

NYC Mayor Signs Earned Safe and Sick Time Act

Last month, the New York City Council passed a bill amending the city’s Earned Sick Time Act to allow the use of earned sick time for “safe time” reasons. Mayor Bill de Blasio signed the “Earned Safe and Sick Time Act” on November 6, adding family offenses, sexual offenses, stalking, and human trafficking to the list of permissible reasons to use paid sick time and broadening the definition of covered “family member.” The amended law will take effect on May 5, 2018. Employers should review their leave and other employment policies to determine what changes may be needed to ensure compliance.

Background

New York City has required private-sector employers with five or more employees to provide a minimum amount of job-protected, paid sick time to eligible employees since 2014. With limited exceptions, the NYC Earned Sick Time Act (ESTA) allows full-time and part-time employees who work in NYC for more than 80 hours in a year to accrue up to 40 hours of paid sick leave per year that may be used for their own or a covered family member’s illness, injury or medical condition, or for reasons relating to the closure of their workplaces or children’s schools or day care facilities due to a public health emergency. (See our [March 27, 2014](#) *For Your Information*.)

On October 17, the NYC Council passed a bill amending ESTA to allow eligible employees to use earned sick time for reasons related to their own or a covered family member’s status as a victim of a family offense, sexual offense, stalking, or human trafficking (collectively, “safe time”). The bill also renamed ESTA the “Earned Safe and Sick Time Act” (ESSTA) to reflect the expanded coverage. (See our [November 1, 2017](#) *For Your Information*.)



The Amended Law

On November 6, NYC Mayor Bill de Blasio signed ESSTA into law. When it takes effect on May 5, 2018, NYC will join more than two dozen municipalities with paid sick leave ordinances – including San Francisco, Washington DC, Seattle, Philadelphia, Los Angeles, Chicago, San Diego, and Minneapolis – that also permit employees to use that leave for some form of safe time. (See, for example, our [May 21, 2015](#) and [October 6, 2014](#) issues of *For Your Information*.)

Expanded Definition of Family Member

ESTA allows employees to use their earned sick time to care for a “family member” – the employee’s child, grandchild, spouse, domestic partner, parent, grandparent, sibling, or the child or parent of an employee’s spouse or domestic partner. Under ESSTA’s expanded definition, covered family members will also 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” for purposes of both sick and safe time absences.

Safe Time Reasons

Under ESSTA, eligible employees will be able to use earned sick time as currently permitted under ESTA as well as when an employee or the employee’s family member has been the victim of a family offense matter, sexual offense, stalking, or human trafficking. Employees will be eligible to use earned time off for the following safe time reasons:

- 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
- 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, sexual offenses, stalking, or human trafficking
- 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
- File a complaint or domestic incident report with law enforcement
- Meet with a district attorney’s office
- Enroll children in a new school
- 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 or to protect those who associate or work with the employee

In Closing

NYC’s amended law will permit employees to use earned leave for both sick and safe time and cover additional family members, effective May 5, 2018. Employers should review existing leave and other employment policies to determine what changes may be needed to ensure compliance.

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