

# PAID SICK LEAVE

*“My boss told me that I no longer had my job at the restaurant. I was in shock. Getting fired was devastating.”*

—Elose Arestil, dishwasher in Miami, after being injured on the job.<sup>1</sup>

## THE PROBLEM

More than 40 million American workers get no paid sick leave.<sup>2</sup> Most of these workers are in service industries like restaurants, health care, and retail, so the problem is particularly acute in cities, where these jobs cluster. Lack of paid sick leave disproportionately burdens minorities and low-wage workers, including the vast majority of food service workers.<sup>3</sup> When they are sick, these employees either have to show up for work—which threatens not only their health but the health of their co-workers and the customers they serve—or stay home and lose valuable pay and risk termination.<sup>4</sup> Similarly, because many working parents cannot stay home to take care of their sick children, those children are sent to school, which harms not only those children but other kids. The United States is one of 22 rich countries in the world lacking a federal law guaranteeing workers either paid sick days or paid sick leave.<sup>5</sup>

## THE SOLUTION

“I chose to sponsor this bill, not only because it was the right thing to do, but because I believed that this was a coalition that would get the job done. A robust coalition of workers, employers, health care professionals, moms, and social justice activists is a coalition that just can’t be beat!” — Seattle City Councilmember Nick Licata, after Seattle enacted paid sick leave in September, 2011.

While the best solution would be the creation of a federal law, efforts in Congress to pass the Healthy Families Act—which would guarantee up to seven paid sick days a year for workers at companies with at least 15 employees—have so far been unsuccessful.<sup>6</sup> Without federal action, cities have taken the lead on the issue. Paid-sick-leave laws have taken effect in **San Francisco** (2006),<sup>7</sup> **Washington D.C.** (2008), **Seattle** (2011), **Los**

**Angeles** (2016), and **Chicago** (2016).<sup>8</sup> Voters passed a law in **Milwaukee** (2008), but Governor Scott Walker and the legislature later outlawed local paid-sick-leave laws. In 2011, Connecticut became the first state to pass a paid-sick-leave law; California, Massachusetts, and Oregon followed. With Arizona (2016), Vermont (2016), Washington (2016), Rhode Island (2017), and Maryland (2018) passing sick leave legislation in recent years, there are now a total of ten states with paid-sick-leave laws.

Broad-based campaigns for paid-sick-leave laws supported by unions and advocacy organizations committed to the well-being of women, children, immigrants, and workers are active in dozens of cities and states around the country.<sup>9</sup> Some conservative states have preempted localities from enacting sick leave laws, but cities are stepping up and challenging these efforts as incursion into their traditional “police power” to pass legislation protecting the “health, safety, morals, and general welfare of the public.” On March 1, 2018, the Austin City Council passed a paid-sick-time ordinance, with **Dallas** and **Houston** exploring the policy as well, even in the face of threats from Republican state legislators to pursue preemption.

## POLICY ISSUES

“I had to prioritize my family over work, and I lost my job.” —Ai Elo, waitress in New York City, after being fired because she stayed home to take care of her ill brother.<sup>10</sup>

The following topics will likely come up when designing a city’s paid-sick-leave legislation. Legislators can tailor their proposals to the political realities in their city.

**COVERAGE:** The scope of coverage is a central question in all campaigns. Advocates have sought to broaden cov-

## LANDSCAPE AND RESOURCES

The **Center for Popular Democracy** and the **Working Families Party** provide campaign strategy and organizing support to local campaigns. **A Better Balance** provides legal and policy support on sick leave campaigns. **Family Values at Work** is a consortium of 24 state and local coalitions pushing for paid sick leave. The **National Partnership for Women and Families** is leading the campaign for a federal paid-sick-leave law. **The Institute for Women's Policy Research** has extensive research on the costs and benefits of paid-sick-leave policies.

erage to include as many workers as possible; opponents have sought to carve out small businesses or particular industries. **San Francisco's** law is broadest, covering any worker, part- or full-time, who works within the city for an employer. In order to win passage, advocates in **Washington, D.C.**, had to accept an exclusion of restaurant waiters, which is particularly problematic given the public health consequences of such employees working while ill. In Connecticut, advocates had to agree to a carve-out for businesses with fewer than 50 employees, manufacturers, some nonprofits, and firms that employ temporary workers.

**NUMBER OF DAYS:** Many paid-sick-time bills start by requiring 10 days of paid sick leave for all workers, but fewer days are often the compromise reached to win passage. A number of bills provide two tiers—nine days for most employees, five days for small-business employees— to address opponents' claims that small businesses cannot afford to provide such benefits. The rate at which the leave accrues (typically one hour leave for every 30 or 40 hours worked), the date on which it begins to accrue (at start of employment or later), and the length of a probation period (immediate use of benefit or waiting period to use), are all likely to be points of contention. Data from a **San Francisco** survey is useful to allay employer concerns over the cost of paid sick leave: “[D]espite the availability of either five or nine sick days under the [Paid Sick Leave Ordinance], the typical worker with access used only three paid sick days during the previous year, and one-quarter of employees with access used zero paid sick days.”<sup>11</sup>

**USAGE:** Most laws and proposals permit workers to take time off to care for themselves or a family member or to seek assistance related to domestic violence. There are slight variations in the definition of “family member” across the proposals, but most define it expansively to include domestic partners and people related through blood and marriage. Many policies permit time off for preventive medical care.

**ENFORCEMENT:** It is important to ensure that any paid-sick-leave law includes enforcement provisions so that workers are actually able to use their leave. Legislation should include: requirements that employers notify their employees of their rights and keep records of the leave accrued and taken by employees, a private right of action so that employees can sue in court if their rights are violated, penalties for non-compliance by employers, and the establishment of investigation and enforcement tools within a city agency. If a city does not have a labor bureau, enforcement can sometimes be vested in a department of health, consumer affairs, business development/licensing, or workforce development.