



Westchester County Implements Safe Time Leave

Insights

8.01.19

Westchester County employers will soon need to provide paid safe time leave to employees who are the victims of domestic violence or human trafficking. Earlier this year, county lawmakers passed the Safe Time Leave for Victims of Domestic Violence and Trafficking Law, which takes effect October 30, 2019.

The required safe time leave is in addition to the up to 40 hours of paid sick leave per year under Westchester County's Earned Sick Leave Law (ESLL), effective March 30, 2019. In passing this law, Westchester joins New York City in providing for paid safe time, which has been required there since May 2018 following expansions to the NYC Earned Safe and Sick Time Law.

What Does The New Law Provide?

Starting October 30, 2019, the Safe Time Leave for Victims of Domestic Violence and Trafficking Law (STLL) will entitle employees who work for more than 90 days in Westchester County and are victims of domestic violence or human trafficking to up to 40 hours of paid safe leave per year to (a) attend or testify in criminal or civil court proceedings related to domestic violence or human trafficking, or (b) move to a safe location. Unlike the New York City Earned Safe and Sick Leave Law, which provides eligible employees with up to 40 hours of paid leave per year that can be used for sick *or* safe leave purposes, the safe leave provided by the STLL is ***in addition*** to the up to 40 hours of sick leave provided by the ESLL.

Additionally, unlike sick leave under the ESLL, employees do not accrue safe time leave. Rather, they can use up to 40 hours of paid leave as needed. Safe time leave may be taken in full days or partial day increments.

When an employee's use of safe time leave is foreseeable, the employee must make a good faith effort to provide advance notice to the employer and must try to schedule the use of the safe time leave so that they do not disrupt the business operations of the employer. When possible, the request for safe time leave should include the expected duration of the absence. Employers cannot require that the employee find another employee to cover their work while they are on safe time leave. Employers are strictly prohibited from interfering with an employee's right to use safe time leave or taking retaliatory action against an employee who has used or requested to use safe time leave.

Documentation And Notice

Employers may require employees to provide reasonable documentation to verify that the leave is being used for a permissible purpose. Such documentation may include: a court appearance ticket or subpoena; copy of a police report; an affidavit from an attorney involved in the court proceeding; or an affidavit from an authorized person from a reputable organization known to provide assistance to victims of domestic violence or human trafficking. The employer is required by law to keep confidential any information about an employee or family member obtained solely for the purposes of an employee utilizing safe time leave.

The STLL includes both notice and posting requirements. At the commencement of employment, or within 90 days of the law's effective date, Westchester employers must provide their employees with a copy of the STLL, as well as a written notice of how the law applies to the employee. Additionally, employers are required to display a copy of the law and a yet-to-be-published Safe Time Leave Law poster in a conspicuous place in the workplace.

Ramifications Of Noncompliance

The law will be enforced by the Department of Weights and Measures—Consumer Protection, the same agency tasked with enforcing the ESSL. Employees also have the option of bringing a private right of action against their employer through a civil lawsuit. Complaints with the Department or civil actions must be made within one year of the alleged violation. In either scenario, employees may recover the greater of \$250 or three times the wages that should have been paid for each instance of uncompensated safe leave, or \$500 for each instance where employees have been unlawfully denied requested safe leave.

In situations where an employer has taken adverse action against an employee for asserting their rights under the law, employees can receive the usual remedies such as reinstatement and back pay. For all types of violations, employees can also recover reasonable attorneys' fees, the costs of an administrative hearing, and other appropriate monetary or equitable relief.

What Should Westchester Employers Do Now?

Westchester employers need to make sure they are ready to comply with this new law by the October 30, 2019 effective date. Employers subject to this law should review their existing policies and procedures and update them to ensure that they are in compliance with this law when it becomes effective on October 30. Additionally, Westchester employers must post a copy of the law and the required poster (once it published by the county). Westchester employers must also provide their existing employees with information about the law by January 28, 2020 and to new employees upon hiring going forward.

We will continue to monitor any further developments and provide updates on this impending law, so make sure you are subscribed to [Fisher Phillips' alert system](#) to gather the most up-to-date information. For more information about compliance with the new law, contact any attorney in our [New York City](#) office at 212.899.9960 or your Fisher Phillips attorney.

This Legal Alert provides an overview of a specific county law. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

Related People



Melissa Camire
Partner
212.899.9965
[Email](#)



Justin Reiter
Partner
212.899.9985
[Email](#)

Service Focus

Employee Leaves and Accommodations
Counseling and Advice