

CLIENT ALERT: New York City Expands Paid Sick Leave Law to Cover “Safe Time” For Dealing with the Effects of Domestic Violence - By Keith McCown and Shane Goodrich

New York City recently amended its paid sick time law to cover “safe time” – paid time off needed to deal with the effects of domestic violence. Effective May 5, 2018, employees in New York City will be entitled to take protected time off “when the employee or a family member has been the victim of a family offense matter, sexual offense, stalking, or human trafficking.”

Under New York City’s amended paid sick leave law, which has been renamed the “Earned Safe and Sick Time Act” (“ESSTA”), employers must accrue up to 40 hours per employee of paid safe or sick time each year. The “safe time” reasons for paid time off, to be added in 2018, include:

- 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 family member;
- 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;
- 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 other actions necessary to maintain, improve, or restore the physical, psychological, or economic health or safety of the employee or family member or to protect those who associate or work with the employee.

The definition of “family member” has been expanded to include any individual related by blood and any individual whose close association with the employee is the equivalent of a family relationship, in addition to a child, spouse, domestic partner, parent, sibling, grandchild or grandparent, or the child or parent of an employee’s spouse or domestic partner.

The amendment also adds “safe time” absences to the existing notice and documentation requirements for sick leave absences. Employers may require employees to submit reasonable notice of the need to use safe or sick time, capped at seven days before the date the safe or sick time is to begin. Where the use of safe or sick time is not foreseeable, employers may require an employee to provide notice as soon as practicable. Employees can be required to provide written confirmation that leave was used for a covered purpose. Additionally, reasonable documentation that leave was

used for a covered purpose may be required for an absence of more than three consecutive work days.

For employees covered by a collective bargaining agreement (CBA) when the amended law takes effect, the new requirements will not apply until the CBA terminates. The amended law will apply to CBA-covered employees unless the new CBA explicitly waives the law's requirements and provides employees a comparable benefit in the form of paid days off.

Employers affected by the amended law should revise their paid sick leave policies prior to May 5, 2018 to include paid "safe time." Employers are also required to distribute a revised Notice of Employee Rights to all employees working in New York City on or before June 4, 2018.

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