



## Chicago Joins Growing Trend in Requiring Paid Sick Leave

The City of Chicago joined an emerging national trend when it unanimously passed an ordinance that requires employers to provide workers with paid sick days.

The change will go into effect on July 1, 2017, and expands benefits already provided under the Family Medical Leave Act (FMLA). The FMLA grants covered employees up to 12 weeks of unpaid time off to attend to the serious health condition of the employee or a covered family member. In contrast, the Chicago ordinance requires businesses to provide eligible employees one hour of paid sick leave for every 40 hours worked, up to 40 hours of total paid sick leave in each 12-month period.

The ordinance, which is technically an amendment to Chicago's minimum wage law, covers all employees who perform at least two hours of work within the City in any two-week period and who work at least 80 hours during any 120-day period. The ordinance applies to all employers, regardless of the number of employees, that maintain a business facility within the geographic boundaries of the City or who are subject to one of the City's licensing requirements. The law permits employees to carry up to 2.5 paid sick days over to the following year, but does not require employers to pay employees for unused sick days.

New employees will be eligible to use paid sick days after an initial six-month probationary period. Employers who already offer paid time off that satisfies the requirements of the ordinance will not be required to provide additional benefits.

*Continued*



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David Holmes  
Partner,  
Chicago

312.821.6119

[david.holmes@wilsonelser.com](mailto:david.holmes@wilsonelser.com)



Alexander L. Reich  
Associate,  
Chicago

312.821.6163

[alexander.reich@wilsonelser.com](mailto:alexander.reich@wilsonelser.com)



Angela Sekerka  
Associate,  
Chicago

312.821.6171

[angela.sekerka@wilsonelser.com](mailto:angela.sekerka@wilsonelser.com)

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Under the ordinance, employees will be able to use paid sick leave for their own illnesses, injuries, medical care or preventative care, or for the illnesses, injuries, medical care or preventative care of covered family members. Pursuant to the law, “family members” is construed broadly to include a child, legal guardian, spouse, domestic partner, parent, the parent of a spouse or domestic partner, sibling, grandparent, grandchild or any other individual related by blood whose close association with the employee is the equivalent of a family relationship. Employees also can use paid sick leave if they or their family members are victims of domestic violence or if their place of business or child care facility has been closed due to a public health emergency.

In passing the amendment, Chicago has added another potential landmine in the already tough-to-navigate employer/employee relationship. The ordinance allows employers to require that employees who use paid sick leave for more than three consecutive days provide certification that the leave was for a qualifying purpose. However, the ordinance prohibits employers from inquiring as to

the specific nature of the medical issue. As such, employers should tread carefully when addressing employees’ health issues and corresponding requests for time off.

Currently, four states have laws requiring employers to issue paid sick leave benefits. Connecticut passed the first such law in 2011, followed by Massachusetts and California in 2014 and Oregon in 2015. Likewise, roughly 20 cities across the country have enacted similar regulations, including San Francisco, Washington D.C., Seattle and Philadelphia.

Wilson Elser’s national employment team lawyers are experienced in helping organizations comply with increasingly complex workplace leave laws and would be pleased to respond to questions you may have about this ordinance or other applicable leave laws throughout the country.

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Members of Wilson Elser’s Employment & Labor practice, located throughout the country, provide one convenient point of contact for our clients. Please contact any of the following partners to access the experience and capabilities of this formidable team.

**Contacts:**

Northeast &  
National Practice Chair  
Ricki Roer  
[ricki.roer@wilsonelser.com](mailto:ricki.roer@wilsonelser.com)

**By Region:**

Midatlantic  
Robert Wallace  
[robert.wallace@wilsonelser.com](mailto:robert.wallace@wilsonelser.com)  
Yoora Pak  
[yoora.pak@wilsonelser.com](mailto:yoora.pak@wilsonelser.com)

**Southeast**

Anthony P. Strasius  
[anthony.strasius@wilsonelser.com](mailto:anthony.strasius@wilsonelser.com)

**Midwest**

David Holmes  
[david.holmes@wilsonelser.com](mailto:david.holmes@wilsonelser.com)

**Southwest**

Linda Wills  
[linda.wills@wilsonelser.com](mailto:linda.wills@wilsonelser.com)

**West**

Dean Rocco  
[dean.rocco@wilsonelser.com](mailto:dean.rocco@wilsonelser.com)  
Steve Joffe  
[steve.joffe@wilsonelser.com](mailto:steve.joffe@wilsonelser.com)

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