

New York City Expands Earned Sick Time Act to Include Earned Safe Time

May 18, 2018

An amendment to New York City's Earned Sick Time Act, which went into effect on May 5, 2018, now permits employees to use earned sick time for certain new designated purposes, including dealing with domestic violence, sexual assault or stalking, enrolling children in a new school, or attending to other family health or safety issues.

Under the original version of the act, most employees working in New York City for employers with five or more employees earn paid time off, which can be used to recover from an illness or injury or to care for a family member recovering from an illness or injury. The amended act expands the permitted uses of this paid time off to now include earned safe time.

What employers are covered? Employers with 5 or more employees who are employed for hire more than 80 hours a calendar year in New York City must provide paid leave under the act. Employers with 1 to 4 employees who work more than 80 hours a calendar year in New York City must also provide leave, but it can be unpaid.

In addition to the permitted earned sick time uses under the original act, what are the new permitted earned safe time uses, as amended?

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 an attorney or 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
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

If I'm a covered employer, how much paid leave does an eligible employee get under the act? The accrual formula of paid leave under the original act is not altered. Covered employers must allow eligible employees to earn paid leave under the act at a rate no less than one hour for every 30 hours worked, up to a maximum of 40 hours of sick leave per calendar year.

Can covered employers ask employees for notice or documentation supporting the need for leave? Yes. As with earned sick time, employers can require employees to give reasonable notice of the need to use earned safe time if leave is foreseeable or, if leave is not foreseeable, to give notice as soon as practicable. Similarly, employers may require employees to provide reasonable documentation of their use of earned safe time for more than three consecutive workdays. Retaliation for exercising earned safe time rights is also strictly prohibited.

Are any new notices required under the amended act? Yes. A new, revised notice is now required for all new hires. Additionally, employers must provide all current employees a copy of the new notice by no later than June 4, 2018. This company-wide obligation appears to be a one-time requirement.

Action items

New York City employers should immediately distribute a copy of the notice to its employees. Employers should also update their new hire forms to ensure such employees receive the correct notice. In addition, employers should review their leave policies and update them as necessary to comply with the act. Please feel free to contact us with any questions about the act or how to comply.

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