

Blog Post

Chicago Prohibits Retaliation Against Employees Who Follow Orders Requiring Them to Stay at Home

June 2, 2020

Employees in Chicago have been granted new protections if they must stay at home to comply with a state or local stay order or to care for someone under such an order under a new Chicago City Council ordinance enacted late last month. [The Anti-Retaliation Ordinance, SO2020-2343](#) protects employees who work as few as two hours in a two-week period and is effective immediately.

Employers are prohibited from taking adverse action against employees for obeying an order of the Mayor, Governor of Illinois, the Chicago Department of Public Health, or a treating healthcare provider to stay at home to minimize the transmission of COVID-19 or to care for an individual who is ordered to stay at home or quarantine. Specifically, the Chicago City Council outlaws such actions against employees who are responding to orders which mandate the following:

1. Staying at home to minimize the transmission of COVID-19;
2. Remaining at home while experiencing COVID-19 symptoms or sick with COVID-19;
3. Obeying a quarantine order issued to the employee;

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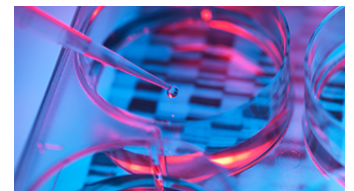
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4. Obeying an isolation order issued to the employee; and
5. Obeying an order issued by the Commissioner of Public Health regarding the duties of hospitals and other congregate facilities.

In addition, the Anti-Retaliation Ordinance prevents an employer from taking the same adverse actions if an order from a healthcare provider treating Covered Employees meets the conditions of items two through four above, or if the Covered Employee is caring for an individual covered by items one through three above.

Although “adverse action” is not explicitly defined, it would certainly include a termination, demotion, or discipline, and could extend to a denial of a promotion, a negative evaluation, unfavorable schedule changes, territory or job assignments, and other unfavorable actions.

Employers subject to the Anti-Retaliation Ordinance include individuals and business entities that employ four or more Covered Employees and either maintain a business facility within Chicago or are subject to any license requirements of the Chicago City Code.

Covered Employees include most employees who, in any two-week period, perform at least two hours of work within the geographic boundaries of the City of Chicago, excluding select camp counselors and certain day or temporary laborers.

The penalties for violation are steep. In addition to administrative hearings or court proceedings instituted by the City of Chicago, any violating employer can be subject to fines of up to \$1,000 per offense per day. Employees may also file a civil action and obtain reinstatement and three times the wages the employee would have been owed, as well as other actual damages caused by the retaliatory action, together with attorney fees.

Employers are afforded an affirmative defense if they relied on a reasonable interpretation of an order, and upon learning of the violation, cured the violation within 30 days.

The Anti-Retaliation Ordinance is immediately effective but slight tweaks to the Covered Employee definition are effective on July 1, 2020.

Given the constantly changing orders from federal, state, and local authorities, employers should stay tuned. Akerman continues to monitor developments and can assist employers with understanding their changing obligations.

This information is intended to inform firm clients and friends about legal developments, including recent decisions of various courts and administrative bodies. Nothing in this Practice Update should be construed as legal advice or a legal opinion, and readers should not act upon the information contained in this Practice Update without seeking the advice of legal counsel. Prior results do not guarantee a similar outcome.