



Board of Commissioners of Cook County

118 North Clark Street
Chicago, IL

Legislation Details (With Text)

File #:	23-5468	Version:	2	Name:	PAID LEAVE
Type:	Ordinance Amendment	Status:		Status:	Filed
File created:	10/18/2023	In control:		In control:	Legislation and Intergovernmental Relations Committee
On agenda:	10/19/2023	Final action:		Final action:	12/14/2023
Title:	PROPOSED SECOND SUBSTITUE TO FILE 23-5468 (This substitute replaces all other versions)				

PROPOSED ORDINANCE AMENDMNET

PAID LEAVE

BE IT ORDAINED, by the Cook County Board of Commissioners, that CHAPTER 42, HUMAN RELATIONS, ARTICLE II, IN GENERAL, DIVISION 1, PAID LEAVE, Section 42-1 through 42-10 of the Cook County Code is hereby amended as Follows:

DIVISION 1. EARNED SICK PAID LEAVE

Sec. 42-1. Short title.

This article [division] shall be known and may be cited as the Cook County Earned Sick Paid Leave Ordinance ("Ordinance").

Sec. 42-2. Definitions.

The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agency means the Cook County Commission on Human Rights.

Construction Industry means any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating, custom fabricating, maintenance, landscaping, improving, wrecking, painting, decorating, demolishing, and adding to or subtracting from any building, structure, highway, roadway, street, bridge, alley, sewer, ditch, sewage disposal plant, water works, parking facility, railroad, excavation or other structure, project, development, real property or improvement, or to do any part thereof, whether or not the performance of the work herein described involves the addition to, or fabrication into, any structure, project, development, real property or improvement, herein described of any material or article of merchandise. Construction shall also include moving construction related materials on the job site to or from the job site snow plowing, snow removal, and refuse collection. or to do any part thereof, whether or not the performance of the work herein described involves the addition to or fabrication into, any structure, project, development, real property, or improvement herein described of any material or article of merchandise. Construction industry also includes moving construction related materials on the job site or to or from the job site, includes snow plowing, snow removal, and refuse collection.

Covered Employee means any Employee who, in any particular two-week period, performs at least two hours of work for an Employer while physically present within the geographic boundaries of Cook County. For purposes of this definition, time spent traveling in Cook County that is compensated time, including, but not limited to, deliveries, sales calls, and travel related to other business activity taking place within Cook County, shall constitute work while physically present within the geographic boundaries of Cook County; however, time spent traveling in Cook County that is uncompensated commuting time shall not constitute work while physically present within the geographic boundaries of

Cook County. The definition of "Covered Employee" for purposes of this Division does not include any "employee" as defined by Section 1(d) of the Railroad Unemployment Insurance Act, 45 U.S.C. § 351 (d).

Domestic partner means any person who has a registered domestic partnership, or qualifies as a domestic partner under Sections 2-173 and 2-174 of this Code or as a party to a civil union under the Illinois Religious Freedom Protection and Civil Union Act, 750 ILCS 75/1 et seq., as currently in force and hereafter amended.

Domestic Work and Domestic Worker have the same meanings as defined in Section 10 of the Domestic Workers' Bill of Rights Act, except that "domestic worker" also includes independent contractors, sole proprietors, and partnerships.

Earned Sick Leave means time that is provided by an Employer to a Covered Employee that is eligible to be used for the purposes described in Section 42-3 of this Chapter, and is compensated at the same rate and with the same benefits, including health care benefits, that the Covered Employee regularly earns during hours worked.

Employee means an individual permitted to work by an Employer regardless of the number of persons the Employer employs.

Employer means:

(1) "Employer" means any individual, partnership, association, corporation, limited liability company, business trust, or any person or group of persons that gainfully employs at least one Covered Employee with a place of business within Cook County.

(2) The term "Employer" does not mean:

- a. The government of the United States or a corporation wholly owned by the government of the United States;
- b. An Indian tribe or a corporation wholly owned by an Indian tribe;
- c. The government of the State or any agency or department thereof; or
- d. Units of local government.

Employee has the same application and meaning as that provided in Sections 1 and 2 of the Illinois Wage Payment and Collection Act. "Employee" also includes all domestic workers, and, for the purposes of this Division, domestic workers shall not be excluded as employees under the provisions of item (1), (2), or (3) of Section 2 of the Illinois Wage Payment and Collection Act. "Employee" does not include:

(1) an Employee as defined in the federal Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.)

(2) a student enrolled in and regularly attending classes in a college or university that is also the student's Employer, and who is employed on a temporary basis at less than full time at the college or university, but this exclusion applies only to work performed for that college or university; or

(3) a short-term Employee who is employed by an institution of higher education for less than 2 consecutive calendar quarters during a calendar year and who does not have a reasonable expectation that they will be rehired by the same Employer of the same service in a subsequent calendar year.

Employer has the same application and meaning as that provided in Sections 1 and 2 of the Illinois Wage Payment and Collection Act, except that for purposes of this Act, "Employer" also means the State and units of local government, any political subdivision of the State or units of local government, or any State or local government agency. Employer does not include school districts organized under the School Code or park districts organized under the Park District Code.

Family and Medical Leave Act means the United States Family and Medical Leave Act of 1993, 29 USC § 2601 et seq. as currently in force and hereafter amended.

Family member means a Covered Employee's child, legal guardian or ward, spouse under the laws of any state, domestic partner, parent, spouse or domestic partner's parent, sibling, grandparent, grandchild, or any other individual related by blood or whose close association with the Covered Employee is the equivalent of a family relationship. A child includes not only a biological relationship, but also a relationship resulting from an adoption, step-relationship, and/or foster care relationship, or a child to whom the Covered Employee stands in loco parentis. A parent includes a biological, foster, stepparent or adoptive parent or legal guardian of a Covered Employee, or a person who stood in loco parentis when the Employee was a minor child.

Health Care Provider means any person licensed to provide medical or emergency services, including, but not limited to, doctors, nurses, and emergency room personnel.

Writing or written means a printed or printable communication in physical or electronic format, including a communication that is transmitted through electronic mail, text message, or a computer system or is otherwise sent or stored electronically.

Editor's note(s)-See editor's note to Div. 1.

Sec. 42-3. Earned sick Paid leave.

(a) General Provisions. Purpose.

(1) Any Covered Employee who works at least 80 hours for an Employer within any 120-day period shall be eligible for Earned Sick Leave as provided under this Section. It is in the public policy interest of Cook County to have some paid leave from work to maintain their health and well-being, care for their families, or use for any other reason of their choosing.

(2) Unless an applicable collective bargaining agreement provides otherwise, upon a Covered Employee's termination, resignation, retirement or other separating from employment, his or her Employer is not

It is the intent of the Cook County Board of Commissioners by enacting this Division:

(a) To establish a minimum paid leave standard for all workers in Cook County.

(b) To provide employment security and economic security for employees who need to use paid time off from work for any reason.

(c) To safeguard the welfare, health, safety, and prosperity of the people of Cook County.

(d) To ensure that an Employee not be denied use of leave for noncompliance with leave notification policies if the Employer has not provided a written copy of its notification policy to the Employee.

In order to effectuate this intent, the provisions of this Division shall be liberally construed in favor of providing workers with the greatest amount of paid time off from work and employment security.

(3) Nothing in this Division shall be construed to discourage Employers from adopting or retaining paid sick leave, paid vacation, paid holidays, or any other paid time off or paid leave policy more generous than policies that comply with the requirements of this Division. Nothing in this Division shall be construed to discourage or prohibit an Employer from allowing the use of paid leave at an earlier date than this Division requires. Unless otherwise provided in a collective bargaining agreement, nothing in this Division shall be construed to waive or otherwise limit an Employee's right to final compensation for any type of leave promised to be paid under a contract of employment or employment policy and earned by the Employee pursuant to the Illinois Wage Payment and Collection Act.

(b) Accrual of Earned Sick Leave. Provisions of Paid Leave.

(1) Earned Sick Leave shall begin to accrue either on the first calendar day after the

commencement of a Covered Employee's employment or on the effective date of this Division, whichever is later.

(2) For every 40 hours worked after a Covered Employee's Earned Sick Leave begins to accrue, he or she shall accrue one hour of Earned Sick Leave. Earned Sick Leave shall accrue only in hourly increments; there shall be no fractional accruals.

(3) A Covered Employee who is exempt from overtime requirements shall be assumed to work 40 hours in each workweek for purposes of Earned Sick Leave accrual, unless his or her normal work week is less than 40 hours, in which case Earned Sick Leave shall accrue based upon that normal work week.

(4) For each Covered Employee, there shall be a cap of 40 hours Earned Sick Leave accrued per 12-month period, unless his or her Employer sets a higher limit. The 12-month period for a Covered Employee shall be calculated from the date he or she began to accrue Earned Sick Leave.

(5) At the end of a Covered Employee's 12-month accrual period, he or she shall be allowed to carry over to the following 12-month period half of his or her unused accrued Earned Sick Leave, up to a maximum of 20 hours.

(6) If an Employer is subject to the Family and Medical Leave Act, each of the Employer's Covered Employees shall be allowed, at the end of his or her 12-month Earned Sick Leave accrual period, to carry over up to 40 hours of his or her unused accrued Earned Sick Leave, in addition to the carryover allowed under subsection 42-3(b)(5), to use exclusively for Family and Medical Leave Act eligible purposes.

(7) If an Employer has a policy that grants Covered Employees paid time off in an amount and a manner that meets the requirements for Earned Sick Leave under this Section, the Employer is not required to provide additional paid leave. If such Employer's policy awards the full complement of paid time off immediately upon date of eligibility, rather than using an accrual model, the Employer must award each Covered Employee 40 hours paid time off within one calendar year of his or her date of eligibility.

(c) Use of Earned Sick Leave.

(1) An Employer shall allow a Covered Employee to begin using Earned Sick Leave no later than on the 180th calendar day following the commencement of his or her employment. A Covered Employee is entitled to use no more than 40 hours of Earned Sick Leave per 12-month period, unless his or her Employer sets a higher limit. The 12-month period for a Covered Employee shall be calculated from the date he or she began to accrue Earned Sick Leave. If a Covered Employee carries over 40 hours of Family and Medical Leave Act leave pursuant to subsection 42-3(b)(6) and uses that leave, he or she is entitled to use no more than an additional 20 hours of accrued Earned Sick Leave in the same 12-month period, unless the Employer sets a higher limit. A Covered Employee shall be allowed to determine how much accrued Earned Sick Leave he or she needs to use, provided that his or her Employer may set a reasonable minimum increment requirement not to exceed four hours per day.

(2) A Covered Employee may use Earned Sick Leave when:

a. He or she is ill or injured, or for the purpose of receiving medical care, treatment, diagnosis or preventative medical care;

b. A member of his or her family is ill or injured, or to care for a family member receiving medical care, treatment, diagnosis or preventative medical care;

c. He or she, or a member of his or her family, is the victim of domestic violence, as defined in Section 103 of the Illinois Domestic Violence Act of 1986, or is the victim of sexual violence or stalking as defined in Article 11, 12-7.3, 12-7.4, and 12-7.5 of the Illinois Criminal Code of 2012; or

d. His or her place of business is closed by order of a public official due to a public health emergency, or he or she needs to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency. For the purposes of this section, "public health emergency" is an event that is defined as such by a Federal, State or Local government, including a school district.

(3) An Employer shall not require, as a condition of a Covered Employee taking Earned Sick Leave that he or she search for or find a replacement worker to cover the hours during which he or she is on Earned Sick Leave.

(4) If a Covered Employee's need for Earned Sick Leave is reasonably foreseeable, an Employer may require up to seven days' notice before leave is taken. If the need for Earned Sick Leave is not reasonably foreseeable, an Employer may require a Covered Employee to give notice as soon as is practicable on the day the Covered Employee intends to take Earned Sick Leave by notifying the Employer via phone, e-mail, or text message. The Employer may set notification policy if the Employer has notified Covered Employee in writing of such policy and that policy shall not be unreasonably burdensome. For purposes of this subsection, needs that are "reasonably foreseeable" include, but are not limited to prescheduled appointments with health care providers for the Covered Employee or for a family member, and court dates in domestic violence cases. Any notice requirement imposed by an Employer pursuant to this subsection shall be waived in the event a Covered Employee is unable to give notice because he or she is unconscious, or otherwise medically incapacitated. If the leave is one that is covered under the Family and Medical Leave Act, notice shall be in accordance with the Family and Medical Leave Act.

(5) Where a Covered Employee is absent for more than three consecutive work days, his or her Employer may require certification that the use of Earned Sick Leave was authorized under subsection 42-3(c)(2). For time used pursuant to subsections (c)(2)(a) or (b), documentation signed by a licensed health care provider shall satisfy this requirement. An Employer shall not require that such documentation specify the nature of the Covered Employee's or the Covered Employee's family member's injury, illness, or condition, except as required by law. For Earned Sick Leave used pursuant to subsection (c)(2)(c) a police report, court document, a signed statement from an attorney, a member of the clergy, or a victim services advocate, or any other evidence that supports the Covered Employee's claim, including a written statement from him or her, or any other person who has knowledge of the circumstances, shall satisfy this requirement. The Covered Employee may choose which document to submit, and no more than one document shall be required if the Earned Sick Leave is related to the same incident of violence or the same perpetrator. The Employer shall not delay the commencement of Earned Sick Leave taken for one of the purposes in subsection 42-3(c)(2) nor delay payment of wages, on the basis that the Employer has not yet received the required certification.

(6) Nothing in this Section shall be construed to prohibit an Employer from taking disciplinary action, up to and including termination, against a Covered Employee who uses Earned Sick Leave for purposes other than those described in this Section.

(7) This Section provides minimum Earned Sick Leave requirements; it shall not be construed to affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater Earned Sick Leave benefits.

(a) An Employee who works in Cook County is entitled to earn and use up to a minimum of 40 hours of paid leave during a 12-month period or a pro rata number of hours of paid leave under the provisions of subsection (b) of this section. The paid leave may be used by the Employee for any purpose as long as the paid leave is taken in accordance with the provisions of this Division.

(b) Paid leave under this Division shall accrue at the rate of one hour of paid leave for every 40 hours worked up to a minimum of 40 hours of paid leave or such greater amount if the Employer provides more than 40 hours. Employees who are exempt from the overtime requirements of the federal Fair Labor Standards Act (29 U.S.C. 213(a)(1)) shall be deemed to work 40 hours in each workweek for purposes of paid leave accrual unless their regular workweek is less than 40 hours, in which case paid leave accrues based on that regular workweek. Employees shall determine how much paid leave

they need to use; however, Employers may set a reasonable minimum increment for the use of paid leave not to exceed 2 hours per day. If an Employee's scheduled workday is less than 2 hours day, the Employee's scheduled workday shall be used to determine the amount of paid leave.

(c) An Employer may make available the minimum number of hours of paid leave, subject to pro rata requirements provided in subsection (b), to an Employee on the first day of employment or the first day of the 12-month period. Employers that provide the minimum number of hours of paid leave to an Employee on the first day of employment or the first day of the 12-month period are not required to carryover paid leave from 12-month period to 12-month period and may require Employees to use all paid leave prior to the end of the benefit period or forfeit the unused paid leave. However, under no circumstances shall an Employee be credited with paid leave that is less than what the Employee would have accrued under subsections (a) and (g) of this Section.

(d) The 12-month period may be any consecutive 12-month period designated by the Employer in writing at the time of hire. Changes to the 12-month period may be made by the Employer if notice is given to Employees in writing prior to the change and the change does not reduce the eligible accrual rate and paid leave available to the Employee. If the Employer changes the designated 12-month period, the Employer shall provide the Employee with documentation of the balance of hours worked, paid leave accrued and taken, and the remaining paid leave balance.

(e) Paid leave under this Act may be taken by an Employee for any reason of the Employee's choosing. An Employee is not required to provide an Employer a reason for the leave and may not be required to provide documentation or certification as proof or in support of the leave. An Employee may choose whether to use paid leave provided under this Division prior to using any other leave provided by the Employer or State law.

(f) Employees shall be paid their hourly rate of pay for paid leave. However, Employees engaged in an occupation in which gratuities or commissions have customarily and usually constituted and have been recognized as part of the remuneration for hire purposes shall be paid by their Employer at least the full minimum wage in the jurisdiction in which they are employed when paid leave is taken. This wage shall be treated as the Employee's regular rate of pay for purposes of this Division.

(g) Paid leave under this Division shall begin to accrue at the commencement of employment or on the effective date of this Act, whichever is later. Employees shall be entitled to begin using paid leave 90 days following commencement of their employment or 90 days following the effective date of this Division, whichever is later.

(h) Paid leave under this Division shall be provided upon the oral or written request of an Employee in accordance with the Employer's reasonable paid leave policy notification requirements which may include the following:

(1) If use of paid leave under this Division is foreseeable, the Employer may require the Employee to provide 7 calendar days' notice before the date the leave is to begin.

(2) If paid leave under this Division is not foreseeable, the Employee shall provide such notice as soon as is practicable after the Employee is aware of the necessity of the leave. An Employer that requires notice of paid leave under this Division when the leave is not foreseeable shall provide a written policy that contains procedures for the Employee to provide notice.

(3) Employers shall provide Employees with written notice of the paid leave policy notification requirements in this Section in the manner provided in Section 20 for notice and posting and within 5 calendar days of any change to the Employer's reasonable paid leave policy notification requirements.

(4) An Employer may not require, as a condition of providing paid leave under this Division, that the Employee search for or find a replacement worker to cover the hours during which the Employee takes paid leave.

(i) Except as provided in subsection (c) of this Section, paid leave under this Division shall carry over annually to the extent not used by the Employee, provided that nothing in this Division shall be

construed to require an Employer to provide more than 40 hours of paid leave for an Employee in the 12-month period unless the Employer agrees to do so.

(j) Nothing in this Section shall be construed as requiring financial or other payment to an Employee from an Employer upon the Employee's termination, resignation, retirement, or other separation from employment for paid leave accrued under this Division that has not been used. Nothing in this Section shall be construed as requiring financial or other reimbursements to an Employee from an Employer for unused paid leave under this Division at the end of the benefit year or any other time.

(k) If an Employee is transferred to a separate division, entity, or location, but remains employed by the same Employer, the Employee is entitled to all paid leave accrued at the prior division, entity, or location and is entitled to use all paid leave as provided in this Section. If there is a separation from employment and the Employee is rehired within 12 months of separation by the same Employer, previously accrued paid leave that had not been used by the Employee shall be reinstated. The Employee shall be entitled to use accrued paid leave at the commencement of employment following a separation from employment of 12 months or less.

(l) Paid leave under this Division shall not be charged or otherwise credited to an Employee's paid time off bank or Employee account unless the Employer's policy permits such a credit. If the paid leave under this Division is credited to an Employee's paid time off bank or Employee vacation account then any unused paid leave shall be paid to the Employee upon the Employee's termination, resignation, retirement, or other separation to the same extent as vacation time under existing Illinois law or rule. Nothing in this Division shall be construed to waive or otherwise limit an Employee's right to final compensation for promised and earned, but unpaid vacation time or paid time off, as provided under the Illinois Wage Payment and Collection Act and rules. Employers shall provide Employees with written notice of changes to the Employer's vacation time, paid time off, or other paid leave policies that affect an Employee's right to final compensation for such leave.

(m) During any period an Employee takes leave under this Division, the Employer shall maintain coverage for the Employee and any family member under any group health plan for the duration of such leave at no less than the level and conditions of coverage that would have been provided if the Employee had not taken the leave. The Employer shall notify the Employee that the Employee is still responsible for paying the Employee's share of the cost of the health care coverage, if any.

(n) An agreement by an Employee to waive the Employee's rights under this Division is void as against public policy.

Editor's note(s)-See editor's note to Div. 1.
[Sec. 42-4. Reserved.]

Sec. 42-5. Application to collective bargaining agreements.

Nothing in this Division shall be deemed to interfere with, impede, or in any way diminish the right of Covered Employees to bargain collectively with their Employers through representatives of their own choosing in order to establish wages or other conditions of work in excess of the applicable minimum standards of the provisions of this Division. The requirements of this Division may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth explicitly in such agreement in clear and unambiguous terms. Nothing in this Division shall be deemed to affect the validity or change the terms of bona fide collective bargaining agreements in force on the effective date of this effect on January 1, 2024. Division. After that date, requirements of this Division may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth explicitly in such agreement in clear and unambiguous terms. In no event shall this Division apply to any Covered Employee working in the Construction Industry who is covered by a bona fide collective bargaining agreement. In no event shall this Division apply to any Employee working in the construction industry who is covered by a bona fide collective bargaining agreement.

Editor's note(s)-See editor's note to Div. 1.

Sec. 42-6. Related Employer responsibilities; Notice and posting.

(a) Every Employer shall post in a conspicuous place at each facility where any Covered Employee works that is located within the geographic boundaries of Cook County a notice advising the Covered Employee of his or her Employee rights to Earned Sick Time Paid Leave under this Division. The Agency shall prepare and make available a form notice that satisfies the requirements of this Division. Employers that do not maintain a business facility within the geographic boundaries of the County are exempt from this subsection.

(b) Every Employer shall provide to a Covered Employee at the commencement of employment written notice advising the Covered Employee of his or her Employee rights to Earned Sick Time Paid Leave under this Division.. The Agency shall prepare and make available a form notice that satisfies the requirements of this Division.

(c) An Employer subject to this Division shall make and preserve records documenting hours worked, paid leave accrued and taken, and remaining paid leave balance for each Employee for a period of not less than 3 years and shall allow the Agency access to such records, at reasonable times during business hours, to monitor compliance with the requirements of this Division. In addition, the records shall be preserved for the duration of any claim pending pursuant to this Division. An Employer that provides paid leave on an accrual basis shall provide notice of the amount of paid leave accrued or used by an Employee upon request by the Employee in accordance with the Employer's reasonable paid leave policy notification provisions. An Employer that fails to comply with this subsection is in violation of the Division and subject to the civil penalties established in Section 42.8.

(b) An Employer who provides any type of paid leave policy that satisfies the minimum amount of leave required this Division is not required to modify the policy if the policy offers an Employee the option, at the Employee's discretion, to take paid leave for any reason. Nothing in this Division shall be construed as requiring financial or other reimbursements to an Employee from an Employer for unused paid leave under this Division. Nothing in this Division shall be construed to discourage an Employer from adopting a paid leave policy more generous than the requirements of this Division.

(c) For Domestic Workers, if an Employer requires evidence of hours worked for other Employers to confirm that the Domestic Worker has worked or is scheduled to work 8 or more hours in the aggregate for any relevant workweek, a signed statement by the Domestic Worker stating that the Domestic Worker has performed or is scheduled to perform domestic work for 8 or more hours in the aggregate for any relevant workweek shall satisfy any documentation requirements of hours worked under the Domestic Workers' Bill of Rights Act and this Act. Such Employer shall not require more than one signed statement in a calendar quarter if the hours the Domestic Worker has performed or is scheduled to perform domestic work have not decreased to less than 8 hours in the aggregate in any relevant workweek in that calendar quarter. An Employer that requires evidence of hours worked must give the Domestic Worker written notice of such request and allow no fewer than 7 days or until the next scheduled workday, whichever is greater, for the domestic worker to comply with the request. The Employer may not deny paid leave pending submission of the signed statement.

(d) An Employer shall post and keep posted in a conspicuous place on the premises of the Employer where notices to employees are customarily posted, and include it in a written document, or written employee manual or policy if the Employer has one, a notice, to be prepared by the Agency, summarizing the requirements of this Division and information pertaining to the filing of a charge upon commencement of an Employee's employment or 90 days following the effective date of this Division, whichever is later. If an Employer's workforce is comprised of a significant portion of workers who are not literate in English, the Employer shall notify the Agency and a notice in the appropriate language shall be prepared by the Agency. Employees may also request that the Agency provide a notice in languages other than English, which the Employer must post in accordance with this subsection. An Employer who violates this subsection shall be fined a civil penalty of \$500 for the first audit violation and \$1,000 for any subsequent audit violation.

(e) No Employer shall interfere with, deny, or change an Employee's work days or hours to avoid providing eligible paid leave time to an Employee.

Editor's note(s)-See editor's note to Div. 1.

Sec. 42-7. Retaliation prohibited.

It shall be unlawful for any Employer to discriminate in any manner or take any adverse action against any Covered Employee in retaliation for exercising, or attempting in good faith to exercise, any right under this Division, including, but not limited to, disclosing, reporting, or testifying about any violation of this Division or regulations promulgated thereunder. For purposes of this Section, prohibited adverse actions include, but are not limited to, unjustified termination, unjustified denial of promotion, unjustified negative evaluations, punitive schedule changes, punitive decreases in the desirability of work assignments, and other acts of harassment shown to be linked to such exercise of rights. An Employer shall not use its absence-control policy to count Earned Sick Paid Leave as an absence that triggers discipline, discharge, demotion, suspension, or any other adverse activity.

Editor's note(s)-See editor's note to Div. 1.

It is unlawful for any Employer to threaten to take or to take any adverse action against an Employee because the Employee (1) exercises rights or attempts to exercise rights under this Division, (2) opposes practices which the Employee believes to be in violation of this Division, or (3) supports the exercise of rights of another under this Division. It is unlawful for any Employer to consider the use of paid leave by an Employee as a negative factor in any employment action that involves evaluating, promoting, disciplining, or counting paid leave under a no-fault attendance policy. Such retaliation shall subject an Employer to civil penalties pursuant to this Division. An employee who has been unlawfully retaliated against shall also be entitled to recover through a claim filed with the Agency, all legal and equitable relief as may be appropriate.

Sec. 42-8. Enforcement and penalties.

(a) The Agency shall administer and enforce this Division in accordance with Chapter 42, Article II, Section 42-34 of the Cook County Human Rights Ordinance, except as allowed for in subsection (b) of this Section. The Department shall administer and enforce this Act.

(b) If any Employer violates any of the Earned Sick Paid Leave provisions in this Division, the affected Covered Employee may recover in a civil action damages equal to three times the full amount of any unpaid Sick Paid Leave denied or lost by reason of the violation, and the interest on that amount calculated at the prevailing rate, together with costs and such reasonable attorney's fees as the court allows. Such action may be brought without first filing an administrative complaint. The statute of limitations for a civil action brought pursuant to this Division shall be for a period of three years from the date of the last event constituting the alleged violation for which the action is brought. In the alternative, an Employee may file a complaint with the Agency alleging violations of the Division within 3 years after the alleged violation. An Employer that violates this Division is liable to any affected Employee for damages in the form of the actual underpayment, compensatory damages, and a penalty of not less than \$500 and no more than \$1,000.

(c) The Agency has the power to conduct investigations in connection with the administration and enforcement of this Division, including the power to conduct depositions and discovery and to issue subpoenas. If the Agency finds cause to believe that this Division has been violated, the Agency shall proceed with its hearing process.

(d) The Agency is also authorized to impose civil penalties for any violation of this Division. An Employer that violates this Division or any rule adopted under this Division may be subject to a civil penalty of \$2,500 for each separate offense. An offense means any violation of this Division with the exception of a violation of the notice requirement in Section 42.3 and 42.6 of this Division.

(e) The Agency is authorized to collect and supervise the payment of any damages awarded pursuant to this Section. Any sums recovered by the Agency on behalf of an Employee or Employees under this Division shall be paid to the Employee or Employees affected. The Agency is not authorized to collect and supervise the payment of any awarded attorney's fees. Those fees shall be subject to collection by the attorney awarded such fees.

(f) The State's Attorney may bring an action to enforce the collection of any awards made under this Division.

(g) The Agency may adopt rules necessary to administer and enforce this Division.

Editor's note(s)-See editor's note to Div. 1.

Sec. 42-9. Effect of invalidity; severability.

If any section, subdivision, paragraph, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall continue in full force and effect.

Editor's note(s)-See editor's note to Div. 1.

Sec. 42-10. Effective date.

This Division shall take effect on December 31, 2023.

Editor's note(s)-See editor's note to Div. 1.

Effective date: This ordinance shall be in effect on December 31, 2023.

Sponsors: TONI PRECKWINKLE (President), ALMA E. ANAYA, ANTHONY J. QUEZADA

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
12/14/2023	2	Board of Commissioners	receive and file	Pass
11/16/2023	1	Board of Commissioners	defer	Pass
11/15/2023	2	Legislation and Intergovernmental Relations Committee	recommend for approval as substituted	Pass
11/15/2023	1	Legislation and Intergovernmental Relations Committee	accept as substituted	Pass
11/15/2023	1	Legislation and Intergovernmental Relations Committee	suspend the rules	Pass
10/19/2023	1	Board of Commissioners	refer	Pass

PROPOSED SECOND SUBSTITUTE TO FILE 23-5468 (This substitute replaces all other versions)

PROPOSED ORDINANCE AMENDMENT

PAID LEAVE

BE IT ORDAINED, by the Cook County Board of Commissioners, that CHAPTER 42, HUMAN RELATIONS, ARTICLE II, IN GENERAL, DIVISION 1, PAID LEAVE, Section 42-1 through 42-10 of the Cook County Code is hereby amended as Follows:

DIVISION 1. ~~EARNED SICK~~ PAID LEAVE

Sec. 42-1. Short title.

This article [division] shall be known and may be cited as the Cook County ~~Earned Sick~~ Paid Leave Ordinance ("Ordinance").

Sec. 42-2. Definitions.

The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agency means the Cook County Commission on Human Rights.

Construction Industry means any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating, custom fabricating, maintenance, landscaping, improving, wrecking, painting, decorating, demolishing, and adding to or subtracting from any building, structure, highway, roadway, street, bridge, alley, sewer, ditch, sewage disposal plant, water works, parking facility, railroad, excavation or other structure, project, development, real property or improvement, or to do any part thereof, whether or not the performance of the work herein described involves the addition to, or fabrication into, any structure, project, development, real property or improvement, herein described of any material or article of merchandise. Construction shall also include moving construction related materials on the job site to or from the job site snow plowing, snow removal, and refuse collection. or to do any part thereof, whether or not the performance of the work herein described involves the addition to or fabrication into, any structure, project, development, real property, or improvement herein described of any material or article of merchandise. Construction industry also includes moving construction related materials on the job site or to or from the job site; includes snow plowing, snow removal, and refuse collection.

Covered Employee means any Employee who, in any particular two-week period, performs at least two hours of work for an Employer while physically present within the geographic boundaries of Cook County. For purposes of this definition, time spent traveling in Cook County that is compensated time, including, but not limited to, deliveries, sales calls, and travel related to other business activity taking place within Cook County, shall constitute work while physically present within the geographic boundaries of Cook County; however, time spent traveling in Cook County that is uncompensated commuting time shall not constitute work while physically present within the geographic boundaries of Cook County. The definition of "Covered Employee" for purposes of this Division does not include any "employee" as defined by Section 1(d) of the Railroad Unemployment Insurance Act, 45 U.S.C. § 351(d).

Domestic partner means any person who has a registered domestic partnership, or qualifies as a domestic partner under Sections 2-173 and 2-174 of this Code or as a party to a civil union under the Illinois Religious Freedom Protection and Civil Union Act, 750 ILCS 75/1 et seq., as currently in force and hereafter amended.

Domestic Work and Domestic Worker have the same meanings as defined in Section 10 of the Domestic Workers' Bill of Rights Act, except that "domestic worker" also includes independent contractors, sole proprietors, and partnerships.

Earned Sick Leave means time that is provided by an Employer to a Covered Employee that is eligible to be used for the purposes described in Section 42-3 of this Chapter, and is compensated at the same rate and with the same benefits, including health care benefits, that the Covered Employee regularly earns during hours worked.

Employee means an individual permitted to work by an Employer regardless of the number of persons the Employer employs.

Employer means:

- (1) "Employer" means any individual, partnership, association, corporation, limited liability company, business trust, or any person or group of persons that gainfully employs at least one Covered Employee with a place of business within Cook County.
- (2) The term "Employer" does not mean:
 - a. The government of the United States or a corporation wholly owned by the government of the United States;
 - b. An Indian tribe or a corporation wholly owned by an Indian tribe;
 - c. The government of the State or any agency or department thereof; or
 - d. Units of local government.

Employee has the same application and meaning as that provided in Sections 1 and 2 of the Illinois Wage Payment

and Collection Act. "Employee" also includes all domestic workers, and, for the purposes of this Division, domestic workers shall not be excluded as employees under the provisions of item (1), (2), or (3) of Section 2 of the Illinois Wage Payment and Collection Act. "Employee" does not include:

(1) an Employee as defined in the federal Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.)

(2) a student enrolled in and regularly attending classes in a college or university that is also the student's Employer, and who is employed on a temporary basis at less than full time at the college or university, but this exclusion applies only to work performed for that college or university; or

(3) a short-term Employee who is employed by an institution of higher education for less than 2 consecutive calendar quarters during a calendar year and who does not have a reasonable expectation that they will be rehired by the same Employer of the same service in a subsequent calendar year.

Employer has the same application and meaning as that provided in Sections 1 and 2 of the Illinois Wage Payment and Collection Act, except that for purposes of this Act, "Employer" also means the State and units of local government, any political subdivision of the State or units of local government, or any State or local government agency. Employer does not include school districts organized under the School Code or park districts organized under the Park District Code.

Family and Medical Leave Act means the United States Family and Medical Leave Act of 1993, 29 USC § 2601 et seq. as currently in force and hereafter amended.

Family member means a Covered Employee's child, legal guardian or ward, spouse under the laws of any state, domestic partner, parent, spouse or domestic partner's parent, sibling, grandparent, grandchild, or any other individual related by blood or whose close association with the Covered Employee is the equivalent of a family relationship. A child includes not only a biological relationship, but also a relationship resulting from an adoption, step-relationship, and/or foster care relationship, or a child to whom the Covered Employee stands in loco parentis. A parent includes a biological, foster, stepparent or adoptive parent or legal guardian of a Covered Employee, or a person who stood in loco parentis when the Employee was a minor child.

Health Care Provider means any person licensed to provide medical or emergency services, including, but not limited to, doctors, nurses, and emergency room personnel.

Writing or written means a printed or printable communication in physical or electronic format, including a communication that is transmitted through electronic mail, text message, or a computer system or is otherwise sent or stored electronically.

~~Editor's note(s) - See editor's note to Div. 1.~~

Sec. 42-3. ~~Earned sick~~ Paid leave.

(a) *General Provisions: Purpose.*

~~(1) Any Covered Employee who works at least 80 hours for an Employer within any 120-day period shall be eligible for Earned Sick Leave as provided under this Section. It is in the public policy interest of Cook County to have some paid leave from work to maintain their health and well-being, care for their families, or use for any other reason of their choosing.~~

~~(2) Unless an applicable collective bargaining agreement provides otherwise, upon a Covered Employee's termination, resignation, retirement or other separating from employment, his or her Employer is not~~

It is the intent of the Cook County Board of Commissioners by enacting this Division:

(a) To establish a minimum paid leave standard for all workers in Cook County.

(b) To provide employment security and economic security for employees who need to use paid time off from work for any reason.

(c) To safeguard the welfare, health, safety, and prosperity of the people of Cook County.

(d) To ensure that an Employee not be denied use of leave for noncompliance with leave notification policies if the Employer has not provided a written copy of its notification policy to the Employee.

In order to effectuate this intent, the provisions of this Division shall be liberally construed in favor of providing workers with the greatest amount of paid time off from work and employment security.

(3) Nothing in this Division shall be construed to discourage Employers from adopting or retaining paid sick leave, paid vacation, paid holidays, or any other paid time off or paid leave policy more generous than policies that comply with the requirements of this Division. Nothing in this Division shall be construed to discourage or prohibit an Employer from allowing the use of paid leave at an earlier date than this Division requires. Unless otherwise provided in a collective bargaining agreement, nothing in this Division shall be construed to waive or otherwise limit an Employee's right to final compensation for any type of leave promised to be paid under a contract of employment or employment policy and earned by the Employee pursuant to the Illinois Wage Payment and Collection Act.

(b) *Accrual of Earned Sick Leave. Provisions of Paid Leave.*

(1) Earned Sick Leave shall begin to accrue either on the first calendar day after the commencement of a Covered Employee's employment or on the effective date of this Division, whichever is later.

(2) For every 40 hours worked after a Covered Employee's Earned Sick Leave begins to accrue, he or she shall accrue one hour of Earned Sick Leave. Earned Sick Leave shall accrue only in hourly increments; there shall be no fractional accruals.

(3) A Covered Employee who is exempt from overtime requirements shall be assumed to work 40 hours in each workweek for purposes of Earned Sick Leave accrual, unless his or her normal work week is less than 40 hours, in which case Earned Sick Leave shall accrue based upon that normal work week.

(4) For each Covered Employee, there shall be a cap of 40 hours Earned Sick Leave accrued per 12-month period, unless his or her Employer sets a higher limit. The 12-month period for a Covered Employee shall be calculated from the date he or she began to accrue Earned Sick Leave.

(5) At the end of a Covered Employee's 12-month accrual period, he or she shall be allowed to carry over to the following 12-month period half of his or her unused accrued Earned Sick Leave, up to a maximum of 20 hours.

(6) If an Employer is subject to the Family and Medical Leave Act, each of the Employer's Covered Employees shall be allowed, at the end of his or her 12-month Earned Sick Leave accrual period, to carry over up to 40 hours of his or her unused accrued Earned Sick Leave, in addition to the carryover allowed under subsection 42-3(b)(5), to use exclusively for Family and Medical Leave Act eligible purposes.

(7) If an Employer has a policy that grants Covered Employees paid time off in an amount and a manner that meets the requirements for Earned Sick Leave under this Section, the Employer is not required to provide additional paid leave. If such Employer's policy awards the full complement of paid time off immediately upon date of eligibility, rather than using an accrual model, the Employer must award each Covered Employee 40 hours paid time off within one calendar year of his or her date of eligibility.

(e) *Use of Earned Sick Leave.*

- (1) An Employer shall allow a Covered Employee to begin using Earned Sick Leave no later than on the 180th calendar day following the commencement of his or her employment. A Covered Employee is entitled to use no more than 40 hours of Earned Sick Leave per 12-month period, unless his or her Employer sets a higher limit. The 12-month period for a Covered Employee shall be calculated from the date he or she began to accrue Earned Sick Leave. If a Covered Employee carries over 40 hours of Family and Medical Leave Act leave pursuant to subsection 42-3(b)(6) and uses that leave, he or she is entitled to use no more than an additional 20 hours of accrued Earned Sick Leave in the same 12-month period, unless the Employer sets a higher limit. A Covered Employee shall be allowed to determine how much accrued Earned Sick Leave he or she needs to use, provided that his or her Employer may set a reasonable minimum increment requirement not to exceed four hours per day.
- (2) A Covered Employee may use Earned Sick Leave when:
 - a. He or she is ill or injured, or for the purpose of receiving medical care, treatment, diagnosis or preventative medical care;
 - b. A member of his or her family is ill or injured, or to care for a family member receiving medical care, treatment, diagnosis or preventative medical care;
 - c. He or she, or a member of his or her family, is the victim of domestic violence, as defined in Section 103 of the Illinois Domestic Violence Act of 1986, or is the victim of sexual violence or stalking as defined in Article 11, 12-7.3, 12-7.4, and 12-7.5 of the Illinois Criminal Code of 2012; or
 - d. His or her place of business is closed by order of a public official due to a public health emergency, or he or she needs to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency. For the purposes of this section, "public health emergency" is an event that is defined as such by a Federal, State or Local government, including a school district.
- (3) An Employer shall not require, as a condition of a Covered Employee taking Earned Sick Leave that he or she search for or find a replacement worker to cover the hours during which he or she is on Earned Sick Leave.
- (4) If a Covered Employee's need for Earned Sick Leave is reasonably foreseeable, an Employer may require up to seven days' notice before leave is taken. If the need for Earned Sick Leave is not reasonably foreseeable, an Employer may require a Covered Employee to give notice as soon as is practicable on the day the Covered Employee intends to take Earned Sick Leave by notifying the Employer via phone, e-mail, or text message. The Employer may set notification policy if the Employer has notified Covered Employee in writing of such policy and that policy shall not be unreasonably burdensome. For purposes of this subsection, needs that are "reasonably foreseeable" include, but are not limited to prescheduled appointments with health care providers for the Covered Employee or for a family member, and court dates in domestic violence cases. Any notice requirement imposed by an Employer pursuant to this subsection shall be waived in the event a Covered Employee is unable to give notice because he or she is unconscious, or otherwise medically incapacitated. If the leave is one that is covered under the Family and Medical Leave Act, notice shall be in accordance with the Family and Medical Leave Act.
- (5) Where a Covered Employee is absent for more than three consecutive work days, his or her Employer may require certification that the use of Earned Sick Leave was authorized under subsection 42-3(c)(2). For time used pursuant to subsections (c)(2)(a) or (b), documentation signed by a licensed health care provider shall satisfy this requirement. An Employer shall not require that such documentation specify the nature of the Covered Employee's or the Covered Employee's family member's injury, illness, or condition, except as required by law. For Earned Sick Leave used pursuant to subsection (c)(2)(c) a police report, court document, a signed statement from an attorney, a member of the clergy, or a victim services advocate, or any other evidence

that supports the Covered Employee's claim, including a written statement from him or her, or any other person who has knowledge of the circumstances, shall satisfy this requirement. The Covered Employee may choose which document to submit, and no more than one document shall be required if the Earned Sick Leave is related to the same incident of violence or the same perpetrator. The Employer shall not delay the commencement of Earned Sick Leave taken for one of the purposes in subsection 42-3(e)(2) nor delay payment of wages, on the basis that the Employer has not yet received the required certification.

(6) Nothing in this Section shall be construed to prohibit an Employer from taking disciplinary action, up to and including termination, against a Covered Employee who uses Earned Sick Leave for purposes other than those described in this Section.

(7) This Section provides minimum Earned Sick Leave requirements; it shall not be construed to affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater Earned Sick Leave benefits.

(a) An Employee who works in Cook County is entitled to earn and use up to a minimum of 40 hours of paid leave during a 12-month period or a pro rata number of hours of paid leave under the provisions of subsection (b) of this section. The paid leave may be used by the Employee for any purpose as long as the paid leave is taken in accordance with the provisions of this Division.

(b) Paid leave under this Division shall accrue at the rate of one hour of paid leave for every 40 hours worked up to a minimum of 40 hours of paid leave or such greater amount if the Employer provides more than 40 hours. Employees who are exempt from the overtime requirements of the federal Fair Labor Standards Act (29 U.S.C. 213 (a)(1)) shall be deemed to work 40 hours in each workweek for purposes of paid leave accrual unless their regular workweek is less than 40 hours, in which case paid leave accrues based on that regular workweek. Employees shall determine how much paid leave they need to use; however, Employers may set a reasonable minimum increment for the use of paid leave not to exceed 2 hours per day. If an Employee's scheduled workday is less than 2 hours day, the Employee's scheduled workday shall be used to determine the amount of paid leave.

(c) An Employer may make available the minimum number of hours of paid leave, subject to pro rata requirements provided in subsection (b), to an Employee on the first day of employment or the first day of the 12-month period. Employers that provide the minimum number of hours of paid leave to an Employee on the first day of employment or the first day of the 12-month period are not required to carryover paid leave from 12-month period to 12-month period and may require Employees to use all paid leave prior to the end of the benefit period or forfeit the unused paid leave. However, under no circumstances shall an Employee be credited with paid leave that is less than what the Employee would have accrued under subsections (a) and (g) of this Section.

(d) The 12-month period may be any consecutive 12-month period designated by the Employer in writing at the time of hire. Changes to the 12-month period may be made by the Employer if notice is given to Employees in writing prior to the change and the change does not reduce the eligible accrual rate and paid leave available to the Employee. If the Employer changes the designated 12-month period, the Employer shall provide the Employee with documentation of the balance of hours worked, paid leave accrued and taken, and the remaining paid leave balance.

(e) Paid leave under this Act may be taken by an Employee for any reason of the Employee's choosing. An Employee is not required to provide an Employer a reason for the leave and may not be required to provide documentation or certification as proof or in support of the leave. An Employee may choose whether to use paid leave provided under this Division prior to using any other leave provided by the Employer or State law.

(f) Employees shall be paid their hourly rate of pay for paid leave. However, Employees engaged in an occupation in which gratuities or commissions have customarily and usually constituted and have been recognized as part of the remuneration for hire purposes shall be paid by their Employer at least the full minimum wage in the jurisdiction in which they are employed when paid leave is taken. This wage shall be treated as the Employee's regular rate of pay for purposes of this Division.

(g) Paid leave under this Division shall begin to accrue at the commencement of employment or on the effective date of this Act, whichever is later. Employees shall be entitled to begin using paid leave 90 days following commencement of their employment or 90 days following the effective date of this Division, whichever is later.

(h) Paid leave under this Division shall be provided upon the oral or written request of an Employee in accordance with the Employer's reasonable paid leave policy notification requirements which may include the following:

(1) If use of paid leave under this Division is foreseeable, the Employer may require the Employee to provide 7 calendar days' notice before the date the leave is to begin.

(2) If paid leave under this Division is not foreseeable, the Employee shall provide such notice as soon as is practicable after the Employee is aware of the necessity of the leave. An Employer that requires notice of paid leave under this Division when the leave is not foreseeable shall provide a written policy that contains procedures for the Employee to provide notice.

(3) Employers shall provide Employees with written notice of the paid leave policy notification requirements in this Section in the manner provided in Section 20 for notice and posting and within 5 calendar days of any change to the Employer's reasonable paid leave policy notification requirements.

(4) An Employer may not require, as a condition of providing paid leave under this Division, that the Employee search for or find a replacement worker to cover the hours during which the Employee takes paid leave.

(i) Except as provided in subsection (c) of this Section, paid leave under this Division shall carry over annually to the extent not used by the Employee, provided that nothing in this Division shall be construed to require an Employer to provide more than 40 hours of paid leave for an Employee in the 12-month period unless the Employer agrees to do so.

(j) Nothing in this Section shall be construed as requiring financial or other payment to an Employee from an Employer upon the Employee's termination, resignation, retirement, or other separation from employment for paid leave accrued under this Division that has not been used. Nothing in this Section shall be construed as requiring financial or other reimbursements to an Employee from an Employer for unused paid leave under this Division at the end of the benefit year or any other time.

(k) If an Employee is transferred to a separate division, entity, or location, but remains employed by the same Employer, the Employee is entitled to all paid leave accrued at the prior division, entity, or location and is entitled to use all paid leave as provided in this Section. If there is a separation from employment and the Employee is rehired within 12 months of separation by the same Employer, previously accrued paid leave that had not been used by the Employee shall be reinstated. The Employee shall be entitled to use accrued paid leave at the commencement of employment following a separation from employment of 12 months or less.

(l) Paid leave under this Division shall not be charged or otherwise credited to an Employee's paid time off bank or Employee account unless the Employer's policy permits such a credit. If the paid leave under this Division is credited to an Employee's paid time off bank or Employee vacation account then any unused paid leave shall be paid to the Employee upon the Employee's termination, resignation, retirement, or other separation to the same extent as vacation time under existing Illinois law or rule. Nothing in this Division shall be construed to waive or otherwise limit an Employee's right to final compensation for promised and earned, but unpaid vacation time or paid time off, as provided under the Illinois Wage Payment and Collection Act and rules. Employers shall provide Employees with written notice of changes to the Employer's vacation time, paid time off, or other paid leave policies that affect an Employee's right to final compensation for such leave.

(m) During any period an Employee takes leave under this Division, the Employer shall maintain coverage for the Employee and any family member under any group health plan for the duration of such leave at no less than the

level and conditions of coverage that would have been provided if the Employee had not taken the leave. The Employer shall notify the Employee that the Employee is still responsible for paying the Employee's share of the cost of the health care coverage, if any.

(n) An agreement by an Employee to waive the Employee's rights under this Division is void as against public policy.

Editor's note(s)- See editor's note to Div. 1.
{Sec. 42-4. Reserved.}

Sec. 42-5. Application to collective bargaining agreements.

Nothing in this Division shall be deemed to interfere with, impede, or in any way diminish the right of ~~Covered Employees~~ Employees to bargain collectively with their Employers through representatives of their own choosing in order to establish wages or other conditions of work in excess of the applicable minimum standards of the provisions of this Division. The requirements of this Division may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth explicitly in such agreement in clear and unambiguous terms. Nothing in this Division shall be deemed to affect the validity or change the terms of bona fide collective bargaining agreements in ~~force on the effective date of this effect on January 1, 2024.~~ ~~Division.~~ After that date, requirements of this Division may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth explicitly in such agreement in clear and unambiguous terms. ~~In no event shall this Division apply to any Covered Employee working in the Construction Industry who is covered by a bona fide collective bargaining agreement. In no event shall this Division apply to any Employee working in the construction industry who is covered by a bona fide collective bargaining agreement.~~

Editor's note(s)- See editor's note to Div. 1.

Sec. 42-6. Related Employer responsibilities; Notice and posting.

- (a) Every Employer shall post in a conspicuous place at each facility where any ~~Covered~~ Employee works that is located within the geographic boundaries of Cook County a notice advising the ~~Covered~~ Employee of ~~his or her~~ Employee rights to Earned Sick Time Paid Leave under this Division. The Agency shall prepare and make available a form notice that satisfies the requirements of this Division. Employers that do not maintain a business facility within the geographic boundaries of the County are exempt from this subsection.
- (b) Every Employer shall provide to a ~~Covered~~ Employee at the commencement of employment written notice advising the ~~Covered~~ Employee of ~~his or her~~ Employee rights to Earned Sick Time Paid Leave under this Division.. The Agency shall prepare and make available a form notice that satisfies the requirements of this Division.
- (c) An Employer subject to this Division shall make and preserve records documenting hours worked, paid leave accrued and taken, and remaining paid leave balance for each Employee for a period of not less than 3 years and shall allow the Agency access to such records, at reasonable times during business hours, to monitor compliance with the requirements of this Division. In addition, the records shall be preserved for the duration of any claim pending pursuant to this Division. An Employer that provides paid leave on an accrual basis shall provide notice of the amount of paid leave accrued or used by an Employee upon request by the Employee in accordance with the Employer's reasonable paid leave policy notification provisions. An Employer that fails to comply with this subsection is in violation of the Division and subject to the civil penalties established in Section 42.8.
- (b) An Employer who provides any type of paid leave policy that satisfies the minimum amount of leave required this Division is not required to modify the policy if the policy offers an Employee the option, at the Employee's discretion, to take paid leave for any reason. Nothing in this Division shall be construed as requiring financial or other reimbursements to an Employee from an Employer for unused paid leave under this Division. Nothing in this Division shall be construed to discourage an Employer from adopting a paid leave policy more generous than the requirements of this Division.

- (c) For Domestic Workers, if an Employer requires evidence of hours worked for other Employers to confirm that the Domestic Worker has worked or is scheduled to work 8 or more hours in the aggregate for any relevant workweek, a signed statement by the Domestic Worker stating that the Domestic Worker has performed or is scheduled to perform domestic work for 8 or more hours in the aggregate for any relevant workweek shall satisfy any documentation requirements of hours worked under the Domestic Workers' Bill of Rights Act and this Act. Such Employer shall not require more than one signed statement in a calendar quarter if the hours the Domestic Worker has performed or is scheduled to perform domestic work have not decreased to less than 8 hours in the aggregate in any relevant workweek in that calendar quarter. An Employer that requires evidence of hours worked must give the Domestic Worker written notice of such request and allow no fewer than 7 days or until the next scheduled workday, whichever is greater, for the domestic worker to comply with the request. The Employer may not deny paid leave pending submission of the signed statement.
- (d) An Employer shall post and keep posted in a conspicuous place on the premises of the Employer where notices to employees are customarily posted, and include it in a written document, or written employee manual or policy if the Employer has one, a notice, to be prepared by the Agency, summarizing the requirements of this Division and information pertaining to the filing of a charge upon commencement of an Employee's employment or 90 days following the effective date of this Division, whichever is later. If an Employer's workforce is comprised of a significant portion of workers who are not literate in English, the Employer shall notify the Agency and a notice in the appropriate language shall be prepared by the Agency. Employees may also request that the Agency provide a notice in languages other than English, which the Employer must post in accordance with this subsection. An Employer who violates this subsection shall be fined a civil penalty of \$500 for the first audit violation and \$1,000 for any subsequent audit violation.
- (e) No Employer shall interfere with, deny, or change an Employee's work days or hours to avoid providing eligible paid leave time to an Employee.

Editor's note(s) - See editor's note to Div. 1.

Sec. 42-7. Retaliation prohibited.

~~It shall be unlawful for any Employer to discriminate in any manner or take any adverse action against any Covered Employee in retaliation for exercising, or attempting in good faith to exercise, any right under this Division, including, but not limited to, disclosing, reporting, or testifying about any violation of this Division or regulations promulgated thereunder. For purposes of this Section, prohibited adverse actions include, but are not limited to, unjustified termination, unjustified denial of promotion, unjustified negative evaluations, punitive schedule changes, punitive decreases in the desirability of work assignments, and other acts of harassment shown to be linked to such exercise of rights. An Employer shall not use its absence-control policy to count Earned Sick Paid Leave as an absence that triggers discipline, discharge, demotion, suspension, or any other adverse activity.~~

~~Editor's note(s) - See editor's note to Div. 1.~~

It is unlawful for any Employer to threaten to take or to take any adverse action against an Employee because the Employee (1) exercises rights or attempts to exercise rights under this Division, (2) opposes practices which the Employee believes to be in violation of this Division, or (3) supports the exercise of rights of another under this Division. It is unlawful for any Employer to consider the use of paid leave by an Employee as a negative factor in any employment action that involves evaluating, promoting, disciplining, or counting paid leave under a no-fault attendance policy. Such retaliation shall subject an Employer to civil penalties pursuant to this Division. An employee who has been unlawfully retaliated against shall also be entitled to recover through a claim filed with the Agency, all legal and equitable relief as may be appropriate.

Sec. 42-8. Enforcement and penalties.

- (a) The Agency shall administer and enforce this Division in accordance with Chapter 42, Article II, Section 42-34 of the Cook County Human Rights Ordinance, except as allowed for in subsection (b) of this Section. The Department shall administer and enforce this Act.

- (b) If any Employer violates any of the ~~Earned Sick Paid Leave~~ provisions in this Division, the affected ~~Covered~~ Employee may recover ~~in~~ a civil action damages equal to three times the full amount of any unpaid ~~Sick Paid Leave~~ denied or lost by reason of the violation, and the interest on that amount calculated at the prevailing rate, together with costs and such reasonable attorney's fees as the court allows. Such action may be brought without first filing an administrative complaint. The statute of limitations for a civil action brought pursuant to this Division shall be for a period of three years from the date of the last event constituting the alleged violation for which the action is brought. In the alternative, an Employee may file a complaint with the Agency alleging violations of the Division within 3 years after the alleged violation. An Employer that violates this Division is liable to any affected Employee for damages in the form of the actual underpayment, compensatory damages, and a penalty of not less than \$500 and no more than \$1,000.
- (c) The Agency has the power to conduct investigations in connection with the administration and enforcement of this Division, including the power to conduct depositions and discovery and to issue subpoenas. If the Agency finds cause to believe that this Division has been violated, the Agency shall proceed with its hearing process.
- (d) The Agency is also authorized to impose civil penalties for any violation of this Division. An Employer that violates this Division or any rule adopted under this Division may be subject to a civil penalty of \$2,500 for each separate offense. An offense means any violation of this Division with the exception of a violation of the notice requirement in Section 42.3 and 42.6 of this Division.
- (e) The Agency is authorized to collect and supervise the payment of any damages awarded pursuant to this Section. Any sums recovered by the Agency on behalf of an Employee or Employees under this Division shall be paid to the Employee or Employees affected. The Agency is not authorized to collect and supervise the payment of any awarded attorney's fees. Those fees shall be subject to collection by the attorney awarded such fees.
- (f) The State's Attorney may bring an action to enforce the collection of any awards made under this Division.
- (g) The Agency may adopt rules necessary to administer and enforce this Division.

~~Editor's note(s) See editor's note to Div. 1.~~

Sec. 42-9. Effect of invalidity; severability.

If any section, subdivision, paragraph, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall continue in full force and effect.

~~Editor's note(s) See editor's note to Div. 1.~~

Sec. 42-10. Effective date.

This Division shall take effect on December 31, 2023.

~~Editor's note(s) See editor's note to Div. 1.~~

Effective date: This ordinance shall be in effect on December 31, 2023.**PROPOSED SECOND**