

Final Part of Chicago's Predictive Scheduling Law to Go Into Effect in 2021

By Kathryn Montgomery Moran & James D. Thomas

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Meet the Authors



Kathryn Montgomery Moran

(She/Her)
Principal
312-803-2511
Kathryn.Moran@jacksonlewis.com



James D. Thomas

Principal
(312) 787-4949
James.Thomas@jacksonlewis.com

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Employees covered by the Chicago Fair Workweek Ordinance will have a private right of action against employers for violations of the Ordinance beginning January 1, 2021.

Although the [Ordinance took effect on July 1, 2020](#) (including fines payable to the City of Chicago of not less than \$300 or more than \$500 per violation of the Ordinance), the City of Chicago delayed the effective date for an employee's private right of action under the Ordinance until January 1, 2021, in response to the COVID-19 pandemic.

Background

The Ordinance generally requires covered employers to provide the following:

- A good faith estimate of days and hours of work to new hires;
- Advance notice of the work schedule to covered employees at least 10 days before the first day of the schedule (which will increase to 14 days on July 1, 2022);
- Compensation to covered employees for schedule changes made after the date on which the schedule must be posted; and
- Premium pay to covered employees if the employee works with fewer than 10 hours between shifts.

Administrative Remedies

Under the Ordinance, employees must exhaust their administrative remedies with the City of Chicago Department of Business Affairs and Consumer Protection before filing a private lawsuit.

The Ordinance provides that an employee may initiate a civil action only after:

- (i) The employee submits a written complaint to the Department alleging a violation;
- (ii) The Department provides the employer with an opportunity to contest the alleged violation or cure the violation; and
- (iii) The Department has notified the complaining employee in writing that the Department considers the complaint to be closed.

The Department may consider a complaint closed because:

- (i) The complaint has been cured by the employer;
- (ii) The Department has deemed the complaint justified and has enforced it against the employer to conclusion; or
- (iii) The Department has deemed the complaint unjustified.

Accordingly, much like an administrative charge at the Equal Employment Opportunity Commission, an employee will have the ability to file a private action regardless of the

results of the City's investigation.

Private Right of Action

Under the Ordinance, a claim or action must be filed within two years of the alleged conduct resulting in the complaint. A covered employee who prevails in a civil action is entitled to an award of compensation for any damages sustained as a result of a violation of the Ordinance, including litigation costs, expert witness fees, and reasonable attorney's fees.

Employers should review their policies and practices to ensure that they effectively address specific organization needs and comply with applicable laws. Please contact a Jackson Lewis attorney with any questions about the Ordinance or other workplace laws.

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