

Legal Update

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NEW EMPLOYMENT LAWS IN ILLINOIS

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Illinois has recently passed a number of state employment laws that may affect Illinois employers, including the Illinois Employee Sick Leave Act, the Illinois Domestic Workers' Bill of Rights Act, the Illinois Freedom to Work Act, and the Illinois Child Bereavement Act.

Illinois Employee Sick Leave Act

Last month's [newsletter](#) discussed the new Chicago Minimum Wage and Paid Sick Leave Ordinance's requirements for employers in the City of Chicago. In addition, all Illinois employers—including those in Chicago—should consider their obligations, if any, under the new [Employee Sick Leave Act](#), which takes effect on January 1, 2017. The Act applies to all Illinois employers who provide personal sick leave benefits (*i.e.*, time off for absences from work due to personal illness, injury, or medical appointments). The Act requires employers to allow employees to use such personal sick leave for absences due to the illness, injury, or medical appointment of an employee's family member—on the same terms that the employee is allowed to use sick leave for their own illness or injury. Family members include an employee's child, spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent. The Act also prohibits employers from denying an employee the right to use personal sick leave benefits for such family members and from retaliating or discriminating against an employee for using such personal sick leave benefits.

Employers may, however, limit the use of sick leave for absences due to the illness, injury, or medical appointment of a family member to not less than half of an employee's yearly sick leave benefits. The Act also does not extend the maximum period of leave to which employees may be entitled under the federal [Family and Medical Leave Act](#) (FMLA). Moreover, employers who already have paid time off policies that otherwise provide personal sick leave benefits for employees to care for family members are not required to modify such policies. While the Act does not require employers to provide personal sick leave benefits if they do not already do so, employers in the City of Chicago will still need to comply with the [Chicago Minimum Wage and Paid Sick Leave Ordinance](#), which generally entitles eligible employees to paid sick leave benefits beginning on July 1, 2017.

Illinois Domestic Workers' Bill of Rights Act

The [Illinois Domestic Workers' Bill of Rights Act](#) also takes effect on January 1, 2017. The Act covers workers who are employed to perform domestic work (*i.e.*, housekeeping; house cleaning; home management; nanny services; caregiving, personal care or home health services for elderly persons or persons with an illness, injury, or disability who require assistance in caring for themselves; laundering; cooking; companion services; chauffeuring; or other household services for members of households or their guests in or about a private residence or any other location where the domestic work is performed). The Act establishes work protections for domestic workers and amends four existing Illinois laws to

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remove their exclusions of domestic workers. Under the Act, domestic workers now will be covered by the [Illinois Minimum Wage Law](#), which requires workers to be paid at least \$8.25 per hour, and the [Illinois One Day Rest in Seven Act](#), which requires eligible employees to be allowed at least 24 consecutive hours of rest each calendar week and a 20-minute meal break for each seven-and-a-half-hour shift. The Act also adds protections for domestic workers to the [Illinois Human Rights Act](#), which prohibits sexual harassment, among other prohibitions, and the [Illinois Wages of Women and Minors Act](#), which prohibits employers from paying women or minors unreasonable wages. The Act does include certain exceptions. For example, the Act does not apply to certain domestic workers who perform eight hours or less in any workweek on a regular basis, such as occasional babysitters.

Illinois Freedom to Work Act

The [Illinois Freedom to Work Act](#) also becomes effective on January 1, 2017. The Act responds to the Illinois Attorney General's [lawsuit](#) against Jimmy John's for imposing highly restrictive non-compete agreements on its sandwich makers and delivery drivers. The Act bans certain employers from entering into covenants not to compete with "low-wage employees" and declares such non-competes to be illegal. The Act defines "low-wage employees" as employees who earn no more than the greater of (1) the applicable federal, state, or local hourly minimum wage or (2) \$13.00 per hour. The current minimum wage is \$7.25 per hour under federal law, \$8.25 per hour under Illinois state law, and \$10.50 per hour in Chicago. (Employers in Cook County should note that, on October 26, 2016, Cook County passed its Ordinance Creating a Living Wage in Cook County, which will raise the minimum wage in Cook County above the Illinois minimum wage and will gradually increase the Cook County minimum wage every year.) Thus, the Act effectively prohibits employers from imposing non-competes on employees who earn \$13.00 per hour or less. Consequently, Illinois employers may need to review their practices to confirm that they are not requiring such low-wage employees to sign non-competes.

Illinois Child Bereavement Act

Finally, the [Illinois Child Bereavement Act](#) became effective on July 29, 2016. The Act applies to employers and eligible employees who are covered by the FMLA. Under the Act, an employer with 50 or more employees must provide an FMLA-eligible employee with up to 10 work days of unpaid bereavement leave in connection with the death of an employee's son or daughter (including a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*). The Act does not create additional unpaid leave rights that exceed the amount of leave allowed under the FMLA. Among other requirements, employees must provide at least 48 hours' advance notice before taking bereavement leave unless such notice is not reasonable and practicable, and employers may require reasonable documentation in support of a bereavement leave request, such as a death certificate. Accordingly, larger employers may need to review and revise their employee handbooks and leave policies to address child bereavement leave rights.

Employers affected by any of these new Illinois laws should review their existing policies and practices with employment counsel to determine whether current policies and practices satisfy the new Illinois requirements or will need to be updated to comply with all applicable laws.

FVLD publishes updates on legal issues and summaries of legal topics for its clients and friends. They are merely informational and do not constitute legal advice. We welcome comments or questions. If we can be of assistance, please call or write Jon Vegosen 312.701.6860 jvegosen@fvldlaw.com, Cecilia Sub 312.701.6841 csu@fvldlaw.com, or your regular FVLD contact.

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