



STOKES WAGNER

ATTORNEYS AT LAW

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## Updates to New York Sick Leave Law

**On September 30**, employees of private employers in New York state will begin to accrue paid sick leave as a new law signed by Governor Cuomo on April 3, 2020, begins to take effect. The law requires most private employers in New York to provide at least 40 hours of paid sick leave each year to all their workers, including part-timers and casual employees. Employees may begin using the accrued leave **effective January 1, 2021**, or when they begin employment.

Employers with four or fewer employees and a net income of less than \$1 million in a calendar year must provide up to 40 hours of *unpaid* sick leave; employers with 100 or more workers must provide up to 56 hours of paid leave. Workers are entitled to accrue sick time at a rate of one hour for every 30 hours worked, though employers may “front load” the 40 or 56 hours and allow employees to use the time throughout their working year. Employees are entitled to carry over up to 40 or 56 hours of unused leave time to the following year, but the unused time need not be paid out on termination of employment.

The sick leave can be used either for the illness of the employee or the illness of a family member of the employee or the employee’s domestic partner. Family members include children (including a foster child or ward), spouses, domestic partners, parents, siblings, grandchildren, or grandparents. Sick leave can also be used when an employee or a family member has been the victim of domestic violence, a family offense (as defined in the Family Court Act § 812), sexual offense, stalking, or human trafficking. The employer may set a minimum increment to be used on any given occasion, but that minimum increment may not exceed 4 hours. Where such need is foreseeable, an employer may require reasonable advance notice of the intention to use safe/sick time, though not more than seven days’ notice; where not foreseeable, an employer may require notice as soon as practicable.

Employees may use sick time for any mental or physical illness, injury, or health condition of the employee or an employee’s family member, regardless of whether the illness has been diagnosed or requires immediate medical care. In addition, sick time can be used when an employee or a family member has been the victim of domestic violence, a family offense, sexual offense, stalking or human trafficking. For an absence

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of three consecutive days or more, the employer may require reasonable documentation that the use of the time was authorized, but:

“An employer may not require the disclosure of confidential information relating to a mental or physical illness, injury, or health condition of such employee or such employee’s family member, or information relating to absence from work due to domestic violence, a sexual offense, stalking, or human trafficking, as a condition of providing sick leave pursuant to this section.”

Employers are always permitted to provide more leave than is required by the law. Employer PTO policies must provide leave options at least as favorable as those required by the law. Employers may not retaliate against employees for taking leave to which they are entitled, and must hold the employee’s job for them upon their return.

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