

Client Alert **Employment & Labor**

New York City Expands Paid Sick Leave to Domestic Violence, Assault and Sex Trafficking Victims

On November 6, 2017, New York City enacted legislation extending its paid sick leave law to include victims of stalking and human trafficking, domestic violence and sexual assault, and their family members. The law, renamed Earned Sick and Safe Time Act, requires employers to allow employees to take paid time off to receive services or attend legal proceedings and health appointments related to those abuses. The law will become effective on May 5, 2018.

Safe Time

The Earned Sick and Safe Time Act requires employers to allow employees to use such so-called safe time for reasons such as:

- Obtaining services from a domestic violence shelter, rape crisis shelter, or other shelter or services program for relief from a family offense matter, sexual offense, stalking or human trafficking;
- Participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the employee or employee's family member from future family offense matters, sexual offenses, stalking or human trafficking;
- Meeting with an attorney or other social service provider to obtain information and advice regarding any criminal or civil proceeding, including but not limited to,

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matters related to family offenses, sexual offenses, stalking or human trafficking, custody, visitation, matrimonial issues, orders of protection, immigration, housing, discrimination in employment, house or consumer credit;

- Filing a complaint or a domestic incident report with law enforcement;
- Meeting with a district attorney's office;
- Enrolling children in a new school; or
- Taking 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.

The new law, which also provides leave to a victim's family member, broadens the definition of "family member" to include chosen families in addition to biological families.

Amount of Leave

The legislation does not add to the total amount of leave that employees are entitled to under the existing paid sick leave law, which permits up to 40 hours of paid sick leave for individuals who work in New York City for at least 80 hours in a year for employers with five or more employees.

Confidentiality

Employers are prohibited from requiring an employee to disclose the details of the employee's or family member's status as a victim of family offenses, sexual offenses, stalking or human trafficking. If the employer becomes aware of such information, the employer must maintain confidentiality, unless required otherwise by law or through the employee's written consent. Such information may be considered in connection with a request for reasonable accommodation under the New York City Human Rights Law.

Notice

Employers may require reasonable notice of an employee's need to use safe time. If the need to use such leave is foreseeable, employers may require an employee to provide reasonable advance notice of no more than seven days.

Documentation

Employers may require “reasonable documentation” for safe time absences of three or more consecutive work days. Such documentation would include an explanation for the need for leave, without providing details, signed by an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional service provider who has assisted the employee or employee’s family member; a police or court record; or a notarized record from the employee.

Employer Tips

In response to the Earned Sick and Safe Time Act, New York employers should expand the scope of their current leave policies to include leave for victims of family offense matters, sexual offenses, stalking and human trafficking, and their family members. This law will be enforced by the New York City Department of Consumer Affairs’ Office of Labor Policy and Standards, which can require violators of the law to provide restitution to employees and pay civil penalties.

The following attorneys in our Employment and Labor Law Practice Group can assist employers in drafting policies and answering questions about New York City’s Earned Sick and Safe Time Act.

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