

New York's Westchester County Issues Guidance, Notice of Employee Rights, and Poster on the New Safe Time Leave Law

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On October 30, 2019, the [Safe Time Leave Law](#) ("Law") in New York's Westchester County went into effect. To help employers comply with their obligations under the Law and to advise employees of their rights, the County has published several resources on its [website](#). The resources include information sheets on [What Employers Need to Know](#) and [What Employees Need to Know](#) (collectively the "Guidance"), as well as a [Notice of Employee Rights](#) and a [poster](#) that employers may download and use to fulfill the Law's notice requirements, as explained below. These materials are available in both English and Spanish.

As we previously [reported](#), the Law requires employers within the County to provide eligible employees who are victims of domestic violence or human trafficking with up to 40 hours of paid safe time leave ("PSTL") per year to attend or testify in criminal or civil court proceedings relating to domestic violence or human trafficking,¹ or to move to a safe location. This PSTL is **in addition to** any other paid leave to which an employee may be entitled, such as paid leave provided under the County's [Earned Sick Leave Law](#),² as well as any other obligations an employer may have under state or local anti-discrimination laws with respect to victims of domestic violence or human trafficking.³ Further, PSTL is

¹ "Human trafficking" is defined as "involv[ing] the use of force, fraud, or coercion to obtain some type of labor or commercial sex act."

² For more information on the Westchester County paid sick leave law, see the Epstein Becker Green Act Now Advisory titled "[New York's Westchester County Issues FAQs and Notice of Employee Rights as Earned Sick Leave Law Goes into Effect](#)."

³ For example, under the [New York State Human Rights Law](#), victims of domestic violence are a protected class and, as such, are protected against discrimination and retaliation. State law also protects crime victims from discharge or other adverse actions for taking unpaid leave to, for example, appear in court. Notably, [Westchester County's Human Rights Law](#) expressly requires employers with four or more employees to accommodate the needs of domestic violence victims (e.g., schedule modifications or security measures), unless doing so would impose an undue hardship on the employer.

not “earned” or accrued like many other sick and safe leave laws; instead, a covered employee may use up to 40 hours each year, regardless of how many hours he or she has worked, so long as the employee has worked for the employer in Westchester County for more than 90 days in a calendar year.

New Guidance Provided for Employers

The Guidance clarifies several aspects of the Law. First, it states that PSTL must be paid at the employee’s normal rate of pay. Second, the Law allows employees to take up to 40 hours of PSTL in “any year or calendar year.” The Guidance clarifies that “any year or calendar year” will be “determined by the employer.”

Required Employee Notice and Poster Released

Westchester County has now released the employee notice and poster that employers must display/provide to employees. As previously advised, employers must display a [copy of the Law](#) and a poster in **both** [English](#) and [Spanish](#), in a conspicuous location accessible to employees. Additionally, employers must provide employees with a copy of the Law and a [Notice of Employee Rights](#) by January 28, 2020, for current employees, or upon commencement of employment, for all employees hired after January 28, 2020. While the Law does not explicitly state that the Notice of Employee Rights must be provided in both English and Spanish, the County has made the Notice available in [Spanish](#), as well. Employers who willfully fail to comply with the notice and posting requirements may be fined up to \$500 for each separate offense.

Questions Left Unanswered

The Guidance leaves at least two important questions unanswered. First, the Law allows employees to use PSTL in full days “and/or increments” but does not identify any minimum increment of use or assign that decision to either the employer or employee. Second, in defining employees who are covered by the Law, it excludes Westchester County government employees who are subject to a collective bargaining agreement. The Law does not appear to provide a similar carve-out for private employees covered by a collective bargaining agreement—the Guidance remains silent on this issue.

What Westchester County Employers Should Do Now

Now that the Law is effective, employers should do the following, if they have not already done so:

- While not explicitly required by the Law, consider revising employee handbooks to incorporate information about the Law.
- Comply with the notice and posting requirements discussed above.
- Train supervisory and human resources personnel on employees’ rights and an employer’s obligations under the Law, along with the procedures for responding

to a request for PSTL leave. This training should include information on treating PSTL-related information in a confidential manner.

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