

Paid Leave for All Workers

In March 2023, Illinois enacted the [Paid Leave for All Workers Act](#), which requires most Illinois employers to provide their employees with up to 40 hours per year of paid leave for any reason. The Illinois Department of Labor has issued [answers to frequently asked questions](#) about the law, which takes effect **Jan. 1, 2024**.

Covered Employers

The law applies to all Illinois employers, except:

- Public school and park districts (private schools are not exempt); and
- Employers covered by a municipal or county paid leave law in effect on Jan. 1, 2024.

Notably, Chicago and Cook County have paid leave laws. However, employers located in a municipality that has opted out of a local paid leave are covered by the new state-wide paid leave law.

The law covers state and local governments and their political subdivisions and agencies.

Covered Employees

The law covers all employees who work in Illinois, except:

- Short-term employees of higher education institutions;
- Temporary part-time student workers at the college or university they attend;
- Collectively bargained construction workers (defined broadly and including workers who move materials to and from the job site and on the job site, plow or remove snow, and collect refuse);
- Collectively bargained delivery workers; and
- Railroad workers covered by the federal Railroad Unemployment Insurance Act or the Railway Labor Act.

The law does not affect or change bona fide collective bargaining agreements (CBAs) in effect on Jan. 1, 2024. After that date, the paid leave law requirements may be waived in CBAs, but only if the waiver is set forth explicitly in the CBA.

The law covers part-time, full-time and seasonal employees, and all domestic workers as defined by [state law](#).

Accrual of Paid Leave

Beginning on the later of Jan. 1, 2024, or the start of employment, employees must accrue one hour of paid leave for every 40 hours worked, up to **40 hours** of leave per 12-month period. Employers may provide more leave at their option. Employees exempt from the overtime requirements of the federal Fair Labor Standards Act are deemed to work 40 hours per week if they regularly work at least 40 hours in a workweek. If they work less than 40 hours per week, their paid leave time accrues based on the number of hours in their regular workweek.

The 12-month period may be any consecutive 12-month period designated by the employer in writing at the time of hire. Employers may change their 12-month period if they provide employees with written advance notice of the change and the change does not reduce the eligible accrual rate and paid leave available to employees.

Changing the 12-month Period

Employers that change their designated 12-month period must provide employees with documentation of their balance of hours worked, paid leave accrued and taken, and remaining paid leave balance.

Use of Paid Leave

Employees may use their accrued leave after **90 days** of employment **for any purpose**. Employers may **not** require employees to provide a reason, documentation or certification for leave.

Accrual begins at the start of employment or Jan. 1, 2024, whichever is later. However, employees may only begin using their accrued paid leave after 90 days; therefore, the first day employees will be able to take off time that has accrued since Jan. 1, 2024, will be March 31, 2024.

Employers may set a reasonable minimum increment for the use of paid leave, not to exceed two hours per day. For employees whose scheduled workday is less than two hours per day, the scheduled workday is used to determine the minimum increment.

Carryover and Front-loading

Employers that front-load leave are not required to allow employees to carry over unused leave into the next year. Other employers must permit carryover.

Specifically, employers that make 40 hours (or the appropriate required yearly amount for part-time workers) of paid leave available to employees on the first day of employment or the first day of the 12-month period are **not** required to carry over employees' paid leave from 12-month period to 12-month

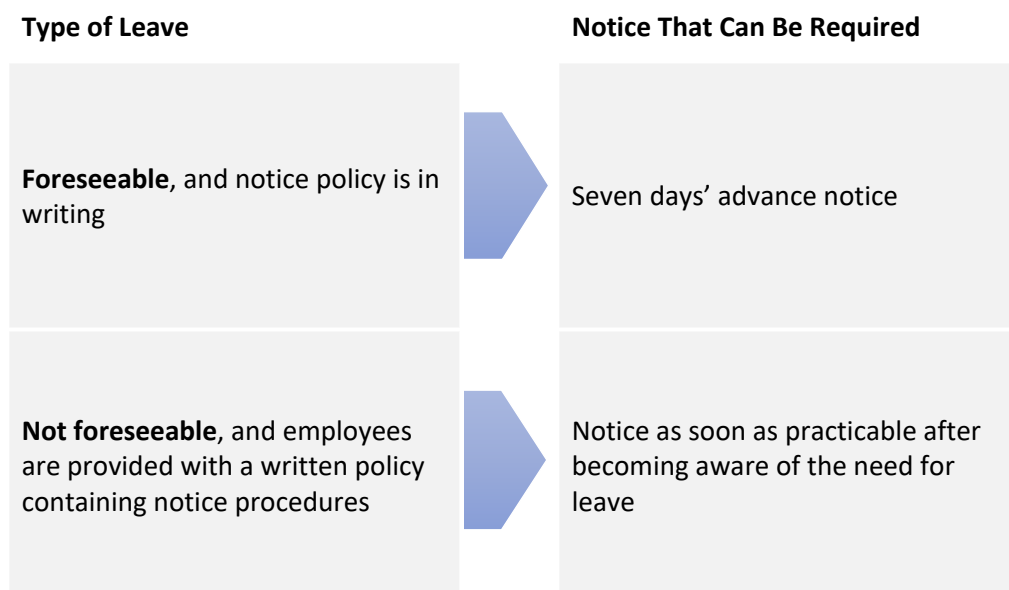
period. These employers may adopt a “use-it-or-lose-it policy,” under which employees forfeit all paid leave that is unused at the end of the benefit period.

While employers that do not front-load leave must allow carryover, the law requires that employees be allowed to use 40 hours of paid leave per 12-month period.

Notice Obligations of Employees

Employers may require seven days’ advance notice of **foreseeable leave** if that policy is in writing. If leave is **not foreseeable**, employers may require employees to provide notice as soon as practicable after becoming aware of the need for leave.

Employers that require notice of unforeseeable leave must provide a written policy with procedures for employees to provide notice.



Any **change to an employer’s paid leave notice requirements** must be communicated to employees within five days in the following ways:

- In a workplace posting in a conspicuous place where notices to employees are customarily posted;
- In a written document (this can be electronic); and
- In a written employee manual or policy (this can be electronic), if the employer has one.

Notice Obligations of Employers

At the start of an employee’s employment, or March 31, 2024 (whichever is later), employers must post a notice about the law in a conspicuous place on their premises, where notices to employees are

customarily posted. Employers must also include the notice in a written document or in a written employee manual or policy if the employer has one. (This can be an electronic notice, including via email, text message, computer or otherwise sent or stored electronically.)

The Illinois Department of Labor will create a notice for employers to use to meet their notice obligations. If an employer's workforce is comprised of a significant portion of workers who are not literate in English, the employer must notify the department, which will prepare a notice in the appropriate language.

Violations of the posting requirements of the law are subject to civil penalties of \$500 for the first violation and \$1,000 for any subsequent violation.

Recordkeeping

Employers must maintain paid leave records for three years. The records must document each employee's hours worked, paid leave accrued and taken, and remaining paid leave balance.

Employers that provide paid leave on an accrual basis (rather than front-loading) must provide employees notice of the amount of paid leave accrued or used upon request.

Compensation

Employees' regular rate of pay applies during leave. Tipped employees or employees working on commission must be paid at least the minimum wage.

Employers do not have to pay out unused, accrued leave when employees separate from employment unless the leave was credited to the employee's paid time off, bank or employee vacation account. In that case, the employer must pay the monetary equivalent of the unused paid leave to the employee on separation. Employers must provide employees with written notice of changes to the employer's vacation time, paid time off or other paid leave policies that affect an employee's right to final compensation for leave.

Employers do not have to provide additional leave if their paid leave plan offers the minimum required amount of leave under the law, and employees can choose to take the leave for any reason.

Equivalent Plans and Other Types of Leave

Employer paid leave policies will satisfy the law if the policy provides at least the amount of leave required by the law and offers employees the option, at the employee's discretion, to take paid leave for any reason.

Employees may choose whether to use paid leave before using any other leave provided by the employer or state law.

Employee Protections

Employers are prohibited from taking adverse action against employees for exercising rights under the paid leave law, opposing violations of the law, or supporting other persons' rights under the law. Employers are also barred from considering an employee's use of paid leave in evaluating, promoting, disciplining or counting paid leave under a no-fault attendance policy.

Enforcement and Penalties

Violations of the law are punishable by employer penalties of up to \$2,500, as well as civil damages and equitable remedies.

More Information

Contact TROXELL for more information on employee leave laws in Illinois.