

NYC Sick Leave Gets a New Companion: Safe Leave

On May 5, 2018, an amendment to the New York City Earned Sick Time Act will take effect, expanding the law to allow paid leave to be used by employees when they or their family members are victims of family offense matters (which include disorderly conduct, harassment, and other offenses), sexual offenses, stalking, and human trafficking. The amendment also expands the definition of "family member" under the Act. The law will now be known as the "Earned Sick and Safe Time Act" (the "Act"). The amendment adds to the protections already in place for employees affected by domestic violence, including the New York State Human Rights Law's prohibition on discrimination against victims of domestic violence and the New York City Human Rights Law's requirement that employers provide reasonable accommodation to victims of domestic violence.

"Safe time" provisions: The amendment does not change the amount of paid (or unpaid) time off that employers are required to provide. However, it requires employers to permit the use of that time for additional purposes. If an employee or an employee's family member has been the victim of a family offense matter, sexual offense, stalking, or human trafficking, the employee is entitled to use paid time (now called safe/sick time), for an absence from work due to any of 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 family offense matters;
- To meet with an attorney or social worker to obtain information and advice on, or to participate in any criminal or civil proceeding related to family offense matters;
- To file a complaint or domestic incident report with law enforcement;
- To meet with a district attorney's office;
- To enroll children in a new school; or
- To take any 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 or to protect those who associate or work with the employee.

The other existing requirements for providing and using paid sick time apply to safe time under the Act. For example, as under the current law, employers may require reasonable documentation showing that time was used for an approved purpose only if the employee is absent for more than three consecutive work days for safe time. Examples of reasonable documentation for the use of safe time include documents signed by a victim services organization, an attorney, a member of the clergy, or a medical or other professional services provider from whom the employee or his or her family member was treated, police or court records, and notarized letters from the employee explaining his or her need for safe time.

Similarly, as under the current law, employers may not require employees to disclose details relating to the employee's

or the employee's family member's status as a victim of family offenses, sexual offenses, stalking, or human trafficking.

Expansion of the definition of "family member": The amendment also expands the definition of family member for all leave purposes. Previously, covered family members included children, spouses, domestic partners, parents, siblings, grandchildren, grandparents, and the child or parent of a spouse or domestic partner. The amendment greatly expands the definition of family member to include "any other individual related by blood to the employee" and "any other individual whose close association with the employee is the equivalent of a family relationship," a definition that could apply to virtually any significant relationship.

As with the existing New York City Earned Sick Time Act, employers must provide employees with written notice of their right to safe time. Employers must provide existing employees of their right to safe time by June 4, 2018. We anticipate that the Department of Consumer Affairs, the entity charged with enforcing the Act, will provide a model notice on its website. Employers should also review their existing paid sick leave policies and timely amend them to incorporate the provisions relating to paid safe time.

This alert is for general informational purposes only and should not be construed as specific legal advice. If you would like more information about this alert, please contact one of the following attorneys or call your regular Patterson contact.

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