

New City of Chicago Ordinance Modifies Paid Sick Leave and Wage Theft Rules

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The City of Chicago recently passed a new Ordinance amending the City's paid sick leave law and creating new wage theft protections for employees. The expanded reasons for paid sick leave take effect on August 1, 2021.

Expanded Reasons for Paid Sick Leave:

First, the Ordinance expands the reasons that an employee may use paid sick leave to care for themselves or a family member. The Ordinance allows an employee to use paid sick leave for the purpose of "receiving professional care, including preventive care, diagnosis, or treatment, for medical, mental, or behavioral issues, including substance abuse disorders." An employee may also now use paid sick leave to care for a family member who is ill or injured, ordered to quarantine, or receiving professional care. This change essentially clarifies that an employee's leave may be excused to address mental or behavioral health issues in addition to medical issues.

Second, the amended Ordinance allows an employee to use paid sick leave if they or a member of their family is a victim of human trafficking. This is an addition to the current excused reason that allows employees to use paid sick leave when they or a member of their family was the victim of domestic violence or a sex offense.

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Third, employees are now authorized to use paid sick leave if their place of business is closed by order of a public official due to a public health emergency but expands the reason “to care for a family member whose school, class, or place of care has been closed.” Currently, the Ordinance only allows employees to use paid sick leave only “to care for a *child* whose *school or place of care* has been closed by order of a public official *due to a public health emergency*.”

Finally, paid sick leave may be used “to obey an order issued by the Mayor, the Governor of Illinois, the Chicago Department of Public Health, or a treating healthcare provider” requiring the employee to isolate or quarantine to minimize the transmission of communicable disease.

Notice to Employees:

Employers must continue to post a notice in a conspicuous place advising employees of the current minimum wages, their rights under the paid sick leave and wage theft laws, and information about human trafficking and resources to help combat it. Employers that do not have a business facility within the geographic boundaries of the City are exempt from this requirement.

In addition, employers must issue the same notice directly to employees annually with a paycheck issued within 30 days of July 1.

According to the Ordinance, Chicago’s Office of Labor Standards (OLS) will prepare and make available a form notice that satisfies the law’s requirements, but such notice has not been issued as of the date of this article. Employers should monitor the OLS’ Paid Sick Leave website for an updated version of the workplace posting.

Wage Theft Protections:

The new wage theft law took effect on July 5, 2021 and provides that any employer who fails to timely pay an employee is liable for wage theft. Wage theft includes the non-payment of any wages required for work performed, including paid time off and other contractually required benefits.

Any employee who is not timely paid wages in violation of the law may file a claim with the Office of Labor Standards or a civil action, but not both. The employer shall be liable to the employee for the amount of any underpayment and must pay damages of 5% of the amount of any such underpayments for each month following the date of payment during which such underpayments remain unpaid. Note that the State of Illinois wage theft damages increases from 2% to 5% effective August 1, 2021.

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As a result of these recent changes, employers should review their Chicago paid sick leave policies to ensure compliance. If you have any questions regarding this new Chicago Ordinance, please reach out to any member of our Labor and Employment Group.