



Illinois Adopts Family Neonatal Intensive Care Leave Act

Issued date: 06/29/26

Illinois Governor J.B. Pritzker signed the Family Neonatal Intensive Care Leave Act (“NICLA”) into law on August 15, 2025, giving many Illinois employees access to unpaid leave when the employee’s child is a patient in a neonatal intensive care unit (“NICU”).

Starting June 1, 2026, Illinois employers with between 16 and 50 employees must allow employees to use up to 10 days of unpaid leave when an employee’s child is a patient in a NICU. Employers with at least 51 employees must provide up to 20 days of unpaid leave for employees with a child housed in a NICU. It appears this employee count includes all employees of the employer but applies to Illinois-based employees.

■ Family Neonatal Intensive Care Leave Act

NICLA applies to all employees who perform work within Illinois, regardless of hourly status or length of service with the employer.

Key provisions of the Act are as follows:

- *Child* is defined as “a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis.”
- Employers may require a “reasonable verification” method for employees who request NICLA and expressly prohibits requesting information that would violate the Health Insurance Portability and Accountability Act (“HIPAA”) or any other privacy laws.
- Employees are allowed to take NICLA continuously or intermittently. Employers may require a minimum increment of time that an employee may use NICLA, but are limited to a minimum of two hours.
- For federal Family and Medical Leave Act (“FMLA”) eligible employees, NICLA can only be used after the employee has exhausted FMLA benefits.

- **Note.** FMLA applies to employers with 50 or more employees, while NICLA applies to employers with 16 or more employees. Because NICLA has more lenient eligibility requirements than FMLA, there will be different classes of employees that employers will need to monitor for NICLA eligibility – those that are eligible for FMLA and those that are not.
- Employers are not allowed to retaliate against employees who request this leave and the employee must be reinstated into their position held before the leave with no loss of benefits upon completion of the leave.
- Employees who believe they have suffered from retaliation or a violation of their NICLA rights must file a complaint with the Illinois Department of Labor within 60 days of the last event where the alleged violation occurred. Penalties of up to \$5,000 per incident, plus unpaid wages and other penalties, can be sought by IDOL for NICLA violations.

■ Employer Action

Employers should identify which employees work within Illinois. It appears the law applies to employers located in other states, as well.

Employers will need to track employees who are and are not eligible for FMLA when requesting NICLA leave. Employees not eligible for FMLA should be identified as having priority status for NICLA eligibility. If the employer utilizes an external leave administrator for FMLA, coordination should be developed to ensure that NICLA options are available upon completion of the employee's FMLA benefits.

Leave policies and handbooks should be updated to clearly identify NICLA eligibility and interaction with FMLA.