

# Dallas Implements Paid Sick Leave Law: What You Need To Know

Article By:

P. Kevin Connelly

Samantha Souza

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## IN DEPTH

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Last month, the City of Dallas joined a growing number of states, cities and counties across the country—including Austin and San Antonio—that have implemented paid sick day laws. Dallas Ordinance No. 31181 requires employers to provide one hour of earned paid sick time to their Dallas employees for every 30 hours of time worked. The ordinance is scheduled to go into effect August 1, 2019 for employers with more than five employees who perform at least 80 hours of work in a year in Dallas (and August 1, 2021 for employers with five or fewer employees).

However, there are already pending legal challenges to Austin's nearly identical ordinance (Austin Ordinance No. 20180215-049) and the Texas state legislature is attempting to preempt local governments from establishing employee benefits. These types of challenges may similarly prevent the Dallas ordinance from becoming effective in the future. For now, though, employers still should be prepared to comply beginning as early as August 1, 2019.

## To Whom Does the Ordinance Apply?

The ordinance applies to any private-sector employer with employees in Dallas who perform at least 80 hours of work in a year for the employer (covered employees). The ordinance does not apply to independent contractors or unpaid interns, but does apply to leased employees, which employers will need to address with their employment agencies.

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Covered employees may request earned paid sick time for an absence from work in the event that:

- The employee is physically or mentally ill or needs to seek preventative health care.
- The employee needs to care for a family member who is physically or mentally ill or needs to seek preventative health care.
- The employee or the employee's family member needs to seek medical attention or services (including participation in legal or court-ordered action) related to an incident of domestic abuse, sexual assault or stalking.

## **What Does the Ordinance Require?**

*Paid Sick Leave:* Employers in Dallas must grant their employees one hour of earned paid sick time for every 30 hours the employee works. The total amount of earned paid sick time an employee can accrue per year is capped as follows:

- 64 hours of earned paid sick time per employee per year for employers with more than 15 employees
- 48 hours of earned paid sick time per employee per year for employers with 15 or fewer employees

Employees have the right to carry over their available earned paid sick time into the following year. Employers may not prevent an employee from using earned paid sick time for an unforeseen qualified absence. Employers are not required to pay employees for leave in excess of the employee's available earned paid sick time.

*Notice Requirements:* Dallas employers must provide each employee with a monthly statement reflecting the amount of available paid sick time the employee has accrued. The statement can be provided electronically or in writing. If the employer has an employee handbook, it should be updated to include a section that provides notice of Dallas employees' paid sick time rights and their remedies. Dallas employers also will be required to post a sign describing the requirements of the ordinance in a conspicuous place. The information required to be included on the sign will be announced on the City of Dallas' website.

*Recordkeeping Requirements:* The ordinance requires employers to maintain records reflecting the amount of earned paid sick time accrued by, used by, and available to each employee, but it is unclear how long employers must retain these records, as the ordinance cites to a section of the Code of Federal Regulations that does not exist.

*End of Employment:* The ordinance remains silent on whether employers are required to pay out any accrued and unused sick leave at the end of employment. Because Texas does not have a law requiring employers to make payouts of accrued but unused paid leave, it would appear that nothing has changed on this front for Dallas employers.

## **When Does the Ordinance Become Effective?**

For employers with more than five employees, earned paid sick time will start to accrue for covered employees on August 1, 2019. For employers with five or fewer employees at any time in the preceding 12 months, earned paid sick time will start to accrue for covered employees on August 1, 2021.

## **What Are the Penalties for Non-Compliance?**

There is no provision for a private right of action.

Each violation of one of the ordinance's requirements is punishable by a civil fine of up to \$500, which can be appealed. However, the ordinance requires the director to seek voluntary compliance from the employer. The employer has 10 days following receipt of a written violation notice to remedy the violation before any civil penalty is collected. No penalties will be assessed against employers until April 1, 2020, except for violations of the ordinance's anti-retaliation provision.

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