



The Dallas, Texas City Council approved an ordinance on April 24, 2019, that requires employers to offer paid sick leave to employees. The new rule goes into effect on August 1, 2019, for employers with more than five employees in Dallas. There are, however, concerns over its constitutionality, and multiple bills currently before the Texas Legislature would invalidate the ordinance.

### **Details of the Ordinance**

- Every employee working in Dallas will earn 1 hour of sick leave for every 30 hours worked in Dallas, so long as they work at least 80 hours a year in Dallas.
- For employers with more than 15 employees, employees must accrue at least 64 hours (eight days) of leave per year. For employers with 15 or fewer employees, employees must accrue at least 48 hours (six days) of leave per year.
- Earned sick leave must carry over to the following year, though employers are not required to allow employees to use paid sick leave on more than eight calendar days within a calendar year.
- Employers are not required to provide additional paid sick leave to employees if they maintain a paid time off (PTO) policy that meets the accrual, yearly cap and usage requirement of this ordinance.
- Employees may use paid sick leave for any of the following:
  - An employee's own illness, injury or preventative care
  - The illness, injury or preventative care of a relative (including a person "whose close association with the employee is the equivalent of a family relationship")
  - If the employee or a relative is a victim of domestic abuse and the time will be used to seek medical care, to relocate, to attend legal proceedings or to secure victim's services.
- Employers must include a notice of an employee's rights and remedies under this ordinance in their employee handbook (if the employer has one), and all employers must post a notice describing employees' rights under this ordinance in a conspicuous location.
- On at least a monthly basis, employers must provide each employee a statement showing the amount of the employee's available earned paid sick time.

### **The Future**

As revolutionary as the ordinance may be, the revolution may be short-lived. In February of last year, a virtually identical ordinance was passed by the Austin, Texas City Council. However, nine months later, at the urging of Texas Attorney General Ken Paxton, the Austin Court of Appeals held the ordinance unconstitutional. That case is currently on petition to the Texas Supreme Court.

Additionally, the Texas legislature has taken up a bill—supported by Governor Greg Abbott—that would prevent cities from enacting mandatory paid sick leave ordinances, effectively invalidating the Dallas City Council's action. That bill has already



## DALLAS CITY COUNCIL ENACTS MANDATORY PAID SICK LEAVE ORDINANCE

by Ruth Ann Daniels and Jake Lewis  
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passed the Texas Senate. However, it has a rockier path to passage in the Texas House, where similar bills have previously stalled. Polls conducted by the University of Texas/Texas Tribune indicate that mandatory paid sick leave ordinances are supported by 71 percent of Texans, including 56 percent of Republicans, so this may be a tough legislative battle.

### What Dallas Employers Should Do

Although the ordinance's long-term future is in doubt, employers must prepare to comply. Employers should take the following steps in preparation:

- Revise employee handbooks in accordance with this ordinance
- Post the required notice in a conspicuous location (once the City provides the official notice)
- Ensure that current PTO policies meet the accrual, yearly cap, and usage requirements of this ordinance
- Train all managers and human resources staff on the requirements of this ordinance
- Ensure that employees receive statements outlining their accrued paid leave at least on a monthly basis.

### ABOUT THE AUTHORS



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Ruth Ann chairs the firm's Labor & Employment Law Section. With more than 30 years of experience as both a trial lawyer and legal advisor for employers in Texas and across the country, she has handled every adversarial and operational matter that can arise in the employer-employee relationship. Her experience includes trying cases in state and federal courts, resolving disputes through arbitrations, conducting investigations and audits, providing workplace training and addressing day-to-day workplace problems. Her clients range from Fortune 500 companies to mid-size businesses across several industries, including automotive, retail, oil and gas, restaurants and many more.



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Jake focuses his practice on resolving a broad range of employment litigation matters, including defense of employers under Title VII, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Fair Labor Standards Act, the Family Medical Leave Act and state anti-discrimination laws. He has significant experience handling Department of Labor audits and related litigation involving misclassification of employees and payment of overtime and minimum wage. Jake also prosecutes and defends unfair competition disputes from preliminary injunctive relief through trial, typically involving non-compete agreements, non-disclosure agreements and misappropriation of trade secrets.