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## Milwaukee Biz Blog

# Judge said sick leave ordinance 'exceeds its grasps'

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As part of the November elections, voters in the City of Milwaukee approved a referendum requiring private employers to provide up to nine days of paid sick leave to all employees working within city limits.

By [Sara Spiering](#)

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On Friday, June 12, Milwaukee County Circuit Court Judge Thomas Cooper permanently enjoined the ordinance's implementation and enforcement. Judge Cooper ruled that the ordinance was unconstitutional and invalidly enacted based on its provisions related to domestic violence, sexual assault and stalking, noting "this is a case where a proposed ordinance's reach exceeds its grasp."

Judge Cooper ruled that the ordinance's provisions allowing victims of domestic violence, sexual assault or stalking to use paid sick leave for legal action or relocation are not logically related to the broader purpose of the ordinance and were not mentioned in the ballot question: "These provisions are not details of the main purpose of the ordinance, but separate matters which must be detailed in the concise statement voted upon on a different direct legislation ballot."

While the court could have enjoined the ordinance's enactment on that basis alone, Judge Cooper went on to rule that those provisions were unconstitutional: they had no rational basis because there was no clear relationship between the amount of time needed to relocate or bring legal action as a result of domestic violence, sexual assault or stalking and the number of paid sick days provided in the ordinance.

A number of other bases for the permanent injunction were argued, including that the ordinance was preempted by state and federal law, that it unconstitutionally impaired existing contracts and that it was unconstitutionally vague and extraterritorial. However, Judge Cooper did not grant the injunction for those reasons.

Finally, the court refused to sever the invalid portions of the ordinance from the remainder and instead struck it down in its entirety.

While Judge Cooper's decision is good news for employers, the issue may not be entirely resolved: Milwaukee 9to5, the special interest group that led the petition drive resulting in the ordinance's consideration on the November ballot, plans to appeal the decision.

*Sara Spiering is an associate attorney at DeWitt Ross & Stevens S.C., where she is a member of the Litigation and Employment Relations Practice Groups.*

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