

**Key Provisions of the Cook County Earned Sick Leave Ordinance and City of Chicago Minimum Wage and Paid Sick Leave Ordinance, current as of June 8, 2017<sup>1</sup>**

| Subject          | Cook County Ordinance & Rules   | Chicago Ordinance & Draft Rules   |
|------------------|---|---|
| Covered employer | Employs at least 1 covered employee who works in Cook County (which could include the employee’s home if, among other things, the employee is permitted to telecommute). <i>See</i> Ordinance, 42-2; Rules, 320.100. For exempt employers, such as federal, state, and local governments, <i>see</i> Ordinance, 42-2, Rules, 320.100(C)   | Same as ← but, the employer must employ at least 1 covered employee who works in the City of Chicago ( <i>See</i> Ordinance, 1-24-010, “employee”; Draft Rules, Article 1, Section 1, “covered employee”). Exempt employers are not discussed or defined by the Ordinance or Draft Rules.   |
| Covered employee | <p>Covered employee: Employee who works for a minimum of 2 hours in any two-week period in Cook County (note that uncompensated commuting or traveling through Cook County without stopping for a work purpose do not count; However, compensated commuting or travel, or working from home in Cook County does count if permitted by the employer. <i>See</i> Ordinance 42-2; Rules, 310.100</p> <p>Exempt employees: Certain employees subject to a collective bargaining agreement and independent contractors. <i>See</i> Rules, 310.100(D)</p> | <p>Same as ← for covered employees but, the employee must work in Chicago. <i>See</i> Draft Rules, Article 1, Section 1</p> <p>Exempt employees: Certain employees subject to various subsections of the Illinois Minimum Wage Law, employees of any subsidized temporary youth program, employees of any subsidized transitional employment program, employees of any governmental entity other than the City of Chicago, certain employees covered by a collective bargaining agreement. <i>See</i> Draft Rule MW 1.05.</p> |

<sup>1</sup> The chart is intended to highlight some of the key provisions of the Cook County Earned Sick Leave Ordinance No. 16-4229, effective July 1, 2017 (the “Cook County Ordinance”), the Interpretative and Procedural Rules governing the Cook County Ordinance, approved May 25, 2017 (the “Cook County Rules”), the City of Chicago Minimum Wage and Paid Sick Leave Ordinance, Chapter 1-24 of the Municipal Code of Chicago, effective July 1, 2017 (the “Chicago Ordinance”), and the draft rules interpreting the Chicago Ordinance dated May 22, 2017 (the “Chicago Draft Rules”). The chart is not intended to include all provisions and terms of the Cook County and Chicago Ordinances (collectively the “Ordinances”), or their corresponding rules and draft rules. Users should review the full text of the Ordinances and corresponding rules to confirm the scope and applicability of the Ordinances. This document shall in no way constitute legal advice or form any attorney-client relationship.

| Subject                            | Cook County Ordinance & Rules   | Chicago Ordinance & Draft Rules   |
|------------------------------------|---|---|
| Eligibility to use paid sick leave | Employee must work 80 hours within any 120-day period. <i>See</i> Ordinance, 42-3(a)(1); Rules 310.300(B). However, the employer may establish a use waiting period prohibiting the employee from using paid sick leave until as late as 180 days after the start of employment. <i>See</i> Rules, 500.200  | Same as ← <i>See</i> Ordinance, 1-24-045(a)(1), (c)(1); Draft Rule MW 3.03, 3.08  |
| Rate of accrual of paid sick leave | <p>(a) 1 hour of paid sick leave per 40 hours worked in Cook County.</p> <p>(b) Overtime exempt employees are assumed to work 40 hours per week, unless their normal workweek is less than 40 hours, in which case paid sick leave shall accrue based upon that normal work week. <i>See</i> Ordinance, 42-3(b)(3)</p> <p>(c) If non-exempt from overtime, an employee may earn more than 1 hour per week depending on the number of hours actually worked. <i>See</i> Ordinance, 42-3(b)(2)-(3); Rules, 400.200</p> <p>(d) Employers need not award paid sick leave in fractional increments. <i>See</i> Rules, 400.200(E)</p> <p>(e) Employers may front load paid sick leave to avoid having to track accrual. <i>See</i> Ordinance, 42-3(b)(7); Rules, 400.200(G)</p> | <p>Same as ← (a) but, hours must be worked in Chicago. Ordinance, 1-24-045(b)(2).</p> <p>Same as ← (b), (d), (e) (<i>See</i> Ordinance, 1-024-045(b)(2)-(3); Draft Rule MW 3.05</p> |
| Date of initial accrual            | The later of July 1, 2017 or the first calendar day after the start of employment in Cook County (so if an employee worked for a covered employer prior to July 1, 2017, but worked for the employer in another county, the date of initial accrual would not begin until the employee worked for the employer in Cook County for 2 hours in a two-week period). <i>See</i> Ordinance, 42-3(b)(1); Rules, 400.100   | Same as ← except work must be in Chicago. <i>See</i> Ordinance, 1-24-045(b)(1); Draft Rule MW 3.04(a)   |
| Maximum accrual per year           | 40 hours per 12-month period (with some exceptions). <i>See</i> Ordinance, 42-3(b)(4); Rules, 400.500   | Same as ← <i>See</i> Ordinance, 1-24-045(b)(4); Draft Rule MW 3.08(c)   |

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| <p>Carryover of unused and accrued paid sick leave</p>           | <p>Depends on whether covered employer is FMLA eligible:</p> <p>(a) For non-FMLA eligible: Half of unused hours may be carried over into the following year, up to 20 hours. <i>See</i> Ordinance 42-3(b)(5); Rules, 400.600(A)</p> <p>(b) For FMLA eligible: the employee may carry over up to 40 hours of accrued and unused paid sick leave to be used exclusively for FMLA purposes. This is in addition to the carryover of a maximum of 20 hours of regular paid sick leave. <i>See</i> Ordinance, 42-3(b)(6); Rules, 400.600(B)</p> <p>(c) the carryover must be in hourly increments, and may not be fractional. Therefore, if the employee has an odd number of accrued and unused sick leave hours, that amount should be rounded up before calculating the carryover. <i>See</i> Rules, 400.600</p> <p>(d) employers may front load carryover to avoid individualized calculations of the amount of unused earned sick leave to be carried over from one accrual period to the next. <i>See</i> Rules, 400.600(C)</p> | <p>Same as ← (a), (b), (c), (d)<br/><i>See</i> Ordinance, 1-24-045(b)(5), (6); Draft Rule MW 3.06(b),(d) 3.07(b)</p> <p>If the employer frontloads 60 hours of paid sick leave at the beginning of the covered employee’s 12-month benefit period, the employer is not required to carryover hours from one year to the next. <i>See</i> Draft Rule MW 3.06(a)</p> |
| <p>Permissible uses for accrued paid sick leave</p>              | <p>When the employee or a family member is ill, injured, seeking medical care, treatment, or diagnosis, the victim of domestic violence or stalking, or when the employee’s child’s school or daycare or the employee’s place of business is closed by order of federal, state or local government for a public health emergency. <i>See</i> Ordinance, 42-3(c)(2); Rules, 500.500</p>   | <p>Same as ← <i>See</i> Ordinance, 1-24-045(c)(2)</p>  |
| <p>Maximum use of accrued paid sick leave per accrual period</p> | <p>Maximum of 40 hours, unless the employer allows for more. Also, if the employer/employee are FMLA eligible, the maximum use could be as high as 60 hours. <i>See</i> Ordinance, 42-3(c)(1); Rules, 500.300(C)</p>   | <p>Same as ← <i>See</i> Ordinance, 1-24-045(c)(1)</p>  |

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| Increments of use   | Minimum of 1 hour; But the employer may provide a policy requiring employees to take leave in up to 4-hour increments. <i>See Rules, 500.400</i>   | Same as ← BUT, the minimum use policy is not capped at 4-hour increments. <i>See Draft Rule MW 3.08(b)</i>  |
| Remuneration for unused sick pay                                  | Employer is not required to compensate employee for unused sick leave upon separation from employment, unless a collective bargaining agreement provides otherwise. <i>See Rules, Section 200.200</i>  | Same as ← <i>See Ordinance, 1-24-045(a)(3)</i>  |
| Documentation from covered employee relating to use of paid leave | Employer may require certain documentation when employee is absent for more than 3 consecutive work days. <i>See Ordinance, 42-3(c)(5); Rules, 500.700</i>   | Same as ← except a special rule exists for employees of a common carrier regulated by the railway Labor Act. <i>See Ordinance, 1-24-045(c)(5); Draft Rule MW 3.14</i>                   |
| Notification of rights  | Employer is required to post a notice of employee's rights under the Ordinance as well as provide each covered employee with a notice of rights. <i>See Ordinance, 42-6; Rules, 700.100-200</i>  | Same as ← except the posting and notice to be provided to covered employees shall be in the form provided by the Commissioner. <i>See Ordinance, 1-24-070; Draft Rules, 1.02, 1.04.</i> |
| Required recordkeeping of covered employer                        | Technically, none, until the covered employer is named as a respondent in a claim filed under the Ordinance; However, the Rules anticipate that moderately sophisticated employers will keep certain employment records for the most recent 3 years and if they don't maintain certain information, there may be an adverse presumption in a later filed claim by an employee. <i>See Rules, 800.100</i> | Employer must maintain, at a minimum, 12 different types of records relating to a covered employee for a period of not less than 5 years. <i>See Draft Rule MW 1.06</i>                 |

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| Prohibited acts under the Ordinance (these lists should not be read as exhaustive) | <ul style="list-style-type: none"> <li>• (a) requiring a covered employee to find coverage as a condition of using earned sick leave. <i>See</i> Ordinance, 42-3(c)(3)</li> <li>• (b) retaliating against a covered employee for exercising his rights under the Ordinance. <i>See</i> Ordinance, 42-7</li> <li>• (c) counting absences arising from the use of properly noticed earned sick leave that triggers any adverse employment action.</li> <li>• (d) switching the employee’s schedule after he provides notice of intent to use earned sick leave to avoid paying him during his absence.</li> <li>• (e) paying a covered employee not to take earned sick leave. <i>See</i> Rules. 900.100</li> </ul> | Same as ← (a), (b), (e) <i>See</i> Ordinance, 1-24-045(c)(3), 1-24-080; Draft Rule MA 3.11(b)   |
| Successor employer   | Not mentioned in the Ordinance  | Unused paid sick leave shall be retained by the covered employee if the employer sells, transfers, or otherwise assigns the business to another employer and the covered employee continues to work in the City of Chicago. <i>See</i> Draft Rule MW 3.13   |
| Ordinance enforced by:   | Cook County Commission on Human Rights  | City of Chicago’s Department of Business Affairs and Consumer Protection  |
| Administrative process: Time limit for filing a complaint                          | <p>Within 3 years of the alleged violation of the Ordinance. BUT, if there is evidence that the employer concealed the violation, then the covered employee may file the complaint within 3 years after the covered employee discovered, or reasonably should have discovered, the violation. Ordinance, 42-8(b); Rules, 1020.100. Even if a claim is time-barred before the Commission, it may not preclude a covered employee from filing a claim in court. Such a claim may be filed without the covered employee’s exhaustion of its administrative rights. Ordinance, 1040.100</p>   | <p>The Commissioner of the City of Chicago’s Department of Business Affairs and Consumer Protection has discretion whether or not to accept a complaint filed more than 3 years after the disputed wages were due or the sick time was not granted. Draft Rule MW 4.01(c)</p> <p>This does not alter a covered employee’s ability to file a civil action. Ordinance, 1-24-110</p> |



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| Administrative remedies | Fines (not to exceed \$500 per violation per covered employee per day); Lost wages; injunctive relief. <i>See</i> Rules, 1030                         | Fines, license suspension or revocation, restitution to the covered employees and former covered employees. <i>See</i> Draft Rules MW 4.02(e) |
| Damages in civil action | Damages up to 3 times the full amount of any unpaid sick leave denied or lost, plus interest, attorney's fees and costs. <i>See</i> Ordinance 42-8(b) | Same as ← <i>See</i> Ordinance 1-24-110   |

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