

Chicago Amends Paid Sick Leave Ordinance to Expand Bases for Leave; Create an Action for Wage Theft

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The Chicago City Council amended its Paid Sick Leave Ordinance (PSLO) to clarify and expand the bases to take paid leave and to create a new action for wage theft. The wage theft provisions in the amended PSLO became effective on July 5, 2021, and the paid sick leave amendments will take effect on August 1, 2021.

Expanded Grounds for Taking Paid Sick Leave

Since its [enactment in 2017](#), Chicago's PSLO has required Chicago employers to provide [eligible employees](#) up to 40 hours of paid sick leave in each 12-month period of their employment for certain reasons. [See Chicago City Council Passes Paid Sick Leave Ordinance.](#)

The amended PSLO includes an expanded list of bases to take leave under the PSLO:

1. The employee "is ill or injured, or for the purpose of receiving *professional care*, including preventive care, diagnosis, or treatment, for medical, *mental, or behavioral issues*, including *substance use disorders*;"
2. "A member of the Covered Employee's family is ill, injured, or *ordered to quarantine*, or to care for a family member receiving *professional care*, including preventive care, diagnosis, or treatment, for medical, *mental, or behavioral issues*, including *substance use disorders*;"
3. The "employee, or a member of the Covered Employee's family, is the victim of domestic violence, or a sex offense, or *trafficking in persons*;" or
4. "The Covered Employee's place of business is closed by order of a public official due to a public health emergency, or the Covered Employee needs to care *for a family member* whose school, class, or place of care has been closed."

In addition, the amendments create a new basis to take paid leave under the PSLO, as follows:

5. The Governor of Illinois, the Chicago Department of Public Health, or a treating healthcare provider requires the employee to either:
 - i. stay at home to minimize the transmission of a communicable disease;
 - ii. remain at home while experiencing symptoms or sick with a communicable disease;
 - iii. obey a quarantine order issued to the Covered Employee; or
 - iv. obey an isolation order issued to the Covered Employee.

New Penalties for Wage Theft

The PSLO now allows Covered Employees to bring claims of wage theft against their employers. Wage theft is prohibited by the Illinois Wage Payment and Collection Act, and

Chicago employees now have an additional avenue to obtain relief from any employer who fails to timely pay a Covered Employee.

To avoid liability for wage theft, employers must pay Covered Employees for: (i) wages due for work performed; (ii) paid time off required by the Ordinance, applicable legislation or the employee's contract with the employer; and (iii) employee benefits required by contract.

Covered Employees may file a wage theft claim with the Office of Labor Standards or in state court, but not both. If an employer is found to have violated the PSLO, it becomes liable for the amount of any underpayment and either: (i) 2% of the amount of any underpayments for each month following the date of payment during which the underpayments remain unpaid; or (ii) the amount specified by the Illinois Wage Payment and Collection Act (IWPCA), if the amount in the IWPCA is greater. Currently, the amount specified in the IWPCA is 5% per month for underpayments, so the IWPCA rate will apply.

New Poster Required

Prior to the amendments, Chicago's PSLO required employers to "post in a conspicuous place at each facility [in Chicago] where any Covered Employee works" a notice advising employees of: (i) the current minimum wages under Chicago's minimum wage ordinance; (ii) employees' rights under the minimum wage and paid sick leave ordinance; and (iii) information about human trafficking and resources to help combat it. The PSLO also required employers to disseminate the notice to Covered Employees with their first paycheck and then annually with a paycheck issued within 30 days of July 1.

The amendments require employers to post and disseminate a revised notice that will advise Covered Employees of their ability to seek redress for wage theft. The Commissioner of Business Affairs and Consumer Protection will prepare and make available a new poster that satisfies the new requirements.

Employers with operations in the City of Chicago should carefully review the PSLO in conjunction with their policies and practices related to wage payment and paid sick leave. Jackson Lewis attorneys are available to answer inquiries and provide assistance with these and other workplace issues.

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