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Maryland Becomes Ninth State to Enact Paid Sick Leave

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The Healthy Working Families Act requires certain Maryland employers with 15 or more employees to provide paid sick leave.

Maryland became the ninth state, along with the District of Columbia, to enact paid sick leave after the Maryland Senate and House of Delegates (together, the General Assembly) voted on January 12 to override Maryland Governor Larry Hogan's May 25, 2017, veto of the Healthy Working Families Act (the Act).^[1] The Act is currently scheduled to take effect on February 11, 2018, 30 days following the veto's override.

Summary of the Act

The Act requires Maryland employers with 15 or more employees to provide paid sick leave at an accrual rate of at least one hour for every 30 hours worked. Employers with 14 or fewer employees are required to provide unpaid sick leave at the same rate. Permissible uses of sick leave under the Act include absences for illness and preventative medical care for the employee or the employee's family member, maternity or paternity leave and absences from work due to domestic violence, sexual assault, or stalking committed against the employee or the employee's family member.

Similar to other sick leave laws, the Act provides that employees must provide their employer advance notice (seven days) when leave is foreseeable. If the leave is unforeseeable, employees must provide notice as soon as possible. An employer-friendly provision of the Act provides that an employer can deny an employee's request for leave if the employee fails to give the required notice and the absence will cause a disruption to the employer.

Employers are required to permit eligible employees to earn and carry over up to 40 hours of sick leave. However, employers could limit employees' total accrual and use of sick leave to 64 hours in a year. The Act has additional accrual rules and leave verification procedures which may be applicable.

The Act contains a requirement that employers must provide employees with information regarding their sick and safe leave balance when wages are paid. This obligation may be satisfied by providing employee access to an online system to check their leave balances.

Local jurisdictions are preempted from enacting any new laws regulating sick and safe leave on or after January 1, 2017. As a result, the Prince George's County's Earned Sick and Safe Leave Law, which took effect on December 12, 2017, is preempted. Sick and safe leave laws enacted prior to January 1, 2017, remain in effect and as a result, Montgomery County's Earned Sick and Safe Leave Law, which took effect in October 2016, provides more stringent leave requirements for Montgomery County employers.

Recommendations for Employers

The Act is scheduled to take effect on February 11, 2018, and allows employees to accrue leave as of January 1, 2018. However, news reports indicate that the General Assembly may delay the Act's implementation in order to provide the state time to draft regulations and employers additional time to comply with the Act's requirements. Maryland employers should continue to monitor developments related to the Act's effective date over the next few weeks. In the meantime, Maryland employers should review, create, or modify existing leave policies to ensure compliance with the Act's requirements prior to the scheduled effective date. This includes ensuring that

Morgan Lewis

Article By

[William J. Delany](#)

[Morgan, Lewis & Bockius LLP](#) Law Flash

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they provide sufficient sick and safe leave to employees and that employees are permitted to take leave under the Act's terms.

[1] Arizona, California, Connecticut, Massachusetts, Oregon, Rhode Island, Vermont, and Washington have also enacted state paid sick leave laws.

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