

Why the Chicago and Cook County Paid-Sick-Leave Ordinances May Apply to Your Organization

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Paid-sick-leave ordinances (PSLOs) became effective in the City of Chicago and Cook County on July 1, 2017. The PSLOs require employers to grant paid sick leave to employees on terms more generous than what most employers have historically offered. (For example, see our article, [Cook County, Illinois, Issues Final Paid Sick Leave Regulations](#).) Accordingly, virtually every employer doing business in Chicago or Cook County needed to make changes, sometimes drastic changes, to their paid time off (PTO) or sick-leave policies to comply with the PSLOs.

Although many employers have made the necessary changes, many have not because of persistent myths that the PSLOs do not apply to them. This article debunks some of those myths and encourages companies to take action.

Myth 1

“Our company does not have a physical location in Chicago or Cook County, so the PSLOs do not apply to us.”

Maybe, maybe not. If your business is subject to any City of Chicago licensing requirement, then the Chicago PSLO applies. Further, if you have at least one employee whom you require to work from a location in Cook County (including the employee’s home in Cook County), then the Cook County PSLO may apply. Both of these things are true even if your company has no physical offices or facilities in the jurisdiction.

Myth 2

“Our company has a physical location in Cook County, but it is in a municipality that ‘opted out’ of the PSLO, so the PSLO does not apply to us.”

Again, maybe, maybe not. If you have a physical location in a Cook County municipality that opted out, but you have employees who perform work elsewhere in Cook County for any reason, the PSLO may still apply to you. For example, if you have a facility in Schaumburg (which has opted out), but one of your Schaumburg employees goes to Oak Park (which has not opted out) to visit a customer, make a delivery, or the like, and spends at least two hours working for you while physically in Oak Park, the PSLO now applies to your business and you must comply, at least as to that employee.

Also note that a lawsuit has been threatened (although not yet filed) against some or all of the jurisdictions that have opted out, challenging their legal authority to do so. If this lawsuit is filed and is ultimately successful, employers in opt-out jurisdictions would be fully subject to the PSLO. It would then be an open question whether liability for providing PSLO might be *retroactive* to July 1, 2017. There is case law in analogous situations suggesting that it might indeed be retroactive.

Myth 3

“We already have a sick leave policy that is more generous than the PSLOs require, so we don’t need to make any changes to the policy.”

This is highly unlikely. You may have a policy that has more generous accrual than the PSLOs require because you allow at least 40 hours of accrual per year, but the PSLOs have many other requirements besides just a certain amount of accrual. Does your policy have any sort of “use it or lose it” component at year end? Do you require employees to provide a doctor’s note if they are out sick for three days? Do you require any specific information to be in the doctor’s note? Do you require employees to follow a

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specific procedure for calling in sick, such as calling their supervisor directly to report the absence? If the answer is “yes” to any of these questions, your current policy may violate the PSLOs.

Myth 4

“We have an ‘unlimited PTO’ policy, so surely we are already in compliance.”

This is highly unlikely, for the same reasons that debunk Myth 3. Existing PTO and sick-leave policies, including “unlimited PTO” policies, often are not fully compliant with the requirements of the PSLOs.

Organizations should ensure compliance with the PSLOs with a thorough review. Although the July 1 effective date of the PSLOs has passed, it is far preferable to come into compliance late than not at all. A relatively small amount of work now can save a lot of trouble down the road.

For additional information on the PSLOs and assistance with your policies, contact the Jackson Lewis attorney with whom you regularly work.

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