

New York City Counsel Expands Earned Sick Time Law To Include Safe Time

New York City's Earned Sick Time Act (also known as the Paid Sick Leave Law) will require employers to allow employees to use paid time off for "Safe Time" under an amendment (Int. 1313-A) passed by the New York City Council on October 17, 2017. Under the revised law (the "Earned Safe and Sick Time Act"), employers will be required to provide paid time off for hours taken in connection with family offense matters, sexual offenses, stalking, and human trafficking. Int. 1313-A, is expected to be signed into law by Mayor Bill de Blasio shortly. It will take effect 180 days after signing.

Under New York City's Earned Sick Time Act, covered employers must provide their employees with paid time off under certain circumstances. While the Earned Sick Time Act continues to be refined by administrative rules and other agency guidance, Int. 1313-A imposes an additional set of covered circumstances in which employers must allow employees to use paid time off.

The new circumstances allow absences from work resulting from the employee or a covered family member of the employee being the victim of family offense matters, sexual offenses, stalking, or human trafficking. The new circumstances include:

1. To obtain services from a domestic violence shelter, rape crisis center, or other shelter or services program for relief from a family offense matter, sexual offense, stalking, or human trafficking;
2. To participate in safety planning, temporarily relocate, or take other actions to increase the safety of the employee or employee's family members from future family offense matters, sexual offenses, stalking, or human trafficking;
3. To meet with a civil attorney or other social service provider to obtain information and advice on, and prepare for or participate in, any criminal or civil proceeding, including, but not limited to, 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;
4. To file a complaint or domestic incident report with law enforcement;
5. To meet with a district attorney's office;
6. To enroll children in a new school; or
7. To take other actions necessary to maintain, improve, or restore the

physical, psychological, or economic health or safety of the employee or employee's family member or to protect those who associate or work with the employee.

Definitions of sexual offenses, stalking, and human trafficking are tied directly to statutory definitions found in the New York Penal Law, with "human tracking" defined to include sex trafficking and labor trafficking as defined by the Penal Law. A "family offense matter" is defined to include a broader class of household or family members than in the existing Earned Sick Time Act. Int. 1313-A expands the definition of family members 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."

As with sick time, employers may require reasonable documentation that the use of safe time was covered by the law. For an absence of more than three consecutive workdays, an employer may require reasonable documentation from a wide-ranging group, such as various individuals working with or for the victim services organization, an attorney, a member of the clergy, or a medical or other professional service provider. Production of a police, court record, or even a notarized letter from the

employee explaining the need for such time also may be reasonable documentation. An employer cannot require that such documentation specify the details of the family offense matter, sexual offense, stalking, or human trafficking. All other legal conditions and requirements of Earned Sick Time, including the ability to require reasonable advance notice of foreseeable absences, also will apply to "Safe Time." Employers will be required to provide notice to employees of their newly expanded rights to Safe Time within 30 days of the effective date (210 days after the Mayor signs Int. 1313-A into law).

The City Council is considering other expansions to the Earned Sick Time Act, such as establishing a private right of action and other legislation that would affect New York employers greatly.

For additional information regarding these developments, complying with the new law, or government relations, please contact Jackson Lewis.

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