

New Jersey Paid Sick Leave Bill Signed Into Law

Ogletree
Deakins

Employers & Lawyers. Working Together

Article By

[Robin Koshy](#)

[Michael J. Riccobono](#)

[Krystina Barbieri](#)

[Ogletree, Deakins, Nash, Smoak & Stewart, P.C.](#)

[Our Insights](#)

- [Labor & Employment](#)
- [New Jersey](#)

Friday, May 4, 2018

On May 2, 2018, New Jersey Governor Phil Murphy signed into law [a bill](#) that requires New Jersey employers to provide their employees with paid sick leave. Once enacted, New Jersey will join nine other states and the District of Columbia in requiring paid sick leave. The law will become effective on October 29, 2018. The key provisions of the law and their impact on employers doing business in New Jersey are summarized below.

Accrual Requirements

Once the law is effective, New Jersey employers will be required to provide their employees with one hour of paid sick leave for every 30 hours worked and to pay them for earned sick leave “at the same rate of pay with the same benefits as the employee normally earns.” The law caps an employee’s annual accrual, use, and carryover of earned sick leave at 40 hours per year. Employers will be permitted to provide an employee with “the full complement of earned sick leave for a benefit year” (i.e., 40 hours) on the first day of each benefit year. Any employer that offers

paid time off (including personal days, vacation days, or sick days) will be in compliance with the law if the paid time off may be used for the purposes enumerated under the law in the manner provided by the law and is accrued at a rate equal to or greater than the rate required by the law. Nothing in the law requires an employer to pay an employee for accrued but unused sick leave upon the employee's separation from employment.

Permissible Uses of Paid Sick Leave

Under the law, employees will be permitted to use paid sick time for any of the following reasons:

1. "[T]he diagnosis, care, or treatment of, or recovery from an employee's mental or physical illness or injury . . . or for preventative medical care for the employee"
2. To aid or care for a family member ("family member" is broadly defined, see below) "during diagnosis, care, or treatment of, or recovery from, the family member's mental or physical illness, injury or other adverse health condition, or during preventative medical care for the family member"
3. In connection with a child of the employee to attend a school-related conference, meeting, function, or other event required by the school, or to attend a meeting regarding care provided to the child
4. Due to circumstances resulting from the employee, or a family member of the employee, being a victim of domestic or sexual violence if the leave is to allow the employee or family member to obtain medical, legal, or other victim services
5. When "the employee is not able to work because of a closure of the employee's workplace, or the school or place of care of a child of the employee, by order of a public official due to an epidemic or other public health emergency, or because of the issuance by a public health authority of a determination that the presence in the community of the employee, or a member of the employee's family in need of care by the employee, would jeopardize the health of others"

The law expansively defines the term "family member" to include an employee's "child, grandchild, sibling, spouse, domestic partner, civil union partner, parent, or grandparent of an employee, or a spouse, domestic partner, or civil union partner of a parent or grandparent of the employee, or a sibling of a spouse, domestic partner, or civil union partner of the employee, or any other individual related by blood to the employee or whose close association with the employee is the equivalent of a family relationship."

Timing and Notice Requirements

For employees hired before the effective date of the law, unless the employee has accrued earned sick leave prior to the effective date of the law, paid sick leave will accrue beginning on the law's effective date—October 29, 2018—and the employee will be permitted to use accrued paid sick leave beginning on the 120th calendar day

after the employee commences employment. For employees hired after October 29, 2018, paid sick leave will accrue beginning on the date that employment commences, and the employee will be able to use the leave beginning on the 120th day after the employee commences employment, unless the employer agrees to an earlier date.

“If an employee’s need to use earned sick leave is foreseeable, an employer may require advance notice, not to exceed seven calendar days prior to the date the leave is to begin.” However, “if the reason for the leave is not foreseeable, an employer may require an employee to give notice of the intention as soon as practicable.” An employer may require reasonable documentation that the leave is being taken for a permitted purpose for earned sick leave of three or more consecutive days.

Anti-Retaliation Provision

The law prohibits any employer from discriminating or retaliating against an employee because the employee uses or requests paid sick leave or files a complaint against the employer for a violation of the law. An employer also will not be permitted to count earned sick leave taken under the law as an absence that may result in discipline, discharge, demotion, suspension, or any other adverse employment action.

Preemption of Municipal Paid Sick Leave Laws

Importantly, the law states that it shall “preempt any ordinance, resolution, law, rule, or regulation regarding earned sick leave adopted by the governing body of a county or municipality.” Thirteen municipalities in New Jersey currently have enacted paid sick leave laws, but the bill makes clear that New Jersey employers will only need to comply with the requirements of the law (and not any of the 13 municipal ordinances) as of October 29, 2018. Lastly, the law prohibits any New Jersey county or municipality from adopting “any ordinance, resolution, law, rule, or regulation regarding earned sick leave” after the law goes into effect.

© 2019, Ogletree, Deakins, Nash, Smoak & Stewart, P.C., All Rights Reserved.

Source URL: <https://www.natlawreview.com/article/new-jersey-paid-sick-leave-bill-signed-law>