

Insights, News & Events

EXPANSIONS TO NEW YORK CITY'S SICK TIME LAW COMING IN MAY 2018

Insights

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Employers in New York City will soon be required to provide protected time off to employees who are the victims of domestic violence, sexual assault, stalking, or human trafficking due to amendments to New York City's Earned Sick Time Act. The law – which will now be dubbed the NYC Earned Safe and Sick Time Act – will also see an expansion to the definition of a covered family member, increasing the scope of permitted leave employers need to provide. The amendments will take effect as of May 5, 2018, which means that you need to begin to prepare now for the coming changes.

EXPANSION OF COVERED REASONS FOR SICK LEAVE

The Earned Sick Time Act requires New York City employers with five or more employees to provide eligible employees with up to 40 hours of paid sick leave per year. Employers with fewer than five employees must provide unpaid sick leave. Currently, sick leave can be used for the following purposes:

- The employee's own mental or physical illness, injury, or health condition, need for medical diagnosis, care, treatment, or preventative care, or elective surgery, including organ donations;
- Care of a family member who needs medical diagnosis, care, or treatment of an illness, injury, or health condition or preventative care, or who has elective surgery, including organ donations; and

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- Closure of employee's workplace due to a public health emergency or to care for a child whose school or childcare provider is closed due to a public health emergency.

Under the recent amendments to the law, employees will also be able to use leave for "safe time" for absences from work when the employee or a family member has been the victim of a family offense matter, sexual offense, stalking, or human trafficking. Employees can use "safe time" for the following reasons:

- To obtain services from a domestic violence shelter, rape crisis center, or other shelter or services program;
- To participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members from future harm;
- To meet with an attorney or other social service provider to obtain information and advice on, and prepare for or participate in, any criminal or civil proceeding, including matters related to a family offense matter, sexual offense, stalking, human trafficking, custody, visitation, matrimonial issues, orders of protection, immigration, housing, discrimination in employment, housing or consumer credit;
- To file a complaint with law enforcement;
- To meet with a district attorney's office;
- To enroll children in a new school; or
- To take other actions necessary to maintain, improve, or restore the physical, psychological, or economic health or safety of the employee or the employee's family member.

Similar to when employees use sick time, if an employee is absent for three or more consecutive work days, you may require reasonable documentation of the need for safe time. However, you cannot require the disclosure of details relating to an employee's or an employee's family member's status as a victim of family offenses, sexual offenses, stalking or human trafficking as a condition of providing safe time. You also must keep confidential any information concerning an employee's or a family member's status or perceived status as a victim of family offenses, sexual offenses, stalking, or human trafficking that you obtain.

EXPANDED DEFINITION OF “FAMILY MEMBER”

The recent amendment also broadens the definition of a covered “family member” under the law. Currently, employees may use protected sick time to care for a spouse, domestic partner, parent, child, sibling, grandparent, grandchild, or the child or parent of the employee’s spouse or domestic partner. The amended law broadly expands the definition of covered family members, for both sick and safe time, to include “any other individuals related by blood to an employee” or “any other individual whose close association with the employee is the equivalent of a family relationship.” Accordingly, employees will now be able to take protected leave in order to provide care a wider range of family members.

EMPLOYER NOTICE REQUIREMENTS

Both current and new employees must be informed about their right to safe time. Currently, New York City employers are required to provide new hires with a notice of rights to sick leave under the law, which must include the accrual and use of sick leave, the employer’s calendar year, the right to be free from retaliation and the right to file a complaint. Going forward, the notice of rights provided to new hires must include safe leave. Additionally, you must provide current employees with a notice of their right to safe time within 30 days of the law’s effective date.

WHAT EMPLOYERS MUST DO NEXT

If you employ workers in New York City, you should update your sick time policies to include safe time and take the necessary administrative steps necessary to implement safe time. Additionally, you must be prepared to comply with the law’s notice requirements. You will need to provide your current employees with a notice of their right to safe time within 30 days of the law’s effective date. You must also update the notice of rights you provide to employees upon hire to include notice of the employee’s right to safe time in addition to sick time.

If you have questions about how these changes will affect your workplace, contact any attorney in our [New York City office](#) at 212.899.9960, or your regular Fisher Phillips attorney.

This Legal Alert provides information about specific city legislation. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.