#604
10/20/26
(O-2027-10)

ORDINANCE NUMBER O- 22151 (NEW SERIES)

DATE OF FINAL PASSAGE OCT 3 0 2026

AN ORDINANCE AMENDING CHAPTER 3, ARTICLE 9, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 39.0104, 39.0105, 39.0106, 39.0107, 39.0112, AND 39.0113, RELATING TO THE CITY OF SAN DIEGO EARNED SICK LEAVE AND MINIMUM WAGE ORDINANCE.

RECITALS

The Council of the City of San Diego (Council) adopts this Ordinance based on the following:

A. Wage theft is a widespread and underreported form of economic harm affecting workers across San Diego, often occurring at a scale that rivals other forms of theft. Wage theft deprives workers of wages and benefits they have legally earned. Data from the U.S. Department of Labor underscores the scope of the issue and reflects significant amounts of unpaid wages recovered each year with many violations unreported.

B. In 2016, the Council adopted the City of San Diego Earned Sick Leave and Minimum Wage Ordinance, which established a minimum wage for work performed within the geographic boundaries of the City of San Diego. Among other things, the City of San Diego Earned Sick Leave and Minimum Wage Ordinance, as amended, currently provides a minimum wage for hours worked within City limits that exceeds the minimum wage required under federal and California law, as well as requiring earned sick leave benefits for work performed within the City.

C. The City has a vested interest in ensuring workers are paid their earned wages and provided their earned sick leave benefits for their work within the City. Through this Ordinance, the Council intends to expand the City's authority under the City of San Diego Earned Sick Leave and Minimum Wage Ordinance to seek unpaid wages, including unpaid overtime wages,

earned sick leave damages, and other damages, on behalf of an aggrieved employee in a civil action.

D. By strengthening the City's ability to enforce the City of San Diego Earned Sick Leave and Minimum Wage Ordinance and address violations, the Council intends to help recover unpaid wages and earned sick leave to working individuals, hold businesses accountable for failing to pay workers and failing to provide workers with earned sick leave benefits, and reinforce that exploiting workers will not be tolerated in the City of San Diego.

E. Since the Council first adopted the City of San Diego Earned Sick Leave and Minimum Wage Ordinance, California has amended the Healthy Workplaces, Healthy Families Act of 2014, which requires earned sick leave benefits for employees who work within California. Currently, California law requires greater paid sick leave benefits than City law. Through this Ordinance, the Council intends to align the City's earned sick leave requirements with California law and provide added clarity and consistency.

F. The Office of the City Attorney prepared this Ordinance based on the information provided by City staff, including information provided by affected third parties and verified by City staff, with the understanding that this information is complete and accurate.

ACTION ITEMS

Be it ordained by the Council of the City of San Diego:

Section 1. Chapter 3, Article 9, Division 1 of the San Diego Municipal Code is amended by amending sections 39.0104, 39.0105, 39.0106, 39.0107, 39.0112, and 39.0113, to read as follows:

§39.0104 Definitions

Each word or phrase defined in this Division appears in the text of this Division in italicized letters. To the extent that a federal, state, or other law is referenced within this Division, the citation includes and incorporates the law as it may be amended or renumbered in the future. For purposes of this Division, the following definitions apply:

Benefit Year [No change in text.]

Child means a biological, adopted, or foster child; stepchild; legal ward; child of a *Domestic Partner*; or child to whom the *Employee* stands in loco parentis, regardless of age or dependency status of the child.

City through *City Council* [No change in text.]

Designated Person means a person identified by the *Employee* at the time the *Employee* requests use of *Earned Sick Leave*. An *Employer* may limit an *Employee* to one *Designated Person* per 12-month period.

Domestic Partners [No change in text.]

Domestic Violence means any of the types of abuse described in California Family Code section 6211.

Earned Sick Leave [No change in text.]

Employee means any person who:

(a) through (b) [No change in text.]

(c) *Employee* does not include any person employed under a publicly subsidized summer or short-term youth employment program, such as the San Diego County Urban Corps Program; or any student employee, camp

counselor, or program counselor of an organized camp as defined in California Labor Code section 1182.4. *Employee* also does not include any person who is employed as an independent contractor as defined by the California Labor Code. For the purposes of this Division, there is a rebuttable presumption that a worker is an *Employee* and not an independent contractor. An *Employer* may rebut this presumption by demonstrating a worker satisfies all conditions described in California Labor Code section 2775 to be an independent contractor.

Employer through *Enforcement Official* [No change in text.]

Family Member means a *Child*; *Spouse*; *Domestic Partner*; *Parent*; grandparent; grandchild; *Sibling*; or *Designated Person.*

Health Care Provider through *Minimum Wage* [No change in text.]

Parent means a biological, foster, or adoptive parent, stepparent, or legal guardian of the *Employee* or the *Employee's Spouse* or *Domestic Partner*; or a person who stood in loco parentis when the *Employee* was a minor child.

Public Health Emergency [No change in text.]

Qualifying Act of Violence means any of the following, regardless of whether anyone is arrested for, prosecuted for, or convicted of committing any crime:

(a) *Domestic Violence;*

(b) *Sexual Assault;*

(c) *Stalking;* or

(d) An act, conduct, or pattern of conduct in which an individual:

(1) Causes bodily injury or death to another individual;

(2) Exhibits, draws, brandishes, or uses a firearm, or other dangerous weapon, with respect to another individual; or

(3) Uses, or makes a reasonably perceived or actual threat to use, force against another individual to cause physical injury or death.

Retaliation [No change in text.]

Sexual Assault means any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent.

Sibling means a biological, foster, or adoptive sibling; stepsibling; or half sibling.

Spouse [No change in text.]

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for that person's safety or the safety of others or suffer substantial emotional distress.

Victim has the same meaning as in California Government Code section 12945.8.

Victim Services Organization or Agency means an agency or organization that has a documented record of providing services to victims.

§39.0105 Accrual of Earned Sick Leave

(a) [No change in text.]

(b) *Employers* must provide an *Employee* with one hour of *Earned Sick Leave* for every 30 hours worked by the *Employee* within the geographic boundaries of the *City*, but *Employers* are not required to provide an *Employee* with *Earned Sick Leave* in less than one-hour increments for a fraction of an hour worked. *Employers* may cap an *Employee's* total accrual of *Earned Sick Leave* at 80 hours or 10 days, whichever is greater.

(c) An *Employer* may satisfy the accrual and carry-over provisions of this section if no less than 40 hours or five days, whichever is greater, of *Earned Sick Leave* are awarded to an *Employee* at the beginning of each *Benefit Year* for use in accordance with this Division, regardless of the *Employee's* status as full-time, part-time, or temporary.

(d) [No change in text.]

(e) *Earned Sick Leave* for *Employees* not exempt from the overtime requirements of federal and California law must be compensated at the same regular rate of pay for the work week in which the *Employee* uses the *Earned Sick Leave*. *Earned Sick Leave* for *Employees* exempt from the overtime requirements of federal and California law must be compensated at the same rate or in the same manner as the *Employer* calculates wages for other forms of paid leave time.

(f) through (h) [No change in text.]

(i) *Employers* may limit an *Employee's* use of *Earned Sick Leave* to 40 hours or five days, whichever is greater, in a *Benefit Year*, but unused, accrued *Earned Sick Leave* must be carried over to the following *Benefit Year*.

(j) If an *Employee* is transferred to a separate division, entity, or location in the *City*, but remains employed by the same *Employer*, the *Employee* is entitled to all *Earned Sick Leave* accrued at the prior division, entity, or location, and is entitled to retain and use all *Earned Sick Leave*, as provided by this Division. When there is a separation from employment and the *Employee* is rehired within one year of separation by the same

Employer, previously accrued *Earned Sick Leave* that was not used or paid out must be reinstated and such *Employee* must be entitled to use such accrued *Earned Sick Leave*.

(k) [No change in text.]

§39.0106 Use of Earned Sick Leave

(a) An *Employee* may use *Earned Sick Leave* for any of the following reasons:

(1) [No change in text.]

(2) For diagnosis, care, or treatment for an existing medical condition of, or preventive care for, the *Employee* or the *Employee's Family Member;*

(3) To serve as required by law on an inquest jury or trial jury;

(4) For an *Employee* who is a *Victim,* to appear in court to comply with a subpoena or other court order as a witness in any judicial proceeding;

(5) For an *Employee* who is a *Victim*, to obtain or attempt to obtain any relief, including a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the *Victim* or their child;

(6) For an *Employee* who is a *Victim* or a *Family Member* of a *Victim,* to attend judicial proceedings related to that crime, including any delinquency proceedings, a postarrest release decision, plea,

sentencing, postconviction release decision, or any proceeding where a right of that person is an issue;

(7) For an *Employee* who is a *Victim* or has a *Family Member* who is a *Victim,* for any of the following purposes:

(A) To obtain or attempt to obtain any relief for the *Family Member*, including a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the *Family Member* of the *Victim*;

(B) To seek, obtain, or assist a *Family Member* to seek or obtain medical attention for or to recover from injuries caused by a *Qualifying Act of Violence*;

(C) To seek, obtain, or assist a *Family Member* to seek or obtain services from a domestic violence shelter, program, rape crisis center, or *Victim Services Organization or Agency* as a result of a *Qualifying Act of Violence*;

(D) To seek, obtain, or assist a *Family Member* to seek or obtain psychological counseling or mental health services related to an experience of a *Qualifying Act of Violence*;

(E) To participate in safety planning or take other actions to increase safety from future *Qualifying Acts of Violence;*

(F) To relocate or engage in the process of securing a new residence due to the *Qualifying Act of Violence*, including

securing temporary or permanent housing or enrolling children in a new school or childcare;

(G) To provide care to a *Family Member* who is recovering from injuries caused by a *Qualifying Act of Violence*;

(H) To seek, obtain, or assist a *Family Member* to seek or obtain legal services in relation to the *Qualifying Act of Violence*;

(I) To prepare for, participate in, or attend any civil, administrative, or criminal legal proceedings related to the *Qualifying Act of Violence*; or

(J) To seek, obtain, or provide childcare or care to a care-dependent adult if the childcare or care is necessary to ensure the safety of the child or dependent adult as a result of the *Qualifying Act of Violence*.

(8) The *Employee's* place of business is closed by order of a public official due to a *Public Health Emergency*, or the *Employee* is providing care or assistance to a *Child*, whose school or child care provider is closed by order of a public official due to a *Public Health Emergency*.

(b) [No change in text.]

(c) For an absence of more than three consecutive workdays, an *Employer* may require reasonable documentation that the use of *Earned Sick Leave* was authorized under subsection (a) of this section, to the extent permitted

by California law. An *Employer* must accept as reasonable, documentation signed by a licensed *Health Care Provider* indicating the need for the amount of *Earned Sick Leave* taken, and an *Employer* may not require that the documentation specify the nature of the *Employee's* or the *Employee's Family Member's* injury, illness, or medical condition.

(d) [No change in text.]

§39.0107 Minimum Wage

(a) *Employers* must pay *Employees* no less than the *Minimum Wage* set forth in this section for each hour worked, including overtime hours, within the geographic boundaries of the *City*.

(b) through (c) [No change in text.]

§39.0112 Remedies

(a) [No change in text.]

(b) The *City* may bring a cause of action against an *Employer* in a court of competent jurisdiction to enforce the provisions of this Division. When enforcing this Division on behalf of an *Employee*, the *City* may require that wages, *Earned Sick Leave* damages, or other damages found due and owed to the *Employee* be made payable to the *Employee* and provided to the *City* for disbursement to the *Employee*.

(c) The *City*, or any person claiming harm from a violation of this Division, including an *Employee*, is entitled to all legal and equitable relief to remedy any violation of this Division, including the payment to an *Employee* of back wages withheld in violation of this Division; damages

for an *Employer's* denial of the use of accrued *Earned Sick Leave* in violation of this Division, payable to an *Employee*; reinstatement of employment or other injunctive relief; reasonable attorneys' fees and costs to any plaintiff who prevails in an action to enforce this Division; and payment of liquidated damages to an *Employee* equal to double back wages withheld, except as otherwise provided in this subsection. When an *Employer* engages in *Retaliation* against an *Employee*, the *Employer* is subject to liquidated damages that are the greater of double back wages or $1,000 for each violation not resulting in termination of employment, and the greater of double back wages or $3,000 when an *Employee* is terminated from employment for exercising any right provided by this Division. Violations of this Division are declared to irreparably harm the public and covered *Employees* generally.

(d) Any *Employer* who violates any requirement of this Division is also subject to a civil penalty, assessed and payable to the *City*, of no less than $500, but no more than $1,000 per violation, except as otherwise provided in this subsection. Each and every day that an *Employer* fails to pay an *Employee Minimum Wage* or fails to provide an *Employee* with *Earned Sick Leave* constitutes a separate and distinct violation. Any *Employer* who fails to comply with the notice and posting requirements of this Division is subject to a civil penalty of $500 for each *Employee* who was not given appropriate notice pursuant to that section, up to a maximum of $2,000. Any *Employer* who engages in *Retaliation* against an *Employee*

for exercising any right provided by this Division is subject to a civil penalty of no less than $1,000, but no more than $3,000 per violation. The cumulative civil penalties that may be assessed against an *Employer*, who has not previously violated any provision of this Division and who violates the *Minimum Wage* provisions, are limited to $10,000. The cumulative civil penalties that may be assessed against an *Employer*, who has not previously violated any provision of this Division and who violates the *Earned Sick Leave* provisions, are limited to $10,000. An *Employer* is deemed to have violated a provision of this Division upon issuance of (1) a Notice of Satisfaction, (2) Administrative Enforcement Order, or (3) final judgment of a court of competent jurisdiction, with a finding of a violation. The minimum and maximum civil penalties under this subsection must be increased cumulatively by fifty percent for each subsequent violation of the same provision in this Division by the same *Employer* or other person within a three-year period. If civil penalties and costs are the subject of administrative appeal or judicial review, then the accrual of penalties and other costs is stayed until the determination of the appeal or review is final.

(e) Notwithstanding section 12.0201 of this Code, violations of this Division may not be prosecuted as a misdemeanor or infraction.

(f) This Division does not create any right of action or cause of action for damages against the *City* in its enforcement of this Division.

(g) This section is not intended to supersede any applicable, current or future state or local law, rule, regulation, or approved memoranda of understanding binding on the *City*, as a public agency employer, and its *Employees*.

(h) If an *Employer* ceases its business operations, sells out, exchanges, or otherwise disposes of the *Employer's* business, then any person who becomes a successor to the business will be liable for the unpaid amount of the remedies as defined in the Notice and Order if, at the time of the conveyance of the business, the successor has actual or constructive knowledge of the fact and amount of the Notice and Order.

§39.0113 Enforcement Office

(a) through (o) [No change in text.]

(p) The *Enforcement Office* may refer violations of this Division to the City Attorney for consideration of a civil action, including to recover back wages, *Earned Sick Leave* damages, or other damages, as described in San Diego Municipal Code section 39.0112.

(q) The *Enforcement Office* may collaborate, including entering into a contract with, with workers' rights advocates and community-based organizations to assist in outreach efforts and other governmental agencies to assist in enforcement.

(r) The *Enforcement Office* must provide a summary report of its activities, including information requested by the City Council, each year to the City Council, as part of the annual budget process.

Section 2. The Council dispenses with a full reading of this Ordinance before its passage because a written copy of this Ordinance was made available to the Council and the public before the date of its passage.

Section 3. This Ordinance will take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: HEATHER FERBERT, City Attorney

By _____
Elena S. Min
Deputy City Attorney

ESM:jvg
September 30, 2026
Or.Dept: Council District 5
Doc. No. 4560957

I certify that the Council of the City of San Diego adopted this Ordinance at a meeting held on OCT 26 2026.

DIANA J.S. FUENTES
City Clerk

By _____
Deputy City Clerk

Approved: 10/30/26 _____
(date) TODD GLORIA, Mayor

Vetoed: _____ _____
(date) TODD GLORIA, Mayor

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~
NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 3, ARTICLE 9, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 39.0104, 39.0105, 39.0106, 39.0107, 39.0112, AND 39.0113, RELATING TO THE CITY OF SAN DIEGO EARNED SICK LEAVE AND MINIMUM WAGE ORDINANCE.

§39.0104 Definitions

Each word or phrase defined in this Division appears in the text of this Division in italicized letters. To the extent that a federal, state, or other law is referenced within this Division, the citation includes and incorporates the law as it may be amended or renumbered in the future. For purposes of this Division, the following definitions apply:

Benefit Year [No change in text.]

Child means a biological, adopted, or foster child; ~~a~~ stepchild; ~~a~~ legal ward; ~~a~~ child of a *Domestic Partner*; or ~~a~~ child ~~of an~~ to whom the *Employee* ~~standing~~ stands in loco parentis, regardless of age or dependency status of the child.

City through *City Council* [No change in text.]

Designated Person means a person identified by the *Employee* at the time the *Employee* requests use of *Earned Sick Leave*. An *Employer* may limit an *Employee* to one *Designated Person* per 12-month period.

Domestic Partners [No change in text.]

Domestic Violence means ~~"domestic violence" as defined in California Penal Code section 13700~~ any of the types of abuse described in California Family Code section 6211.

Earned Sick Leave [No change in text.]

Employee means any person who:

(a) through (b) [No change in text.]

(c) *Employee* does not include ~~any person who is authorized to be employed at less than the minimum wage under a special license issued under California Labor Code sections 1191 or 1191.5;~~ any person employed under a publicly subsidized summer or short-term youth employment program, such as the San Diego County Urban Corps Program; or any student employee, camp counselor, or program counselor of an organized camp as defined in California Labor Code section 1182.4. *Employee* also does not include any person who is employed as an independent contractor as defined by the California Labor Code. For the purposes of this Division, there is a rebuttable presumption that a worker is an *Employee* and not an independent contractor. An *Employer* may rebut this presumption by demonstrating a worker satisfies all conditions described in California Labor Code section 2775 to be an independent contractor.

Employer through *Enforcement Official* [No change in text.]

Family Member means a *Child*~~,~~; *Spouse*~~,~~; Domestic Partner; *Parent*~~,~~; grandparent~~,~~; grandchild~~,~~; *Sibling*~~,~~; or ~~the *Child* or *Parent* of a *Spouse*~~ *Designated Person*.

Health Care Provider through *Minimum Wage* [No change in text.]

Parent means a biological, foster, or adoptive parent~~;~~, a step-parent~~;~~, or ~~a~~ legal guardian of the *Employee* or the *Employee's Spouse* or *Domestic Partner*; or a person who stood in loco parentis when the *Employee* was a minor child.

Public Health Emergency [No change in text.]

Qualifying Act of Violence means any of the following, regardless of whether anyone is arrested for, prosecuted for, or convicted of committing any crime:

(a) *Domestic Violence;*

(b) *Sexual Assault;*

(c) *Stalking;* or

(d) An act, conduct, or pattern of conduct in which an individual:

(1) Causes bodily injury or death to another individual;

(2) Exhibits, draws, brandishes, or uses a firearm, or other dangerous weapon, with respect to another individual; or

(3) Uses, or makes a reasonably perceived or actual threat to use, force against another individual to cause physical injury or death.

Retaliation [No change in text.]

~~*Safe Time* means time away from work that is necessary due to *Domestic Violence, Sexual Assault*, or *Stalking*, provided the time is used to allow the *Employee* to obtain for the *Employee* or the *Employee's Family Member* one or more of the following:~~

~~(a) Medical attention needed to recover from physical or psychological injury or disability caused by *Domestic Violence, Sexual Assault*, or *Stalking*;~~

~~(b) Services from a victim services organization;~~

~~(c) Psychological or other counseling;~~

~~(d) Relocation due to the *Domestic Violence*, *Sexual Assault*, or *Stalking*; or~~

~~(e) Legal services, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the *Domestic Violence*, *Sexual Assault*, or *Stalking*.~~

Sexual Assault means ~~"rape" as defined in California Penal Code section 261 or "sexual battery" as defined by California Penal Code section 243.4~~ any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent.

Sibling means a ~~brother or sister, whether related through half blood, whole blood, or adoption,~~ biological, foster, or adoptive sibling; ~~or one who is a~~ step-sibling; or half sibling.

Spouse [No change in text.]

Stalking means ~~the unlawful conduct described in California Penal Code section 646.9~~ engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for that person's safety or the safety of others or suffer substantial emotional distress.

Victim has the same meaning as in California Government Code section 12945.8.

Victim Services Organization or Agency means an agency or organization that has a documented record of providing services to victims.

§39.0105 Accrual of Earned Sick Leave

(a) [No change in text.]

(b) *Employers* must provide an *Employee* with one hour of *Earned Sick Leave* for every 30 hours worked by the *Employee* within the geographic boundaries of the *City*, but *Employers* are not required to provide an *Employee* with *Earned Sick Leave* in less than one-hour increments for a fraction of an hour worked. *Employers* may cap an *Employee's* total accrual of *Earned Sick Leave* at 80 hours or 10 days, whichever is greater.

(c) An *Employer* may satisfy the accrual and carry-over provisions of this section if no less than 40 hours or five days, whichever is greater, of *Earned Sick Leave* are awarded to an *Employee* at the beginning of each *Benefit Year* for use in accordance with this Division, regardless of the *Employee's* status as full-time, part-time, or temporary.

(d) [No change in text.]

(e) *Earned Sick Leave* for *Employees* not exempt from the overtime requirements of federal and California law must be compensated at the same regular rate of pay for the work week in which the *Employee* uses the *Earned Sick Leave*. *Earned Sick Leave* for *Employees* exempt from the overtime requirements of federal and California law must be compensated at the same rate or in the same manner as the *Employer* calculates ~~compensation for paid working time~~ wages for other forms of paid leave time.

(f) through (h) [No change in text.]

(i) *Employers* may limit an *Employee's* use of *Earned Sick Leave* to 40 hours or five days, whichever is greater, in a *Benefit Year*, but unused, accrued *Earned Sick Leave* must be carried over to the following *Benefit Year*.

(j) If an *Employee* is transferred to a separate division, entity, or location in the *City*, but remains employed by the same *Employer*, the *Employee* is entitled to all *Earned Sick Leave* accrued at the prior division, entity, or location, and is entitled to retain and use all *Earned Sick Leave*, as provided by this Division. When there is a separation from employment and the *Employee* is rehired within ~~six months~~ one year of separation by the same *Employer*, previously accrued *Earned Sick Leave* that was not used or paid out must be reinstated and such *Employee* must be entitled to use such accrued *Earned Sick Leave*.

(k) [No change in text.]

§39.0106 Use of Earned Sick Leave

(a) An *Employee* may use *Earned Sick Leave* for any of the following reasons:

(1) [No change in text.]

(2) ~~The *Employee's* absence is for the purpose of obtaining professional.~~ For diagnosis, care, or treatment for ~~a~~ an existing medical condition of, or preventive care for, the *Employee* or the *Employee's Family Member;*

(3) ~~The *Employee's* absence is for other medical reasons of the *Employee*, such as pregnancy or obtaining a physical examination.~~ To serve as required by law on an inquest jury or trial jury;

(4) ~~The *Employee* is providing care or assistance to a *Family Member*, with an illness, injury, or medical condition, including assistance in obtaining professional diagnosis or treatment of a medical condition.~~ For an *Employee* who is a *Victim*, to appear in court to comply with a subpoena or other court order as a witness in any judicial proceeding;

(5) ~~The *Employee's* absence is for the *Employee*'s use of *Safe Time*.~~ For an *Employee* who is a *Victim*, to obtain or attempt to obtain any relief, including a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the *Victim* or their child;

(6) For an *Employee* who is a *Victim* or a *Family Member* of a *Victim*, to attend judicial proceedings related to that crime, including any delinquency proceedings, a postarrest release decision, plea, sentencing, postconviction release decision, or any proceeding where a right of that person is an issue;

(7) For an *Employee* who is a *Victim* or has a *Family Member* who is a *Victim*, for any of the following purposes:

(A) To obtain or attempt to obtain any relief for the *Family Member*, including a temporary restraining order,

restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the *Family Member* of the *Victim*;

(B) To seek, obtain, or assist a *Family Member* to seek or obtain medical attention for or to recover from injuries caused by a *Qualifying Act of Violence*;

(C) To seek, obtain, or assist a *Family Member* to seek or obtain services from a domestic violence shelter, program, rape crisis center, or *Victim Services Organization or Agency* as a result of a *Qualifying Act of Violence*;

(D) To seek, obtain, or assist a *Family Member* to seek or obtain psychological counseling or mental health services related to an experience of a *Qualifying Act of Violence*;

(E) To participate in safety planning or take other actions to increase safety from future *Qualifying Acts of Violence*;

(F) To relocate or engage in the process of securing a new residence due to the *Qualifying Act of Violence*, including securing temporary or permanent housing or enrolling children in a new school or childcare;

(G) To provide care to a *Family Member* who is recovering from injuries caused by a *Qualifying Act of Violence*;

(H) To seek, obtain, or assist a *Family Member* to seek or obtain legal services in relation to the *Qualifying Act of Violence*;

(I) To prepare for, participate in, or attend any civil, administrative, or criminal legal proceedings related to the *Qualifying Act of Violence*; or

(J) To seek, obtain, or provide childcare or care to a care-dependent adult if the childcare or care is necessary to ensure the safety of the child or dependent adult as a result of the *Qualifying Act of Violence*.

(~~6~~8) The *Employee's* place of business is closed by order of a public official due to a *Public Health Emergency*, or the *Employee* is providing care or assistance to a *Child*, whose school or child care provider is closed by order of a public official due to a *Public Health Emergency*.

(b) [No change in text.]

(c) For an absence of more than three consecutive ~~work days~~ workdays, an *Employer* may require reasonable documentation that the use of *Earned Sick Leave* was authorized under subsection (a) of this section, to the extent permitted by California law. An *Employer* must accept as reasonable, documentation signed by a licensed *Health Care Provider* indicating the need for the amount of *Earned Sick Leave* taken, and an *Employer* may not require that the documentation specify the nature of the

Employee's or the *Employee's Family Member's* injury, illness, or medical condition.

(d) [No change in text.]

§39.0107 Minimum Wage

(a) *Employers* must pay *Employees* no less than the *Minimum Wage* set forth in this section for each hour worked, including overtime hours, within the geographic boundaries of the *City*.

(b) through (c) [No change in text.]

§39.0112 Remedies

(a) [No change in text.]

(b) The *City* may bring a cause of action against an *Employer* in a court of competent jurisdiction to enforce the provisions of this Division. When enforcing this Division on behalf of an *Employee*, the *City* may require that wages, *Earned Sick Leave* damages, or other damages found due and owed to the *Employee* be made payable to the *Employee* and provided to the *City* for disbursement to the *Employee*.

(~~b~~c) The *City*, or ~~Any~~ any person claiming harm from a violation of this Division, including an *Employee* ~~and the *City*~~, is entitled to all legal and equitable relief to remedy any violation of this Division, including~~, but not limited to,~~ the payment to an *Employee* of back wages withheld in violation of this Division; damages for an *Employer's* denial of the use of accrued *Earned Sick Leave* in violation of this Division, payable to an *Employee*; reinstatement of employment or other injunctive relief;

reasonable attorneys' fees and costs to any plaintiff who prevails in an action to enforce this Division; and payment of liquidated damages to an *Employee* equal to double back wages withheld, except as otherwise provided in this subsection. When an *Employer* engages in *Retaliation* against an *Employee*, the *Employer* is subject to liquidated damages that are the greater of double back wages or $1,000 for each violation not resulting in termination of employment, and the greater of double back wages or $3,000 when an *Employee* is terminated from employment for exercising any right provided by this Division. Violations of this Division are declared to irreparably harm the public and covered *Employees* generally.

(~~e~~d) Any *Employer* who violates any requirement of this Division is also subject to a civil penalty, assessed and payable to the *City*, of no less than $500, but no more than $1,000 per violation, except as otherwise provided in this subsection. Each and every day that an *Employer* fails to pay an *Employee Minimum Wage* or fails to provide an *Employee* with *Earned Sick Leave* constitutes a separate and distinct violation. Any *Employer* who fails to comply with the notice and posting requirements of this Division is subject to a civil penalty of $500 for each *Employee* who was not given appropriate notice pursuant to that section, up to a maximum of $2,000. Any *Employer* who engages in *Retaliation* against an *Employee* for exercising any right provided by this Division is subject to a civil penalty of no less than $1,000, but no more than $3,000 per violation. The

cumulative civil penalties that may be assessed against an *Employer*, who has not previously violated any provision of this Division and who violates the *Minimum Wage* provisions, are limited to $10,000. The cumulative civil penalties that may be assessed against an *Employer*, who has not previously violated any provision of this Division and who violates the *Earned Sick Leave* provisions, are limited to $10,000. An *Employer* is deemed to have violated a provision of this Division upon issuance of (1) a Notice of Satisfaction, (2) Administrative Enforcement Order, or (3) final judgment of a court of competent jurisdiction, with a finding of a violation. The minimum and maximum civil penalties under this subsection must be increased cumulatively by fifty percent for each subsequent violation of the same provision in this Division by the same *Employer* or other person within a three-year period. If civil penalties and costs are the subject of administrative appeal or judicial review, then the accrual of penalties and other costs is stayed until the determination of the appeal or review is final.

(~~d~~e) Notwithstanding section 12.0201 of this Code, violations of this Division may not be prosecuted as a misdemeanor or infraction.

(e~~f~~) This Division does not create any right of action or cause of action for damages against the *City* in its enforcement of this Division.

(~~f~~g) This section is not intended to supersede any applicable, current or future state or local law, rule, regulation, or approved memoranda of

understanding binding on the *City*, as a public agency employer, and its *Employees*.

(~~g~~h) If an *Employer* ceases its business operations, sells out, exchanges, or otherwise disposes of the *Employer's* business, then any person who becomes a successor to the business will be liable for the unpaid amount of the remedies as defined in the Notice and Order if, at the time of the conveyance of the business, the successor has actual or constructive knowledge of the fact and amount of the Notice and Order.

§39.0113 Enforcement Office

(a) through (o) [No change in text.]

(p) The *Enforcement Office* may refer violations of this Division to the City Attorney for consideration of a civil action, including to recover back wages, *Earned Sick Leave* damages, or other damages, as described in San Diego Municipal Code section 39.0112.

(~~p~~q) The *Enforcement Office* may collaborate, including entering into a contract with, with workers' rights advocates and community-based organizations to assist in outreach efforts and other governmental agencies to assist in enforcement.

(~~q~~r) The *Enforcement Office* must provide a summary report of its activities, including information requested by the City Council, each year to the City Council, as part of the annual budget process.

ESM:jvg
September 30, 2026
Or.Dept: Council District 5
Doc. No. 4565940

#604

Passed by the Council of The City of San Diego on October 26, 2026, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	☒	☐	☐	☐
Jennifer Campbell	☒	☐	☐	☐
Stephen Whitburn	☒	☐	☐	☐
Henry L. Foster III	☒	☐	☐	☐
Marni von Wilpert	☒	☐	☐	☐
Kent Lee	☒	☐	☐	☐
Raul A. Campillo	☒	☐	☐	☐
Vivian Moreno	☐	☐	☒	☐
Sean Elo-Rivera	☒	☐	☐	☐

Date of final passage OCT 30 2026.

(Please note: When an ordinance is approved by the Mayor, the date of final passage is the date the approved ordinance was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

(Seal)

By _____, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on OCT 13 2026, and on OCT 30 2026.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

(Seal)

By _____, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number **O-22151**