



The City of Austin's Earned Sick Leave Ordinance Frequently Asked Questions



When does the Earned Sick Leave Ordinance take effect?

- The Ordinance was to take effect on Oct. 1, 2018; however, based upon the Aug. 17, 2018 Third Court of Appeals Order in No. 03-18-00445-CV; Texas Association of Business et al. and The State of Texas, Intervenor v. City of Austin, Texas et al., the City is temporarily postponing the effective date for the Earned Sick Time Ordinance, No. 20180215-049. The rule-making process, including the appeals process outlined in section 1-2-10 of the City Code is temporarily abated while the Aug. 17, 2018, Order remains in effect.

Who is affected by the Earned Sick Leave Ordinance?

- Employees in the City of Austin are affected. "Employee" is defined as an individual who performs at least 80 hours of work in the City of Austin during a calendar year for an employer. Independent contractors and unpaid interns are not covered.
- Employers that pay employees for work in the City of Austin are affected. "Employer" is defined as "any person, company, corporation, firm, partnership, labor organization, non-profit organization or association" that pays an employee to perform work and exercises control over the employee. Federal, state, and local governments are not covered.

What does the Earned Sick Leave Ordinance require?

- Employees earn one hour of sick time for every 30 hours worked.
- Earned sick time is generally available for use as soon as it is accrued. An employer may restrict an employee from using sick time during the first 60 days of employment, but only if the employer establishes that the employee's term of employment is at least one year. An employer may adopt reasonable verification procedures for use of earned sick time.

What qualifies as sick time?

- Time off needed for an employee's own health condition, physical or mental illness, or injury, or that of the employee's family member, as defined by the Ordinance.
- Time off needed to seek medical attention, seek relocation, obtain victim services, or participate in legal action related to domestic abuse, sexual assault, or stalking involving the employee or a family member.

How much sick time can employees accrue and use?

- Any employer with 16 or more employees (not including family member employees) in the preceding 12 months must provide at least 64 hours per year.
- Any employer with 1-15 employees (not including family members employees) in the preceding 12 months must provide at least 48 hours per year.



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- Earned sick time carries over to the following year, up to the annual limit of 48 hours or 64 hours, depending on employer size.
- Employers do not have to allow employees to utilize earned sick time on more than eight calendar days in a given calendar year.

Which Earned Sick Leave records must employers maintain, provide or display?

- Employers must provide a monthly statement to each employee showing the amount of the employee's available earned sick time.
- Employers must also keep records to show the amount of sick time accrued and used by each employee.
- Employers that provide employee handbooks must include a notice to employees about the contents of the Ordinance.
- Employers must display a conspicuous workplace sign, as provided by the City, about the Ordinance in all appropriate languages.

Are there other Earned Sick Leave requirements?

- Retaliation is prohibited. An employer may not transfer, demote, discharge, suspend, reduce hours, or directly threaten these actions against an employee for requesting or using earned sick time, or for reporting a violation or participating in an administrative proceeding related to the Ordinance. Civil penalties for retaliation may be assessed on the first day the Ordinance takes effect.
- Employees who are rehired within six months following separation must have their prior unused sick time reinstated.

How will the Earned Sick Leave Ordinance be enforced?

- The Ordinance will be enforced by the City of Austin Equal Employment and Fair Housing Office (EE/FHO).
- Civil penalties for substantiated violations may be assessed up to \$500 per violation. The EE/FHO may offer an employer 10 business days to voluntarily comply with the Ordinance before collecting a civil penalty.
- Other than retaliation violations, civil penalties will not be assessed for violations of the Ordinance until a later date to be determined once the Court Order has been lifted.