



Understanding Illinois’s New NICU Leave Law

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Illinois recently passed the **Neonatal Intensive Care Leave Act (NICLA)**, which creates strong workplace protections for parents with newborns who require intensive medical care. Here is what employers with Illinois employees should know about this new leave law before it takes effect on **June 1, 2026**.

The NICLA requires Illinois employers with sixteen or more employees to provide **unpaid** leave for parents during their child’s hospitalization in the neonatal intensive care unit (NICU). The amount of leave that must be offered under NICLA depends on the size of the employer:

Size of Employer	Amount of Leave Required
Less than 16 employees	None — NICLA does not cover these employers.
16 – 50 employees	Up to 10 days of unpaid leave
More than 50 employees	Up to 20 days of unpaid leave

NICLA-covered employees may take NICLA leave no matter their length of service or part-time or full-time status. NICLA leave may be taken intermittently or continuously. Employers can establish a minimum increment of time for employees’ use of NICLA leave, so long as that minimum increment is no greater than two hours.

Illinois employers subject to the federal FMLA should understand that NICLA leave must be provided **in addition to and subsequent to FMLA leave**. Unlike most other

qualifying leaves of absence, NICLA and FMLA leave **cannot run concurrently**. In other words, eligible employees are entitled to NICLA leave if their child remains in the NICU once they have exhausted their FMLA leave. Unlike the FMLA, employers are prohibited from requiring their employees to exhaust their sick leave, vacation, and PTO before taking NICLA leave. Therefore, if they choose to do so, employees can save their employer-provided paid leave days and any paid leave they receive under the Illinois Paid Leave for All Workers Act for use following their unpaid NICLA leave. For more information on the Illinois Paid Leave for All Workers Act, see our prior article [Updates to Illinois HR Law](#).

Employers may not retaliate against workers who take (or assert their right to take) NICLA leave. When an employee returns from NICLA leave, they must be reinstated to their original or an equivalent role with no loss of benefits. NICLA violations can result in civil penalties up to \$5,000 and other damages.

Employers are permitted to request that employees provide reasonable documentation of the duration of their child's stay in the NICU, but cannot request any confidential information protected by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) or other laws. In practice, a letter from a medical provider stating that the child was in the NICU and the dates of that stay is likely all that an employee needs to establish their NICLA eligibility. It is anticipated that the Illinois Department of Labor will publish additional guidance regarding documentation requirements under NICLA.

Employers with questions about NICLA applicability or compliance should reach out to the authors of this article or a member of Boardman Clark's [Labor and Employment Practice Group](#).

Disclaimer: This information is not intended to be legal advice. Rather, it seeks to make recipients aware of certain legal developments that affect human resource issues. Recipients who want legal advice concerning a particular matter should consult with an attorney who is given a full understanding of the relevant facts pertaining to the particular matter.

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