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## NYC Mayor de Blasio Signs Law Expanding Earned Sick Time Act to Include “Safe Time”

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On November 6, 2017, Mayor Bill de Blasio signed an [amendment](#) (“Safe Time Amendment” or “Amendment”) to New York City’s existing [Earned Sick Time Act](#) (“ESTA”) that will allow domestic violence and sexual assault survivors to take paid time off from work.<sup>1</sup> ESTA currently requires that employees be permitted to accrue up to 40 hours of sick leave per year. The Safe Time Amendment will allow employees to use this time for domestic violence-related, or sexual assault-related “safe time.” The Amendment also renames ESTA such that it will be called the Earned Safe and Sick Time Act (“ESSTA”). With an effective date of May 5, 2018, the Safe Time Amendment will take effect 180 days after enactment.

The Safe Time Amendment defines “safe time” as time away from work spent by the employee when the employee or a family member has been the victim of a family offense matter, a sexual offense, stalking, or human trafficking, and the time is for one of the following activities:

- to obtain services from a domestic violence shelter, rape crisis center, or other shelter or services program for relief from a family offense matter, sexual offense, stalking, or human trafficking;
- to participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee’s family members from future family offense matters, sexual offenses, stalking, or human trafficking;
- to meet with a civil attorney or other social service provider to obtain information and advice on, and prepare for or participate in any criminal or civil proceeding, such as issues related to sexual offenses or family offense matters;
- to file a complaint or domestic incident report with law enforcement;
- to meet with a district attorney’s office;
- to enroll children in a new school; or
- to take other actions necessary to maintain, improve, or restore the physical, psychological, or economic health or safety of the employee or the employee’s family member, or to protect those who associate or work with the employee.

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<sup>1</sup> The time off from work would be unpaid for employers with fewer than five employees.

Importantly, the Safe Time Amendment will not require New York City employers to provide additional sick or safe time to employees; rather, the Amendment simply expands the reasons that leave under ESSTA may be used.

Additionally, the Safe Time Amendment expands the definition of the term “family member” for both sick and safe time to also cover (i) any individual related by blood to the employee; and (ii) individuals whose close association with the employee is the equivalent of a family relationship. Moreover, the Amendment defines several new terms<sup>2</sup> relating to sick and safe time, as follows:

- **Family offense matter:** an act or threat of an act that may constitute one of the following offenses between spouses or former spouses, or between parent and child, or between members of the same family or household: disorderly conduct, harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, strangulation, criminal obstruction of breathing or blood circulation, assault or attempted assault, identity theft, grand larceny, or coercion.
- **Human trafficking:** an act or threat of an act that may constitute sex trafficking, as defined in section 230.34 of the penal law, or labor trafficking, as defined in section 135.35 and 135.36 of the penal law.
- **Member of the same family or household:** (i) blood relatives; (ii) persons legally married to or in a domestic partnership with one another; (iii) persons formerly married to or in a domestic partnership with one another regardless of whether they still reside in the same household; (iv) persons who have a child in common, regardless of whether such persons have been married or domestic partners or have lived together at any time; and (v) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time.
- **Sexual offense:** an act or threat of an act that may constitute a violation of article 130 of the penal law.
- **Stalking:** an act or threat of an act that may constitute a violation of section 120.45, 120.50, 120.55, or 120.60 of the penal law.

Consistent with current rules under ESTA, the Safe Time Amendment stipulates that employers may only request documentation from an employee who is taking safe time for an absence of more than three consecutive work days. Employers may not require the disclosure of details regarding the employee’s or employee’s family member’s status as a victim of family offenses, sexual offenses, stalking, or human trafficking as a condition of providing sick or safe time.

Employers must provide new employees with notice of both sick and safe time. Current employees must be provided with information regarding safe time within 30 days of the effective date of the Safe Time Amendment.

New York City will now join jurisdictions like [California](#), [Oregon](#), [Chicago](#), and [Philadelphia](#), where sick leave laws permit employees to use sick leave for safe leave purposes.

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<sup>2</sup> The Law also includes definitions for the terms including “grandchild,” “grandparent,” and “sibling,” which were not previously defined.

## What New York Employers Should Do Now

In anticipation of the Safe Time Amendment coming into effect, New York City employers should do the following:

- Revise current sick leave policies—or paid time off policies that incorporate sick leave under ESTA—to expand the purposes of leave and the definition of a family member;
- Update onboarding materials with a revised Notice of Employee Rights, which must be provided to employees upon hire; and
- Provide current employees with information regarding safe time within 30 days of the effective date of the Amendment (or by June 4, 2018).

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