

**LEGISLATIVE DIGEST**

[Police Code - COVID-Related Employment Protections]

**Ordinance amending the Police Code to protect employees from adverse employment actions if they test positive for COVID-19, are isolating or quarantining, or have previously isolated or quarantined, due to COVID-19 symptoms or exposure, or are perceived to have COVID-19; to protect applicants from discrimination if they test positive for COVID-19, are isolating or quarantining, or have previously isolated or quarantined, due to COVID-19 symptoms or exposure; and to sunset an emergency ordinance creating similar protections.**

Existing Law

An emergency ordinance, Ordinance No. 162-20, temporarily protects employees and independent contractors (collectively, “workers”) from adverse employment action if they miss work or request time off work because they test positive for COVID-19 or are isolating or quarantining, or have previously isolated or quarantined, due to COVID-19 symptoms or exposure, without regard to whether the workers would otherwise be eligible to take paid or unpaid leave. Employers may not count such time off as an absence that may result in an adverse action. Taking any adverse action against a worker within 90 days of the worker’s absence from work or request for time off work for these reasons raises a rebuttable presumption that the adverse action violates the emergency ordinance. An employer may require a worker to identify the general basis for the worker’s absence from or inability to work, or request to take time off work, but may not require the disclosure of health information or other documentation.

The emergency ordinance additionally prohibits employers from taking an adverse action against any worker who tests positive for COVID-19 or is perceived to have been infected with COVID-19, without regard to whether the worker takes any time off work. However, employers must follow the Local Health Officer’s guidance to require a worker to stay home if experiencing any sign or symptom of COVID-19, until the worker may return to work consistent with the Local Health Officer’s guidance.

Employers may not rescind an employment or contract offer or base a decision not to employ or contract with an applicant in whole or in part on whether an applicant tested positive for COVID-19 or is isolating or quarantining, or has previously isolated or quarantined, due to COVID-19 symptoms or exposure. Additionally, employers must reasonably accommodate an applicant who is unable to start work because the applicant tested positive for COVID-19 or is isolating or quarantining due to COVID-19 symptoms or exposure by scheduling a later start date.

The emergency ordinance prohibits retaliation for exercising the rights protected under the emergency ordinance.

The Office of Labor Standards Enforcement (OLSE) has implemented and is enforcing the emergency ordinance, which provides for an enforcement process, remedies, and an administrative appeal process.

#### Amendments to Existing Law

This ordinance codifies the emergency ordinance with minor changes. First, the ordinance protects employees only, rather than employees and independent contractors, to address concerns with the administrability of protections for independent contractors. Second, the ordinance clarifies the duration of the protections for employees who take time off work—the protections last until the employees may safely return to work consistent with the Local Health Officer's guidance. Third, the ordinance allows for employers to require documentation for certain absences, under standards modeled on the Rule 2 of the City's Paid Sick Leave Ordinance. Fourth, the ordinance requires OLSE to issue and employers to provide employees notice of its protections.

The ordinance sunsets the emergency ordinance if it remains in effect upon the ordinance's effective date, and the ordinance sunsets two years from its effective date.

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