



ILLINOIS PASSES PAID LEAVE ACT

January 17, 2023 | Alert

On January 10, 2023, the Illinois legislature passed the Paid Leave for All Workers Act (“Act”). While Governor Pritzker has not yet signed the legislation, he has announced that he intends to do so. The Act will go into effect on January 1, 2024 and requires employers to provide a minimum of 40 hours of paid leave to employees for any purpose during a 12-month period.

Under the Act, leave must accrue at a rate of one hour of paid leave for every 40 hours worked. Exempt employees are deemed to have worked 40 hours in each work week. In the alternative, employers can front load the leave on the first day of an employee’s employment. Employees must begin accruing paid leave upon hiring, but can be prevented from taking paid leave until after 90 days of employment. Employers may require up to 7 calendar days’ notice of foreseeable leave if they have a written policy stating the requirement. If the leave is not foreseeable, employees must provide notice as soon as practicable. Employers may not require employees to give a reason for the leave or to provide any documentation regarding the leave. Employees may determine how much leave to take at a time, but employers may limit the leave taken to no less than two hours per day.

Employees must be paid their regular wages during the leave. A tipped or commissioned employee must be paid their regular rate or minimum wage – whichever is greater. Employers do not need to pay out accrued but unused leave under the Act, unless the leave is added to the employee’s vacation or PTO bank. Paid leave – if not used – carries over to the next year. Employees who leave employment, but return within 12 months must have their accrued leave restored. Therefore, the Act requires employers to keep accurate records of leave accrued and taken by employees and to maintain those records for a minimum of 3 years. Employers are also required to post a notice to employees regarding their right to paid leave and are subject to a penalty of \$2,500 per offense for failing to comply with the posting

RELATED PROFESSIONALS

Rachel E. Bossard

Alexander D. Marks

RELATED PRACTICE & INDUSTRIES

Labor and Employment



requirement.

The Act does not apply to school districts or park districts; nor does it apply to short-term or part-time student employees of institutions of higher education. The Act does not affect the validity of collective bargaining agreements in effect on January 1, 2024. However, after January 1, 2024, the requirements of the Act may be waived only if the agreement contains a specific waiver.

The Act makes it unlawful for an employer to interfere with, restrain, deny, change scheduled work days or hours to avoid paid leave, or discipline an employee for the exercise of any right under the Act. It also authorizes the Department of Labor to administer and enforce the Act and provides for penalties for violating the Act. Individual employees may also file a civil action with respect to violations.

While employers have some time before the Act goes into effect, they may want to start thinking about compliance, especially if they do not already provide at least 40 hours of paid leave to employees annually.

For additional information, please contact Burke Warren partners **Rachel Bossard** at 312-840-7029 / rbossard@burkelaw.com or **Alex Marks** at 312-840-7022 / amarks@burkelaw.com.