

NYC Broadens Sick Time to Include Safe Time

NOVEMBER 8, 2017

On November 6, 2017, New York City Mayor Bill de Blasio signed [Introduction No. 1313-A](#), which amends and renames NYC's Earned Sick Time Act. The "Earned Safe and Sick Time Act" (ESSTA or the Act) allows employees to use paid "safe time" to plan their immediate next steps and focus on safety when the employee or a family member has been the victim of a family offense matter, a sexual offense, stalking, or human trafficking. Significantly, the ESSTA does not increase the total amount of leave time to which workers are entitled. The amendment takes effect May 5, 2018.

Covered Reasons for "Safe Time"

ESSTA allows an employee to use safe time if the employee or a family member has been the victim of a family offense matter, a sexual offense, stalking, or human trafficking and the employee needs time off for him or herself or to assist a family member:

- To receive services from a domestic violence shelter, rape crisis center, or other similar services program;
- To engage in safety planning, relocation, or other actions to increase the safety of the employee or family member;
- To meet with an attorney or social services provider to obtain information or advice about, or prepare to participate in legal proceedings;
- To file a complaint or domestic incident report with law enforcement;
- To meet with a district attorney's office;
- To enroll a child in a new school; or
- To take any other required actions 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.

Expanded Definition of "Family Member"

The amendment expands the definition of “family member” in the Earned Sick Time Act. Under the ESSTA, a “family member” includes an employee’s child, spouse, domestic partner, parent, sibling, grandchild, or grandparent; the child or parent of an employee’s spouse or domestic partner; any person related by blood to the employee; and any person whose close association with the employee is the equivalent of a family relationship.

Reasonable Documentation

If an employee uses safe time and is absent for more than three consecutive work days, an employer may require reasonable documentation that such leave was used for a covered purpose. Documentation is reasonable when it is 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 from whom the employee or that employee’s family member has sought assistance in addressing family offense matters, sex offenses, stalking, or human trafficking and their effects.

A police or court record, or a notarized letter from the employee describing the need for safe time also constitutes reasonable documentation.

Confidentiality

Under the ESSTA, all documentation and information that an employee gives to an employer relating to the employee’s or his or her family member’s status or perceived status as a victim of family offense matter, sexual offense, stalking, or human trafficking must be treated as confidential. Further, employers are prohibited from requiring that an employee give detailed information about the underlying family offense matter, sexual offense, stalking, or human trafficking.

Reasonable Notice to the Employer

Similar to current treatment of sick time, an employer may require an employee to give reasonable notice of the need to use safe time. If such need is foreseeable, the reasonable advance notice cannot exceed seven days before safe time begins.

Notice Obligations

NYC will update and issue a model notice that employers may use to satisfy their notice obligations under the law, including the requirement that the notice be conspicuously posted at an employer’s place of business in an area accessible to employees. Employers must provide all new employees hired on or after May 5, 2018 with written notice of their right to safe time under the ESSTA. Additionally, employers must give existing employees an updated written notice within 30 days of the effective date, or by June 4, 2018. Such written notice shall be in English and the primary language spoken by that employee, provided that the NYC Department of Consumer Affairs has made available a translation of the notice in that language.

Next Steps

New York City employers should review sick leave and related policies, procedures, written and posted notices, and manager training to ensure compliance by the effective date.

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