

LEGISLATIVE DIGEST

(Revised 2/7/2022)

[Initiative Ordinance - Police Code - Public Health Emergency Leave]

Motion ordering submitted to the voters at an election to be held on June 7, 2022, an ordinance to amend the Police Code to require employers to provide public health emergency leave during a public health emergency.

Existing Law

There is no current legal requirement pertaining to public health emergency leave.

Background Information

The federal Families First Coronavirus Response Act (FFCRA), Public Law No. 116-127, previously required certain employers to provide emergency paid sick leave to certain employees who were unable to work due to the COVID-19 pandemic, through December 31, 2020. The FFCRA exempted private employers with 500 or more employees. A City emergency ordinance (Ordinance No. 59-20) required private employers with 500 or more employees to provide paid public health emergency leave for many of the same purposes as FFCRA emergency sick leave to employees in the City, through April 11, 2021.

This initiative ordinance does not amend existing law, but it adopts leave requirements similar to the previous requirements in the FFCRA and Ordinance No. 59-20.

This initiative ordinance requires employers with more than 100 employees worldwide to provide public health emergency leave to employees who work in the City during a public health emergency. The ordinance exempts certain non-profit organizations from its requirements. Public health emergencies include local or state health emergencies related to contagious, infectious, or communicable diseases, as well as air quality emergencies.

Under the ordinance, as amended in Committee, employees will be provided two weeks' worth (up to 80 hours) of paid public health emergency leave. Because the initiative ordinance would become operative on October 1, 2022 (or the effective date, if later), one week of leave will be required for 2022.

Public health emergency leave may be used if the employee is unable to work (including telework) due to:

- (1) The recommendations or requirements of a health order related to the public health emergency.
- (2) The employee has been advised by a health care provider to isolate or quarantine.

- (3) The employee is experiencing symptoms of and seeking a medical diagnosis, or has a positive diagnosis, for a possible infectious, contagious, or communicable disease associated with the public health emergency.
- (4) The employee is caring for a family member who is subject to an order as described in (1), has been advised as described in (2), or is experiencing symptoms as described in (3).
- (5) The employee is caring for a family member if the school or place of care of the family member has been closed, or whose care provider is unavailable, due to the public health emergency.
- (6) An air quality emergency, if the employee is a member of a vulnerable population and primarily works outdoors.

The ordinance allows an employer of an employee who is a health care provider or an emergency responder to limit this leave, but requires such employers to provide such leave when the employee is unable to work: (1) due to a health care provider's advice to isolate or quarantine; (2) because the employee is experiencing symptoms of an infectious, contagious, or communicable disease associated with the public health emergency, and does not meet federal, state, or local guidance to return to work; or (3) during an air quality emergency, if the employee is a member of a vulnerable population, primarily works outdoors, and has been advised by a health care provider not to work. Reasons 1, 2, and 6 (or reasons 1 and 3 for health care providers and emergency responders) do not apply if the employee may safely telework.

Public health emergency leave must be provided in addition to paid leave the employer provided before the date the public health emergency is declared and must be made available for immediate use during a public health emergency. Employers may offset any paid leave that may be required by law to address a public health threat, as well as specified paid leave voluntarily granted for 2022 only. Employers will not be required to roll over any unused public health emergency leave from year to year.

The Office of Labor Standards Enforcement ("OLSE") will implement and enforce the ordinance. Additionally, OLSE will publish a notice suitable for employers to inform employees of their rights under the ordinance, which employers will be required to post in the workplace, in English, Spanish, Chinese, Filipino, and any language spoken by at least 5% of the City workforce.

The ordinance includes anti-retaliation protections that, among other provisions, prohibit interfering with any right protected under the emergency ordinance and taking any adverse action against an employee for exercising rights protected under the ordinance.