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Chicago and Cook County Employers May Be Required to Provide Paid Sick Leave to Employees

On July 1, 2017, both the City of Chicago Paid Sick Leave Ordinance and the Cook County Earned Sick Leave Ordinance (individually, an "Ordinance" and collectively, the "Ordinances") took effect. The Ordinances require employers with a place of business in the City of Chicago or Cook County to provide eligible employees with paid sick leave.

Employers with a place of business in the City of Chicago or Cook County are now required to provide paid sick leave to all employees who perform a minimum of two hours of work for the employer in a two week period while physically present in the City of Chicago or Cook County (whichever is applicable). Beginning on the first day of employment (or July 1, 2017, whichever is later), employers must provide eligible employees with at least one hour of paid sick leave for every 40 hours worked in the City of Chicago or Cook County, whichever is applicable. Employers may limit the accrual of paid sick leave to 40 hours per 12 month period.

Under the Ordinances, employees become eligible to use their accrued paid sick leave once they have worked at least 80 hours in any 120 day period, although employers may require that employees wait up to 180 days after the first day of employment to begin to use their accrued paid sick leave. Employees must be permitted to use their accrued paid sick leave for any permissible purpose under the applicable Ordinance.

Employers who are not covered by the federal Family and Medical Leave Act ("FMLA") must permit employees to carry over half of their unused, accrued paid sick leave to the following 12 month period, up to a maximum of 20 hours. Employers who are covered by the FMLA must similarly permit employees to carry over half of their unused, accrued paid sick leave to the following 12 month period, up to a maximum of 20 hours. However, if an employee has any additional unused, accrued paid sick leave that would not otherwise be carried over, the FMLA covered employer must also permit the employee to carry over any such remaining unused, accrued paid sick leave to the following 12 month period, up to a maximum of 40 hours. However, any paid sick leave carried over in this manner may only be used for qualifying purposes under the FMLA.

Both Ordinances have notice requirements that employers must abide by.

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Covered employers must post a notice that informs employees of their rights under the applicable Ordinance in every physical location that the employer occupies in the City of Chicago or Cook County, whichever is applicable. In addition, covered employers must provide each employee with notice of his or her rights under the applicable Ordinance no later than the first day of employment (or July 1, 2017, whichever is later), and at least once per calendar year afterwards.
Covered employers that maintain paid time off policies that meet or exceed the minimum requirements of the applicable Ordinance do not have to provide additional paid sick leave to eligible employees.

Significantly, municipalities in Cook County are permitted to affirmatively "opt out" of the Cook County Earned Sick Leave Ordinance. Employers with a place of business in a Cook County municipality that has opted out of the Cook County Earned Sick Leave Ordinance will not be covered by the Cook County Ordinance. All employers in the City of Chicago are covered by the City of Chicago Ordinance.

If you have any questions about the City of Chicago Paid Sick Leave Ordinance or the Cook County Earned Sick Leave Ordinance, or would like assistance with reviewing your paid time off policies to ensure compliance with the Ordinances, please contact your Reinhart attorney.

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