending Now*, we alerted you to the pendency of a multitude of Illinois proposed laws on expanding employee sick leave rights. One of those, House Bill 6162, was signed by Illinois Governor Bruce Rauner on August 19, 2016, creating the [Employee Sick Leave Act](#) (“Act”). The Act takes effect January 1, 2017, and is intended to provide Illinois employees with more flexibility in their use of existing company provided sick leave benefits.

Effective January 1, 2017, Illinois employers who already provide personal sick leave benefits to their employees must allow their employees to take such sick leave for absences due to the illness, injury or medical appointment of the employee’s child, spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent or stepparent. The employer must allow the time off under the same terms that apply when the employee is using use sick leave benefits for his or her own illness or injury.

The Act does not define a covered “employer” or “employee.” The language of the Act, however, implies that it is applicable to all Illinois employers that provide employees with personal sick leave time off. Notably, the Act does not require an employer who does not currently provide personal sick leave time off to begin to provide such benefits. Also, an employer that already has a paid time off policy that provides employees with the benefits required under the Act is not required to modify such policy.

The term “personal sick leave benefits” is defined

as “time accrued and available to an employee to be used as a result of absence from work due to personal illness, injury or medical appointment,” but does not include absences for which compensation is provided through an employer’s benefits plan, such as short-term or long-term disability plans. An employee may use the leave for “reasonable periods of time” and under the same terms that apply when the employee uses sick leave benefits for the employee’s own illness or injury.

The employer may limit the use of sick leave benefits for family member care to an amount not less than the personal sick leave that the employee would accrue during six months at the employee’s then-current rate of accrual. For instance, an Illinois employee accruing 40 hours of personal sick leave per year must be permitted to use no less than 20 of those hours for illness, injury or medical appointments of the defined family members.

The employee’s rights and remedies under the Act are in addition to any other rights or remedies afforded by contract or law, and the Act contains express anti-retaliation provisions. Of course, an employer may provide greater sick leave benefits than required under the Act. However, nothing in the Act extends the required maximum leave under the federal Family and Medical Leave Act, regardless of whether or not the employee receives sick leave compensation during that leave.

Employers should be aware of and take action to

implement the requirements of the Act before the January 1, 2017, effective date, including:

1. Review, and revise as necessary, the company policies, procedures and training materials on employee sick leave and for other related time off.
2. Verify that supervisors, managers, human resources and other employees who are responsible for approving and overseeing employee sick leave requests and time off are aware of the requirements of the Act, including the anti-retaliation provisions.
3. Implement or update any employee time off tracking systems to reflect when and how the sick time off is being used, particularly if the company intends to apply the six month accrual limits.

Additionally, Chicago employers should keep in mind the Chicago Paid Sick Leave Ordinance (“Ordinance”), also previously reported on in our [April 2016 Employment Law Trending Now](#). The Ordinance was passed by the Chicago City Council in June 2016 and is expected to be signed into law by Mayor Rahm Emanuel, effective July 1, 2017. Now is a good time for all employers to make sure that their company policies, procedures and training take into account the requirements of the Ordinance and Act.

If you would like to review this issue further, please contact the author, Cheryl Tama Oblander, at ctama@aqdqlaw.com or the Aronberg Goldgehn attorney with whom you normally work.