

Governor Polis Signs New Paid Sick Leave Law for All Colorado Employees

Insight — July 14, 2020

On July 14, 2020, Colorado Governor Jared Polis signed into law the Healthy Family and Workplaces Act passed by the Colorado General Assembly during its recently concluded legislative session in June 2020. The new law mandates that nearly all employees working for public and private employers in Colorado must begin accruing at least one hour of paid sick leave for every 30 hours worked, up to 48 hours total, which balance shall carryover year-to-year subject to the limit. This requirement goes into effect for covered employers with 16 or more employees on January 1, 2021, and for all other covered employers (regardless of how many employees they employ) on January 1, 2022.

The law permits use of paid sick leave hours, as soon as they accrue, for numerous reasons ranging from an employee's own illnesses, to an employee's need to care for family members, to leave associated with certain domestic abuse or sexual assault issues, to ordered closures of an employee's place of business, or of a school or childcare facility, if the employee needs to care for a child.

The law applies to hourly, salaried, exempt, non-exempt, and other employees, mandates only limited notice and documentation requirements for sick leave requests, prohibits retaliation against employees requesting sick leave (including any reduction in pay or discipline for requesting or taking sick leave), requires posted notices, imposes specific record-keeping requirements (including specific confidentiality limitations), and provides only limited carveouts where pre-existing employer policies or collective bargaining agreements already afford the same amount of paid sick leave and make it available under the same circumstances. The law does not require that accrued, unused sick leave hours be paid out upon separation of employment.

The law further imposes additional paid sick leave requirements pertaining to COVID-19 and other public health emergencies. As to COVID-19, it requires that all covered employers in Colorado comply with the sick leave provisions of the federal Families First Coronavirus Response Act ("FFCRA")—which, among other things, requires paid sick leave for specified reasons relating to COVID-19—through the end of 2020, even if the covered employers would not otherwise be subject to FFCRA based on their size. (FFCRA generally only applies to employers with fewer than 500 employees, and contains certain exemptions for employers with fewer than 50 employees; none of these size limitations matter under the Colorado law.) The Colorado law also requires that when other public health

emergencies are declared, employers must supplement employees' accrued paid sick leave, as necessary, to ensure they can take approximately two weeks of paid leave for additional reasons, including self-isolation, seeking care, caring for family members, staying home in relation to various public orders, and staying home due to particular susceptibility to the subject illness.

Employers should review their sick leave policies now for compliance with this new law, and, if they do not currently provide paid sick leave to employees, should craft a compliant policy before the main provisions of the law go into effect on January 1, 2021.

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