

Comparison of Sick Leave Proposals

	<p>Healthy Workforce Ordinance</p> <ul style="list-style-type: none"> • Appeared on the October 2017 City election ballot • Failed 50.4% to 49.6% (margin of 718 votes) 	<p><u>Albuquerque Sick Leave Ordinance O-17-1</u> Proposed by Ken Sanchez and Don Harris</p> <ul style="list-style-type: none"> • Introduced in City Council 12/18/2017 • Referred to Finance Committee; postponed • Died (Expired) on 1/7/2019 	<p><u>Albuquerque Sick Leave Ordinance O-18-46</u> Proposed by Pat Davis</p> <ul style="list-style-type: none"> • Introduced in City Council 12/17/2018 • Referred to Finance Committee
Accrual Rate	Employees would have accrued sick leave at the minimum rate of 1 hour per 30 hours worked, up to a maximum of 56 hours per year (8 days).	Employees accrue sick leave at the minimum rate of 1 hour per 40 hours worked, up to a maximum of 40 hours per year (5 days).	Employees accrue sick leave at the minimum rate of 1 hour per 30 hours worked, up to a maximum of 56 hours per year (7 days).
Carry Over of Balances	An employee's accrued, unused sick time would be carried over from year to year.	Up to 40 hours of unused sick leave may be carried over to the following year, but no employee can use more than the maximum number of accrued hours in any year unless the employer agrees.	Up to 56 hours of unused sick leave may be carried over to the following year.
Affected Employers	Would have applied to all employers with a physical premises within the City of Albuquerque, except the State of New Mexico.	Applies only to employers that have 50 or more employees within the City limits during any one calendar quarter in the previous year.	Applies to any entity that is required to have a business registration from the City of Albuquerque and has a physical presence in Albuquerque.
Eligible Employees	Would have allowed every employee to accrue and use sick leave, including part-time and temporary employees, no matter how few hours they work.	Applies only to employees who work an average of at least 20 hours a week. Does not include temporary employees.	Applies to any person who works at least 56 hours a year within the City limits, including on a part-time, seasonal or temporary basis.
Use of Sick Leave	<ul style="list-style-type: none"> • Employees would have been allowed to use accrued sick leave for their own or a family member's illness, injury, medical care, or absences related to domestic violence, sexual assault or stalking. • Definition of family member includes spouse or domestic partner, child, sibling, parent, grandparent, or legal ward or guardian of the employee or of the employee's spouse or domestic partner, as well as the spouses or domestic partners of those individuals, or "any other individual related by blood or affinity whose close association with the employee or the employee's spouse or domestic partner is the equivalent of a family relationship." 	<ul style="list-style-type: none"> • Employee may use accrued sick leave for self or for employee's child or spouse to cover absences due to illness, injury or health condition, care or treatment of mental or physical illness, and preventive medical care, as well as to cover absences when the employee is the victim of family violence or sexual assault. • Child is defined as an employee's biological, adopted or foster child, stepchild, or legal ward who is younger than 18 or older than 18 but incapable of self-care because of a mental or physical disability. Spouse is defined as a husband or a wife. • Employee cannot use paid sick leave until completing 720 hours employment, unless the employer allows earlier use. • Employee cannot use paid sick leave if he or she did not work an average of 20 hours a week or more in the most recent complete calendar quarter. 	<ul style="list-style-type: none"> • Employee may use accrued sick leave for self or any family member to cover absences due to the care or treatment of a mental or physical illness, injury or health condition; doctor's appointments and preventive medical care, and absences due to domestic abuse, sexual assault or stalking. • "Family member" is defined as a spouse or domestic partner; a child (biological, foster, adoptive or step), sibling, parent, grandparent, grandchild, or legal ward or guardian of the employee or the employee's spouse or domestic partner; the spouses or domestic partners of those individuals, or "any other individual or relative whose close association with the employee or employee's spouse or domestic partner is the equivalent of a family relationship." • Employee cannot use accrued sick leave until the 90th calendar day following the date of hire, unless the employer's policy allows earlier use. • Employee cannot use accrued sick leave until he/she has worked 56 hours in a year.
PTO	Unclear whether employers would have been allowed to maintain PTO policies that combine vacation leave and sick leave.	Allows employers to maintain PTO. States that employers are in compliance if they offer any combination of paid leave (vacation, sick, or personal) that is accrued at a rate equal to or greater than 1 hour per 40 hours worked, up to a maximum of 40 hours per year.	Allows employers to maintain PTO. Sick leave doesn't need to be tracked separately from other types of paid leave, as long as the total amount of paid leave provided exceeds the ordinance's requirements.

<p>Enforcement and Penalties</p>	<p>Would have allowed civil action individually or as a class action against an employer. If prevailing, employee(s) would be awarded triple the value of unpaid sick leave accrued, and employer would pay civil penalties of \$50 per week per employee for each separate violation, plus employee’s legal fees.</p>	<p>Employees may file administrative complaint with the City. An employer found to be in violation of allowing a qualified employee to accrue sick leave shall pay a civil penalty of \$500 for each violation. Any employer found to be in violation of allowing an employee to use accrued sick leave for allowed purposes shall pay a civil penalty of \$100 for each violation. The employee also may be awarded “appropriate relief,” including payment for used sick leave, rehiring or reinstatement of the employee’s job, and back wages.</p>	<ul style="list-style-type: none"> • Allows employees to pursue administrative enforcement of the ordinance through the City, OR to pursue civil enforcement through the courts (the employee can choose which path to pursue). • If City identifies a violation in an administrative enforcement, it may reach an administrative resolution for payment of damages and penalties or it may decide to bring enforcement action in court. • Upon prevailing in a civil case, the employee shall recover attorney fees, three times the value of the earned sick time accrued, and back pay if applicable. • In addition to civil remedies for the employee, an employer found in violation of the ordinance also shall pay a penalty to the City of \$50 per week for each separate violation and for each separate offense.
<p>Other</p>	<p>The ordinance would have created a “rebuttable presumption of a violation” if an employer takes action against an employee who, within the past 90 days, “has exercised rights protected under this ordinance or has in good faith alleged violations of this ordinance.”</p>	<p>Deleted.</p>	<p>The ordinance says a plaintiff in a civil case “may establish a prima facie case of retaliation by way of proof that the employer took adverse action after the employee exercised rights protected under this ordinance.” (Adverse employment actions are assumed to be retaliation unless it is proven otherwise.)</p>