

Paid Sick and Safe Days Model Legislation: Section-by-Section Analysis

Section 1: Definitions

The statute will use existing state definitions of **employer**, **employee**, **domestic violence**, **stalking**, and **sexual assault**.

Advocates and legislators will have to decide:

- Which Agency should enforce the Act;
- How should **family** be defined; and
- If **small businesses** are to be treated differently, how should “**small business**” be defined.

Section 2: Accrual of Paid Sick and Safe Time

Workers earn paid sick and safe time as they work – for example, one hour of paid sick and safe time for every 30 hours worked. There is a limit as to how many hours of paid sick and safe time a worker can **use** in a year; however, workers can carry over unused paid sick and safe time from year to year so that they are not left without any paid time at the beginning of the year. Employers with policies that provide paid time off, regardless of how that time is designated, do not have to change their policies, as long as the paid time off can be used in the same amounts as required in the bill and can be used for the same purposes.

Advocates and legislators will have to decide:

- How many hours will an employee have to work to earn one hour of paid sick and safe time (e.g. one hour for every 30 worked, which gives the employee approximately 72 hours of paid sick time a year, or one hour for every 40 worked which gives the employee a little more than 6 paid sick days in a year);
- Should that amount be different for small businesses;
- What is the maximum amount of paid sick and safe time a worker can use in a year;
- Should the maximum amount be different for small businesses; and
- How long does an employee have to work for a business before she or he can use the accrued paid sick and safe time.

Section 3: Use of Paid Sick and Safe Time

Workers can use paid sick and safe time to

- 1) Care for their own illness or get preventative care for themselves;
- 2) Care for a family member or help that family member get preventative care; and
- 3) Address issues for self or family member arising from domestic violence, stalking, or sexual assault, including seeking legal assistance and relocation.

Workers must give notice, orally or in writing, indicating that they need the time. For absences of three days or longer, and employer can require reasonable certification. Employers cannot require the employee to find a substitute. The worker can use paid sick and safe time in increments that match the size of time in which the employer normally keeps time.

Advocates and legislators will have to decide:

- Whether paid sick and safe time should be allowed to be used if a school or business closes because of a public health emergency.

Section 4. Exercise of Rights Protected; Retaliation Prohibited

Employers cannot interfere with an employee taking paid sick and safe time, discriminate against an employee who is taking or has taken paid sick and safe time, retaliate against an employee who has taken paid sick and safe time, or use the taking of paid sick and safe time against the employee in an absence control policy. Employers are also prohibited from retaliating against a worker who inquires about paid sick and safe time or complains about an employer not following the law.

Section 5. Notice and Posting

Employers have to provide workers with notice of the provisions of the Act.

Section 6. Employer Records

Employers have to maintain records so that if there is an enforcement action, there is evidence as to how many hours the employee worked and how much paid sick and safe time the employee used.

Section 7. Regulations

The Agency in charge of enforcement will issue regulations.

Section 8. Enforcement

The statute can be enforced in different ways or in a combination of ways.

Advocates and legislators will have to pick among these options, or select more than one:

- The Agency can take complaints, investigate, try to conciliate, and issue a decision that is reviewable by a court;
- The worker can take complaints, investigate, try to conciliate, hold a hearing, and issue a decision that is reviewable by a court;
- The worker can take his or her claim to court; and/or
- The State's Attorney General can bring an enforcement action.

Section 9. Confidentiality and Nondisclosure

The employer must keep the information obtained through the certification process confidential.

Section 10. Encouragement of More Generous Sick and Safe Time Policies; No Effect on More Generous Policies

Nothing in the Act prohibits employers from having more generous paid sick and safe days policies or affects state or local paid sick or safe days laws or collective bargaining agreements that are more generous. Special provisions can be drafted to apply to collective bargaining agreements.

Section 11. Other Legal Requirements

Nothing in the Act preempts more generous laws regarding paid or unpaid leave.



Section 12. Severability

If a court finds that any section of the Act is illegal, that section can be severed from the rest of the Act.

Section 13. Effective Date

Advocates and legislators will have to decide on a date by which the statute goes into effect and may want to delay the effective date for collective bargaining agreements that have not yet expired.