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Austin, Texas Enacts Paid Sick and Safe Leave Law

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The Austin, Texas City Council has enacted a paid sick and safe leave ordinance, becoming the first southern city to pass such a law for private sector employees. The ordinance will take effect on October 1, 2018 for employers with five or more employees; coverage for smaller employers begins on October 1, 2020.

Employees who work at least 80 hours in Austin in a calendar year will be covered. Eligible employees will accrue paid sick and safe leave at the rate of one hour for every 30 hours worked, up to 64 hours annually (or up to 48 hours annually for businesses with 15 or fewer employees). Employers may also limit usage of accrued leave to no more than 8 calendar days per year. For employees covered by collective bargaining agreements, the accrual cap may be modified so long as the modification is explicitly set forth in the CBA.

Employees shall be entitled to carry over unused leave time into the following year up to the annual accrual cap, unless the employer chooses to frontload at least 64 hours of leave (or 48 hours for employers with 15 or fewer employees) to the employee at the start of the year. While leave accrual begins as of the first day of employment, employers may restrict new employees from using accrued leave during the employee's first 60 days of employment if the employer establishes that the employee's term of employment is at least one year.

Paid sick and safe leave can be used for:

- an employee's own physical or mental illness or injury, preventative medical or health care, or health condition;
- care for a family member with a physical or mental illness, preventative medical or health care, injury or health condition; and
- an employee's need to seek medical attention, seek relocation, obtain services of a victim services organization, or to participate in legal or court ordered action related to an incident of victimization from domestic abuse, sexual assault or stalking involving the employee or a family member.

A “family member” is defined as an employee’s spouse, child, parent, or any other individual related by blood whose close association with the employee is the equivalent of a family relationship.

While employees are required to make a “timely” request for leave before their scheduled work time, they may not be denied leave for an unforeseeable qualified absence. Employers may implement reasonable verification procedures to establish that leave was taken for a covered purpose under the law when an employee requests to use accrued sick or safe leave for more than three consecutive work days.

Employers will be required to provide written notice to employees of their rights under the law in an employee handbook (if one exists), as well as display a notice of rights poster that will be issued by the City of Austin. Employers will also be required to provide employees with a statement showing available sick and safe leave on at least a monthly basis.

With this ordinance, Austin joins a number of state, county and local governments that have passed similar paid sick leave laws in recent months. However, the new law is already seeing some pushback. Shortly after the ordinance was passed, several Texas state representatives expressed opposition to the law and stated they plan to introduce legislation aimed at overturning it.

We will continue to monitor this law and report on any additional developments in advance of the effective date.

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- **Allan S. Bloom**
  Partner
- **Laura M. Fant**
  Special Employment Law Counsel
- **Arielle E. Kobetz**
  Associate