

Resources

San Antonio Passes Ordinance Requiring Paid Sick Leave

August 16, 2018

This morning, the San Antonio City Council approved a new city ordinance that requires employers to provide paid sick leave to employees who work at least 80 hours within the City of San Antonio per year. Employers with more than 15 employees must allow employees to earn up to one hour of paid sick leave per 30 hours worked, up to a cap of 64 hours of paid sick leave per year; employers with 15 or fewer employees must allow employees to similarly accrue paid sick leave up to a cap of 48 hours of paid sick leave per year. Employees who terminate employment but return to the employer within six months are entitled to any earned sick leave that was available to them as of their termination date.

The new ordinance identifies those instances in which employees are entitled to use paid sick leave, which, generally speaking, may be used for absences related to the employee's own illness or injury or preventative health care, the employee's need to care for such matters of a family member or the employee's or family member's need to engage in various specified activities related to domestic abuse, sexual assault or stalking.

Employers are required to provide notices to employees not less than monthly of their available earned paid sick time, and employers must also provide notice to employees of their rights and remedies in any employee handbook. Further, retaliation against any employee who requests or uses paid sick time, reports violations of the ordinance, participates in any investigation related to the ordinance or exercises any right under the ordinance is prohibited.

Although the ordinance goes into effect on August 1, 2019, for employers with more than five employees (and on August 1, 2021, for all employers), the Texas Attorney General is currently engaged in litigation against the City of Austin related to a similar ordinance scheduled to go into effect in Austin for employers with more than five employees on October 1, 2018. By letter dated July 9, 2018, the Attorney General's office put San Antonio's Mayor and City Council on notice of the Attorney General's position that the ordinance is prohibited by state law. In light of the Attorney General's pending litigation against the City of Austin and the recent letter to San Antonio officials regarding the Attorney General's position on the ordinance, similar litigation by the Attorney General against the City of San Antonio is anticipated.

If you have any questions about the information in this alert, please contact Ray Bissmeyer (rbissmeyer@dykema.com or 210-554-5589) or your Dykema relationship attorney.

Attorneys

Ramon D. Bissmeyer

Raymond A. Cowley

Donna K. McElroy

Daniel R. Stern

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