



Comparison of Recent Illinois, Cook County, and Chicago Paid Leave Laws

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In March of 2023, Illinois Governor J.B. Pritzker signed the Paid Leave for All Workers Act into law to require that employers provide paid leave to their employees to use for any reason. Later that year, the City of Chicago and Cook County each followed suit and enacted their own ordinances requiring employers to provide paid leave to their employees. The following chart compares and contrasts the unique requirements of the Illinois Paid Leave for All Workers Act (“IPLAWA”), the Cook County Paid Leave Ordinance (“CCPLO”), and the Chicago Paid Leave and Paid Sick and Safe Leave Ordinance (the “CGO ORD”). As the below chart reflects, generally speaking, the CGO ORD applies to employees who work in *or* perform at least two hours of work in the City of Chicago within any two-week period, the CCPLO applies to employees who work in Cook County *outside* of Chicago, and the IPLAWA applies to employees who work in Illinois municipalities or counties that are not covered by a municipal or county paid leave ordinance. A single employer may have employees in multiple locations throughout the State of Illinois and, thus, may need to comply with more than one of these new paid leave requirements.

For example, an employer may have 300 employees and 1/3 of these employees are located at a Chicago warehouse, 1/3 of these employees are located at an Evanston, Illinois (Cook County) warehouse, and 1/3 of these employees are located in Springfield, Illinois (Sangamon County). In this example, this employer would need to comply with all three new laws: it would need to comply with the CGO ORD for its Chicago employees, comply with the CCPLO for its Evanston employees, and to comply with the IPLAWA for its Springfield employees. (To date, neither Springfield nor Sangamon County has enacted its own paid leave ordinance).

Subject Matter	Illinois Paid Leave for All Workers Act (the “IPLAWA”)	Cook County Paid Leave Ordinance (the “CCPLO”)	Chicago Paid Leave and Paid Sick and Safe Leave Ordinance (the “CGO ORD”)
Effective Date	January 1, 2024	December 31, 2023	July 1, 2024 ¹
Where It Applies	Applies to employees who work in Illinois. The IPLAWA does not apply to employers covered by a municipal or county ordinance that was in effect on December 31, 2023	Applies to employees who work in Cook County. Cook County posted “Frequently Asked Questions” (“FAQs”) about the CCPLO ² . One of the FAQs addressed employees	Applies to employees who perform at least two hours of work in Chicago within any two-week period. If an employee works two hours in Chicago during one two-week period after the CGO ORD goes into effect, then the CGO ORD

¹ Prior to the passage of the Chicago Ordinance, employers were required to provide paid sick leave to their employees who worked in the City of Chicago pursuant to the City of Chicago Paid Sick Leave Ordinance. The City of Chicago Paid Sick Leave Ordinance will remain in effect until July 1, 2024, when the Chicago Ordinance goes into effect.

² https://www.cookcountyil.gov/sites/g/files/ywwepo161/files/documents/2024-01/Paid%20Leave%20FAQs_012024.pdf

	and requires employers to give any form of paid leave to their employees.	who work in the City of Chicago. The answer to this FAQ states that the CCPLO does not apply to employees in the City of Chicago because Chicago passed its own paid leave ordinance.	applies to just that employee, not to all employees of his or her employer. The CCPLO and IPLAWA do not apply to employees covered by the CGO ORD.
When Employees Can Begin Using Leave	<p>On the later of the following events:</p> <ul style="list-style-type: none"> • 90 days after January 1, 2024 • 90 days after an employee’s commencement of employment. 	<p>On the later of the following events:</p> <ul style="list-style-type: none"> • 90 days after December 31, 2023 • 90 days after an employee’s commencement of employment. 	<p><i>Paid Sick Leave</i>³:</p> <p>On the later of the following events</p> <ul style="list-style-type: none"> • July 1, 2024 • 30 days after an employee’s commencement of employment. <p><i>Paid Leave:</i></p> <p>On the later of the following events:</p> <ul style="list-style-type: none"> • July 1, 2024 • 90 days after an employee’s commencement of employment.
Covered Employees	<ul style="list-style-type: none"> • “Employee” has the same meaning as Sections 1 and 2 under the Illinois Wage Payment and Collection Act (the “IWPCA”). • Domestic Workers are included. • Does NOT include: <ul style="list-style-type: none"> ○ “Employees” as defined in the federal Railroad Unemployment Insurance Act ○ College students working for their school on less than a full-time basis ○ Short-term employees working for “an institution of higher education” 	<ul style="list-style-type: none"> • “Employee” has the same meaning as Sections 1 and 2 under the IWPCA. • Domestic Workers are included. • Does NOT include: <ul style="list-style-type: none"> ○ Federal government employees ○ An employee of an Indian tribe or a corporation wholly owned by an Indian tribe ○ Illinois state government employees ○ “Employees” as defined in the federal Railroad Unemployment Insurance Act 	<ul style="list-style-type: none"> • “Covered Employee” means an employee, who performs at least two hours of work in Chicago within any two-week period. • Domestic Workers are “Covered Employees” for purposes of this Ordinance even if they work for an employer with less than four employees. • “Covered Employee” does NOT include: <ul style="list-style-type: none"> ○ Camp Counselors if they are paid a stipend and, in the case of minors, the minor’s parent or guardian has consented in writing to the terms of the payment before the commencement of such employment ○ Employees of a governmental entity other than the City of Chicago or its sister agencies

³ Employers of Chicago employees are required to provide paid sick leave pursuant to the City of Chicago Paid Sick Leave Ordinance until July 1, 2024.

	<ul style="list-style-type: none"> Employees of school districts or park districts. 	<ul style="list-style-type: none"> College students working for their school on less than a full-time basis Short-term employees working for “an institution of higher education” Employees of school districts or park districts. 	<ul style="list-style-type: none"> An employee of an employer with less than four employees (as referenced above, this exception does not apply to Domestic Workers).
Minimum Increment for the Use of Paid Leave	Employers can set a minimum increment for the use of paid leave not to exceed 2 hours per day.	Employers can set a minimum increment for the use of paid leave not to exceed 2 hours per day.	Employers can set a minimum increment of 4 hours for the use of paid leave and 2 hours for the use of paid sick leave.
Accrual Rate	Workers accrue one hour of paid leave for every 40 hours worked.	Workers accrue one hour of paid leave for every 40 hours worked.	Workers accrue one hour of paid sick leave and one hour of paid leave for every 35 hours worked.
Maximum Paid Leave Cap Allowed	Employers may cap paid leave at 40 hours per year.	Employers may cap paid leave at 40 hours per year.	Employers may cap paid leave at 56 hours per year and paid sick leave at 120 hours per year.
Carry Over	Employees can carry over up to 40 hours (or more if the employer permits) of unused paid leave annually.	Employees can carry over up to 40 hours (or more if the employer permits) of unused paid leave annually.	At the end of the 12-month accrual period, employees can carry over up to 16 hours of paid leave and 80 hours of paid sick leave.
Exceptions to Carry Over Rule	Employers who frontload paid leave may have a “use-it-or-lose-it” policy. Specifically, employers who make available the minimum number of hours of paid leave on the first day of the 12-month period are not required to allow employees to carry over unused paid leave hours into the next 12-month period.	Employers who frontload paid leave may have a “use-it-or-lose it” policy. Specifically, employers who make available the minimum number of hours of paid leave on the first day of the 12-month period are not required to allow employees to carry over unused paid leave hours into the next 12-month period.	Even if an employer frontloads paid sick leave, it must allow an employee to carry over up to 80 hours of unused accrued <u>sick leave</u> into the new 12-month period. Employers who frontload paid leave may have a “use-it-or-lose it” policy and are not required to allow employees to carry over unused, accrued <u>paid leave hours</u> into the next 12-month period.

Notice	Employers can require employees to provide up to 7 days' notice of their plan to take paid leave if their need to take paid leave is foreseeable. If an employee's need to take paid leave is unforeseeable, then an employee may provide notice as soon as it is practicable.	Employers can require employees to provide up to 7 days' notice of their plan to take paid leave if their need to take paid leave is foreseeable. If an employee's need to take paid leave is unforeseeable, then an employee may provide notice as soon as it is practicable.	<p><i>Paid Sick Leave:</i> Employers can require employees to provide up to 7 days' notice of their plan to take paid sick leave if their need to take paid sick leave is foreseeable. If an employee's need to take paid sick leave is unforeseeable, then an employee may provide notice as soon as practicable.</p> <p><i>Paid Leave:</i> May require employees to provide up to 7 days' notice of their plan to take paid leave.</p>
Requests for Documentation	Employers may not require employees to provide documentation substantiating their need to take paid leave under the IPLAWA.	Employers may not require employees to provide documentation substantiating their need to take paid leave under the CCPLO.	<p><i>Paid Sick Leave:</i> If an employee is absent for more than 3 consecutive days, the employer may request certification that the employee's use of Paid Sick Leave is for one of the covered uses under the Ordinance.</p> <p><i>Paid Leave:</i> Employers may not require employees to provide documentation substantiating their need to take paid leave under the CGO ORD.</p>
Whether an Employer May Deny a Request to Take Paid Leave	The law does not specify when an employer may deny an employee's request to take paid leave.	The ordinance does not specify when an employer may deny an employee's request to take paid leave.	<p><i>Paid Sick Leave:</i> The CGO ORD does not specify when an employer may deny an employee's request to take paid sick leave.</p> <p><i>Paid Leave:</i> Yes. An employer may require an employee to obtain reasonable pre-approval from the employer before using paid leave to maintain continuity of employer operations.</p>
Whether Employees Receive Unused, Accrued Paid Leave upon	No, unless an employer credits paid leave to an employee's paid time off bank or employee vacation account. Under the IWPCA, when an employee separates from an employer who offers paid vacation	No, unless an employer credits paid leave to an employee's paid time off bank or employee vacation account.	<p><i>Paid Sick Leave:</i> No</p> <p><i>Paid Leave:</i> It depends on the size of the employer</p>

Separation of Employment	time to its employees, the employer must provide the monetary equivalent of all earned and unused vacation time to that employee.		<ul style="list-style-type: none"> • Small employers (those with 50 or fewer employees) are not required to pay out unused paid leave • Medium employers (those with 51 to 100 employees) are required to pay out up to 16 hours of unused paid leave in 2024. After 2024, medium employers must pay out all unused paid leave. • Larger employers (those with over 100 employees) are required to pay out all unused paid leave.
Employer Notice and Posting Requirements	The Illinois Department of Labor ("IDOL") has prepared a notice that employers are required to post in a conspicuous place on their premises where notices to employees are customarily posted. The notice summarizes the requirements of the IPLAWA and provides information to employees on how to file a charge. Employers also must include the notice in a written document (such as an employment manual, handbook, or policy, if the employer has one), which it must provide to an employee on an employee's commencement of employment or 90 days after the IPLAWA went into effect, whichever is later.	The Cook County Commission on Human Rights ("CCHR") has prepared a notice that employers are required to post in a conspicuous place on their premises where notices to employees are customarily posted. The notice summarizes the requirements of the CCPLO and provides information to employees on how to file a charge. Employers also must include the notice in a written document (such as an employment manual, handbook, or policy, if the employer has one), which it must provide to an employee on an employee's commencement of employment or 90 days after the CCPLO went into effect, whichever is later.	The Commissioner of Business Affairs and Consumer Protection ("CBACP") will prepare a notice that employers are required to post in a conspicuous place at every facility where a Covered Employee works within the geographic boundaries of the City of Chicago. The notice will advise employees of their right to paid time off under the CGO ORD. Employers that do not maintain a business facility within the geographic boundaries of the City of Chicago and households that serve as the worksite of Domestic Workers are exempt from this requirement.
Enforcement	Employees may file a Complaint with the IDOL.	Employees may file a Complaint in Circuit Court or with the CCHR.	Employees may file a Complaint in Circuit Court. The Chicago Department of Business Affairs and Consumer Protection shall enforce the ordinance.
Damages and Penalties	Damages in the form of the actual underpayment, compensatory damages, a penalty of between	<ul style="list-style-type: none"> • If an employee files a Complaint in Circuit Court, he or she can recover damages 	<ul style="list-style-type: none"> • Employers shall be fined between \$1,000-\$3,000 for each separate offense.

	<p>\$500-\$1000, equitable relief, attorneys' fees, reasonable expert witness fees, and other costs are available to employees. It is unclear whether the penalty shall apply to each violation of the ILPLAW or to an employee's claim as a whole.</p>	<p>equal to 3 times the full amount of any denied paid leave, interest, and attorneys' fees and costs.</p> <ul style="list-style-type: none"> If an employee files a Complaint with the CCHR, he or she can recover the actual underpayment, compensatory damages, and a penalty of between \$500-1000. It is unclear whether the penalty shall apply to each violation of the CCPLO or to an employee's claim as a whole. 	<ul style="list-style-type: none"> Employers shall be liable in damages for 3 times the amount of the leave denied, interest at the prevailing rate, and attorneys' fees and costs. An employer who enters into 2 or more settlements within a year may be investigated by the CBACP and could face having its business license revoked.
Cure Period	There is no cure period	There is no cure period	<p>Employees cannot bring claims under the paid leave provisions of the CGO ORD until July 1, 2025.</p> <p>From July 1, 2025 until July 1, 2026, employees can only bring claims under the paid leave provisions after:</p> <ul style="list-style-type: none"> the alleged violation occurs, and the shorter period of either: <ul style="list-style-type: none"> the payday for the next regular payroll period or 16 days after the alleged violation passes. <p>The safe harbor provision sunsets on July 1, 2026.</p>
Employees Subject to a Collective Bargaining Agreement	<ul style="list-style-type: none"> The ILPLAW does not apply to employees covered by a collective bargaining agreement on the Effective Date of the IPLAWA. Any new collective bargaining agreements going forward must comply with the 	<ul style="list-style-type: none"> The CCPLO does not apply to employees covered by a collective bargaining agreement on the Effective Date of the law. Any new collective bargaining agreements going forward must comply with the 	<ul style="list-style-type: none"> The CGO ORD does not apply to employees covered by a collective bargaining agreement on the Effective Date of the law. Any new collective bargaining agreements going forward must comply with the requirements of the CGO ORD unless there is a waiver set forth in the new collective

	requirements of the IPLAWA unless there is a waiver set forth in the new collective bargaining agreement in clear and unambiguous terms.	requirements of the CCPLO unless there is a waiver set forth in the new collective bargaining agreement in clear and unambiguous terms.	bargaining agreement in clear and unambiguous terms.
Public Sector Employees	The IPLAWA applies to public sector employees. It does not apply, however, to any employer covered by a municipal or county ordinance requiring employers to provide paid leave to their employees that was in effect on the Effective Date of the IPLAWA.	The CCPLO applies to public sector employees except for employees of the federal or state government and any of its agencies. This ordinance also does not apply to public sector employees of a home rule municipality that opted out of complying with the ordinance.	The only public sector employees to whom the CGO ORD applies are employees of the City of Chicago and its sister agencies.

Conclusion

The Illinois Department of Labor (the “Department”) published proposed rules for the IPLAWA, which, if enacted, could alter some of the requirements for employers. The proposed rules can be accessed on the Department’s website at the following link:

<https://labor.illinois.gov/content/dam/soi/en/web/idol/documents/44%20IR%2015559.pdf>

All Illinois employers should review their policies, educate key personnel about the new paid leave legislation, and caution them not to retaliate against employees for exercising their rights under it. It should be noted that there are additional paid and unpaid leave laws at the federal, state, and local levels. This Chart does not address those.

Clark Hill attorneys are prepared to work with employers to navigate the challenges posed by these new laws. For more information, please contact Jon Vegosen at jvegosen@clarkhill.com, Renee Fell at rfell@clarkhill.com, or the Clark Hill attorney with whom you regularly work.

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