

If You Provide Sick Leave -- It Must Include Personal Care of Certain Family Members.

Most employers provide paid sick leave or PTO as a standard benefit. But paid sick leave is not legally required in Illinois with the exception of [Cook County](#). Paradoxically, if your business does provide paid sick leave, that leave is regulated by Illinois law.

Governor Pritzker recently signed [House Bill 158](#), a massive healthcare reform bill meant to reduce inequities in Illinois health care, into law. Among other things, House Bill 158 amends the [Employee Sick Leave Act \(ESLA\)](#) to cover leave for “personal care” of an employee’s children, parents, step-parents, in-laws, and grandparents (“qualifying family members”). This new law takes effect immediately.

ESLA is a state law that requires employers to permit employees to use a portion of their sick leave to care for their qualifying family members for “absences due to an illness, injury, or medical appointment” for reasonable periods of time pursuant to the same terms the employee would be allowed to take that sick leave for their own illness, injury, or medical appointment.

ESLA gives employers discretion to limit an employee’s use of sick leave to care for relatives to half of their accrued sick leave. Moreover, the ESLA only applies to employers who already provide sick leave; it does not create an independent obligation in employers to offer sick leave.

Prior to House Bill 158, the ESLA exclusively defined “personal sick leave” as “time accrued and available to an employee to be used as a result of absence from work due to personal illness, injury, or medical appointment”.

HB 158 expands this definition to include absences for “personal care” activities that ensure that a qualifying family member's basic medical, hygiene, nutritional, or safety needs are met, to provide transportation to medical appointments for qualifying family members who are unable to transport themselves, and to offer emotional support to qualifying family members with serious health conditions receiving inpatient or home care.

While the ESLA does not require employers to offer employees sick leave, collective bargaining agreements, the Family Medical Leave Act, certain [county ordinances](#), or other relevant laws may.

Employer Takeaways

House Bill 158 will not have much practical effect on Illinois employers because most employers interpret their sick leave policies liberally. This legislation does serve as an important reminder, however, that employers should use their leave policies as a way to keep and attract new talent. The American work force is getting older. Women are dropping out of the workforce to care for children and others as a result of the pandemic. Now is the time for Illinois employers to be proactive with their leave policies – if they can – in order to keep good employees and attract new ones.

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