

MODEL PAID SICK AND SAFE TIME ACT 2011

A Bill to Be Entitled “Healthy and Safe Families and Workplaces Act”

Issue for Advocates #1: Tailor the Findings and Purposes to the Local Authority and Reasons for the Law
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Whereas the [legislative body] finds that:

- (1) Most workers in the [State/County/City] of X will at some time during each year need limited time off from work to take care of his or her own health needs or the health needs of members of their families.
- (2) Nationally, nearly forty percent of private sector workers are without any paid sick time.¹ In addition, many workers who do have paid sick time are disciplined for using it² – or cannot use that time to care for sick children. In [STATE], an estimated ##% of private sector workers lack paid sick time.³
- (3) Low-income workers are significantly less likely to have paid sick time than other members of the workforce. Nationally, only one in five of the lowest-income workers (21 percent) has access to paid sick time.⁴
- (4) Providing workers time off to attend to their own health care and the health care of family members will ensure a healthier and more productive workforce in X.
- (5) ## % of children in X are in families where all adults work, which means that parents without paid sick days must lose income and risk losing their jobs when a child is ill or needs medical care.⁵

¹ U.S. Bureau of Labor Statistics. (2011, March). *Employee Benefits Survey. Leave benefits: Access, private industry workers, National Compensation Survey*. Retrieved 14 October 2011, from <http://www.bls.gov/ncs/ebs/benefits/2011/ownership/private/table21a.htm>

² Institute for Women’s Policy Research. (2011, July). *Paid Sick Days and Employer Penalties for Absence*. Retrieved 18 October 2011, from <http://www.iwpr.org/publications/pubs/paid-sick-days-and-employer-penalties-for-absence>

³ Find information for your state here: Williams, C. et al. (2010). *Access to Paid Sick Days in the States, 2010*. Institute for Women’s Policy Research publication. Retrieved 14 April 2011, from <http://www.iwpr.org/publications/recent-publications>

⁴ U.S. Bureau of Labor Statistics. (2011, March). *Employee Benefits Survey. Leave benefits: Access, private industry workers, National Compensation Survey*. Retrieved 14 October 2011, from <http://www.bls.gov/ncs/ebs/benefits/2011/ownership/private/table21a.htm>

⁵ Calculate data for your state or metro area using the American Community Survey (<http://factfinder2.census.gov>), or contact the National Partnership for assistance.

(6) In the state of X, ## people serve as family caregivers for family members, work that has an aggregate value of \$\$ per year.⁶ Working family caregivers cannot adequately care for their relatives without access to paid sick time.

(7) Paid sick time will have a positive effect on the individual and public health of X by allowing sick workers to earn a limited number of hours per year to care for themselves or a close family member when illness strikes or medical needs arise. Paid sick time will reduce recovery time, promote the use of regular medical providers rather than hospital emergency departments, and reduce the likelihood of people spreading illness to other members of the workforce and to the public.⁷

(8) Paid sick time will also reduce health care expenditures by promoting access to primary and preventive care. Nationally, providing all workers with paid sick time would result in \$1.1 billion in annual savings in hospital emergency department costs, including more than \$500 million in savings to publicly funded health insurance programs such as Medicare, Medicaid and SCHIP.⁸ Access to paid sick time can also help decrease the likelihood that a worker will put off needed care, and can increase the rates of preventive care among workers and their children.⁹

(9) Paid sick time will allow parents to provide personal care for their sick children. Parental care makes children's recovery faster and can prevent future health problems.¹⁰ Parents who don't have paid sick time are more than twice as likely as parents with paid sick days to send a sick child to school or daycare, and five times as likely to report taking their child or a family member to a hospital emergency

⁶ Find numbers for your state here: Feinberg, L., et al. (2011). *Valuing the Invaluable: 2011 Update*. AARP Public Policy Institute publication. Retrieved 10 August 2011, from <http://assets.aarp.org/rgcenter/ppi/ltc/i51-caregiving.pdf>

⁷ Lovell, V. (2006, February). *Paid Sick Days Improve Public Health by Reducing the Spread of Disease*. Institute for Women's Policy Research publication. Retrieved 17 October 2011, from <http://www.iwpr.org/publications/pubs/paid-sick-days-improve-public-health-by-reducing-the-spread-of-disease>

⁸ Miller, K., Williams, C. and Yi, Y. (2011, November). *Paid Sick Days and Health: Cost Savings from Reduced Emergency Department Visits, 14-15 (Tables 5,6)*. Institute for Women's Policy Research. Retrieved 22 November 2011, from <http://www.iwpr.org/publications/pubs/paid-sick-days-and-health-cost-savings-from-reduced-emergency-department-visits>

⁹ Lovell, V. (2005, March). *Valuing Good Health: An Estimate of the Cost and Savings of the Healthy Families Act*. Institute for Women's Policy Research publication. Retrieved 20 October 2011, from <http://www.iwpr.org/publications/pubs/valuing-good-health-an-estimate-of-costs-and-savings-for-the-healthy-families-act-b248>

¹⁰ Heymann, J. (2001, October 15). *The Widening Gap: Why America's Working Families Are in Jeopardy—and What Can Be Done About It*. New York, NY: Basic Books.

room because they were unable to take time off work during their regular work hours.¹¹

(10) Paid sick time will reduce contagion. Workers in jobs with high levels of public contact, such as restaurant workers and child care workers, are very unlikely to have paid sick time.¹² As a result, these workers may have no choice but to go to work when they are ill, thereby increasing the risk of passing illnesses on to co-workers and customers while jeopardizing their own health.¹³ Overall, people without paid sick days are 1.5 times more likely than people with paid sick days to go to work with a contagious illness like the flu.¹⁴

(11) A recent peer-reviewed epidemiological study found that nearly one in five food service workers have come to work vomiting or with diarrhea in the past year, creating dangerous health conditions.¹⁵ The largest national survey of U.S. restaurant workers found that two-thirds of restaurant waitstaff and cooks have come to work sick.¹⁶

(12) In the event of a disease outbreak that presents a threat to public health—for example, the H1N1 outbreak of 2009—government officials request that sick workers stay home and keep sick children home from school or child care to prevent the spread of illness, and to safeguard workplace productivity.¹⁷ However, because many workers lack paid sick time, they may be unable to comply.

¹¹ Smith, T., & Kim, J. (2010, June). *Paid Sick Days: Attitudes and Experiences*. National Opinion Research Center at the University of Chicago publication. Retrieved 28 November 2011, from <http://www.publicwelfare.org/resources/DocFiles/psd2010final.pdf>. Unpublished calculation.

¹² Williams, C., Drago, R., & Miller, K. (2011, January). *44 Million U.S. Workers Lacked Paid Sick Days in 2010: 77 Percent of Food Service Workers Lacked Access*. Institute for Women's Policy Research publication. Retrieved 19 October 2011, from <http://www.iwpr.org/publications/pubs/44-million-u.s.-workers-lacked-paid-sick-days-in-2010-77-percent-of-food-service-workers-lacked-access>

¹³ Human Impact Partners. (2009, September). *A Health Impact Assessment of the Healthy Families Act of 2009*. Retrieved 19 October 2011, from <http://www.humanimpact.org/component/jdownloads/finish/5/68>

¹⁴ Smith, T., & Kim, J. (2010, June). *Paid Sick Days: Attitudes and Experiences*. National Opinion Research Center at the University of Chicago publication. Retrieved 28 November, from <http://www.publicwelfare.org/resources/DocFiles/psd2010final.pdf>.

¹⁵ Sumner, S. et al. (2011). "Factors Associated with Food Workers Working while Experiencing Vomiting or Diarrhea." *Journal of Food Protection*, 74(2). Retrieved 30 November 2011, from http://www.cdc.gov/nceh/ehs/ehsnet/Docs/JFP_ill_food_workers.pdf

¹⁶ Restaurant Opportunities Centers United. (2010, September). *Serving While Sick: High Risks & Low benefits for the Nation's Restaurant Workforce, and Their Impact on the Consumer*. Retrieved 30 November 2011, from <http://rocunited.org/research-resources/reports/roc-serving-while-sick/>

¹⁷ For example, see U.S. Occupational Safety and Health Administration. (2009). "OSHA Fact Sheet: What Employers Can Do To Protect Workers from Pandemic Influenza." Retrieved 19 October 2011, from <http://www.osha.gov/Publications/employers-protect-workers-flu-factsheet.html>

(13) During the height of the H1N1 pandemic, workers with lower rates of access to paid sick days were more likely than those with higher rates of access to paid sick days to go to work sick and, as a result, the pandemic lasted longer in their workplaces as the virus spread from co-worker to co-worker.¹⁸ A new study estimates that lack of paid sick time was responsible for five million cases of influenza-like illness during the pandemic.¹⁹

(14) Providing paid sick time is good for businesses. Paid sick time results in reduced worker turnover, which leads to reduced costs incurred from advertising, interviewing and training new hires.²⁰ Firing and replacing workers can cost anywhere from 25 to 200 percent of an employee's annual compensation.²¹

(15) Paid sick time will reduce the risk of "presenteeism"—workers coming to work with illnesses and health conditions that reduce their productivity—a problem that costs the national economy \$160 billion annually.²²

(16) Paid sick time will reduce the competitive disadvantage that many employers face when they choose to provide sick time to their workers.

Issue for Advocates #2: Whether to Include Domestic Violence/Sexual Assault "Safe Time"

(17) Nearly one in four American women report physical or sexual abuse by a husband or boyfriend at some point in their lives.²³ Each year, women experience about 4.8 million intimate partner related physical assaults and rapes. Men are the

¹⁸ Drago, R., & Miller, K. (2010, February). *Sick at Work: Infected Employees in the Workplace During the H1N1 Pandemic*. Institute for Women's Policy Research publication. Retrieved 17 October 2011, from <http://www.iwpr.org/publications/pubs/sick-at-work-infected-employees-in-the-workplace-during-the-h1n1-pandemic>

¹⁹ Kumar, S., et al. (2012). "The Impact of Workplace Policies and Other Social Factors on Self-Reported Influenza-Like Illness Incidence During the 2009 H1N1 Pandemic." *American Journal of Public Health*, 102(1).

²⁰ Siegwarth Meyer, C. et al. (2001, Spring). "Work-Family Benefits: Which Ones Maximize Profits?" *Journal of Managerial Issues*, 13(1).

²¹ Sasha Corporation. (2007, January). *Compilation of Turnover Cost Studies*. Retrieved 13 December 2010, from <http://www.sashacorp.com/turnframe.html>

²² Stewart, W., et al. (2003, December). "Lost Productive Health Time Costs from Health Conditions in the United States: Results from the American Productivity Audit." *Journal of Occupational and Environmental Medicine*, 45. Retrieved 22 April 2011, from <http://www.wellsteps.com/admin/attachments/16d22c5cba7c1a967f9dc4c24edc0f44.pdf>

²³ Futures Without Violence. (2009). "The Facts on Domestic, Dating and Sexual Violence." Retrieved on 17 October 2011, from http://www.futureswithoutviolence.org/userfiles/file/Children_and_Families/DomesticViolence.pdf

victims of about 2.9 million intimate partner related physical assaults.²⁴ Many workers need time off to care for their health after these incidents or to find solutions, such as a restraining order or new housing, to avoid or prevent physical or sexual abuse.

(18) Survivors of domestic and sexual violence are forced to lose days of paid employment because of the violence they face. The mean number of days of paid work lost by survivors of rape is 8.1 days, by survivors of physical assault 7.2 days and by survivors of stalking 10.1 days.²⁵

(19) Without paid sick and safe days, survivors are in grave danger of losing their jobs. Loss of employment can be particularly devastating for survivors of domestic violence, who often need economic security to ensure their and their children's safety.

The purposes of this Act are:

(1) To ensure that all workers in **X** can address their own health and safety needs and the health and safety needs of their families by requiring employers to provide a minimum level of paid sick and safe time, including time for family care;

(2) To diminish public and private health care costs and promote preventive health services in **X** by enabling workers to seek early and routine medical care for themselves and their family members;

(3) To protect the public's health in **X** by reducing the risk of contagion;

(4) To promote the economic security and stability of workers and their families;

(5) To protect employees in **X** from losing their jobs or facing workplace discipline while they use sick and safe time to care for themselves or their families;

(6) To assist victims of domestic violence and their family members by providing them with job-protected time away from work to allow them to receive treatment and to take the necessary steps to ensure their protection;

(7) To safeguard the public welfare, health, safety and prosperity of the people of **X**; and

(8) To accomplish the purposes described in paragraphs (1)-(7) in a manner that is feasible for employers.

²⁴ U.S. Centers for Disease Control and Prevention. (2011). "Understanding Intimate Partner Violence." Retrieved 19 October 2011, from http://www.cdc.gov/ViolencePrevention/pdf/IPV_factsheet-a.pdf

²⁵ U.S. Centers for Disease Control and Prevention. (2003, March). *Costs of Intimate Partner Violence Against Women in the United States*. Retrieved 17 October 2011 from <http://www.cdc.gov/violenceprevention/pdf/IPVBook-a.pdf>

Be It Enacted by the Legislature of X:

Section 1. Definitions For Purposes of this Act:

(1) “Agency” means [state or county agency responsible for enforcement of labor laws or the county/city agency best suited to enforcing this law, if there is no local labor enforcement agency].

Issue for Advocates #3: Selecting an Enforcement Agency

(2) “Employee” is as defined in [state minimum wage act or federal Fair Labor Standards Act (29 USC § 203(e))] but does not include those who work in X for fewer than # hours in a year. “Employee” includes recipients of public benefits who are engaged in work activity as a condition of receiving public assistance.

Issues for Advocates #4 & #5: Definitions of Employee and Employer; Specific Inclusion of Public Assistance Recipients Engaged in Work Programs

(3) “Employer” is as defined in [state minimum wage act or federal Fair Labor Standards Act (29 USC § 203(d))].

Issue for Advocates #6: Exemption for Employers That Fund Their Sick Time Through ERISA-Regulated Funds

For the purposes of this Act, “employer” does not include any of the following:

- (A) The United States Government
- (B) **For local bills only:** The State of X including any office, department, agency, authority, institution, association, society or other body of the state, including the legislature and the judiciary.
- (C) **For local bills only where necessary:** Any county or local government other than X.

Issue for Advocates #7: Exempting Public Employers or Entities Already Subject to Paid Sick Time Requirements by State or Local Law

(4) “Domestic violence” is as defined in [state statute or local law].

(5) “Sexual assault” is as defined in [state statute or local law].

(6) “Stalking” is defined as in [state statute or local law].

(5) “Family member” is defined as

(A) A biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, or a child to whom the employee stands *in loco parentis*.

(B) A biological, foster, stepparent or adoptive parent or legal guardian of an employee or an employee's spouse or domestic partner or a person who stood *in loco parentis* when the employee was a minor child.

(C) A person to whom the employee is legally married under the laws of [state].

(D) A grandparent or spouse or domestic partner of a grandparent;

(E) A grandchild;

(F) A biological, foster, or adopted sibling or spouse or domestic partner of a biological, foster or adopted sibling;

(G) A domestic partner;

(H) Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

Issue for Advocates #8: Broader Definition of Family Members and Using Existing Legal Definitions

(6) "Small business" means any private individual, firm, partnership, institution, corporation, or association for which fewer than # persons work for compensation during a given week. In determining the number of persons performing work for compensation during a given week, all persons performing work for compensation on a full-time, part-time, or temporary basis shall be counted, including persons made available to work through the services of a temporary services or staffing agency or similar entity. In situations in which the number of persons who work for compensation per week fluctuates above and below # or more per week over the course of a year, an employer is not considered a small business if it maintained # or more employees on the payroll during 20 or more calendar workweeks (not necessarily consecutive workweeks) in either the current or the preceding calendar year.

Issues for Advocates #9 & #10: Determining Small Business Size; Counting Employees

(7) "Health care professional" means any person licensed under Federal or [State] law to provide medical or emergency services, including but not limited to doctors, nurses and emergency room personnel.

(8) "Paid sick and safe time" means time that is compensated at the same hourly rate and with the same benefits, including health care benefits, as the employee normally earns during hours worked and is provided by an employer to an employee for the purposes described in Section 3 of this Act, but in no case shall the hourly wage be less than that provided under 29 U.S.C. §206(a)(1) [or your state's minimum wage law].

Issue for Advocates #11: Use of Minimum Wage and Tipped Employees

(9) “Retaliatory personnel action” means denial of any right guaranteed under this Act and any threat, discharge, suspension, demotion or any other adverse action against an employee for the exercise of any right guaranteed herein including any sanctions against an employee who is recipient of public benefits for rights guaranteed under this Act. Retaliation shall also include interference with or punishment for participating in any manner in an investigation, proceeding or hearing under this Act.

Section 2. Accrual of Paid Sick and Safe Time

(1) All employees shall accrue a minimum of one hour of paid sick and safe time for every # hours worked. Employees will not accrue more than # hours of paid sick and safe time in a calendar year, unless the employer selects a higher limit.

Issue for Advocates #12: Calculating the Accrual Rate

(2) Employees of small businesses will not accrue more than # hours of paid sick and safe time in a calendar year, unless the employer selects a higher limit.

(3) Employees who are exempt from overtime requirements under 29 U.S.C. § 213(a)(1) of the Federal Fair Labor Standards Act will be assumed to work 40 hours in each work week for purposes of paid sick and safe time accrual unless their normal work week is less than 40 hours, in which case paid sick and safe time accrues based upon that normal work week.

Issue for Advocates #13: Assuming 40 Hours Worked Per Week

(4) Paid sick and safe time as provided in this section shall begin to accrue at the commencement of employment.

(5) Employees shall be entitled to use accrued paid sick and safe time beginning on the # calendar day following commencement of their employment. After the # calendar day of employment, employees may use paid sick and safe time as it is accrued.

Issue for Advocates #14: Waiting Period for Use

(6) Paid sick and safe time shall be carried over to the following calendar year; however, an employee’s use of paid sick and safe time provided under this Act in each calendar year shall not exceed # hours for employees of small businesses and # hours for employees of all other businesses.

Issue for Advocates #15: Carry Forward

(7) Any employer with a paid leave policy, such as a paid time off policy, who makes available an amount of paid leave sufficient to meet the accrual requirements of this section that may be used for the same purposes and under the same conditions as paid sick and safe time under this Act is not required to provide additional paid sick and safe time.

Issue for Advocates #16: Protecting PTO Accounts and Vacation Leave

(8) Nothing in this section shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment for accrued paid sick and safe time that has not been used.

(9) If an employee is transferred to a separate division, entity or location, but remains employed by the same employer, the employee is entitled to all paid sick and safe time accrued at the prior division, entity or location and is entitled to use all paid sick and safe time as provided in this section. When there is a separation from employment and the employee is rehired within # months of separation by the same employer, previously accrued paid sick and safe time that had not been used shall be reinstated. Further, the employee shall be entitled to use accrued paid sick and safe time and accrue additional sick and safe time at the re-commencement of employment.

Issue for Advocates #17: Transferred, Seasonal and Temporary Workers

(10) At its discretion, the employer may loan sick and safe time to the employee in advance of accrual by such employee.

Section 3. Use of Paid Sick and Safe Time

(1) Paid sick and safe time shall be provided to an employee by an employer for:

(A) An employee's mental or physical illness, injury or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; an employee's need for preventive medical care;

(B) Care of a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; care of a family member who needs preventive medical care;

(C) Closure of the employee's place of business by order of a public official due to a public health emergency or an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency, or care for a family member when it has been determined by the

health authorities having jurisdiction or by a health care provider that the family member's presence in the community would jeopardize the health of others because of the family member's exposure to a communicable disease, whether or not the family member has actually contracted the communicable disease.

Issue for Advocates #18: Public Health Emergency

(D) Absence necessary due to domestic violence, sexual assault or stalking, provided the leave is to allow the employee to obtain for the employee or the employee's family member:

- (1) Medical attention needed to recover from physical or psychological injury or disability caused by domestic or sexual violence; or
- (2) Services from a victim services organization; or
- (3) Psychological or other counseling; or
- (4) Relocation due to the domestic or sexual violence or stalking; or
- (5) Legal services, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the domestic or sexual violence.

(2) Paid sick and safe time shall be provided upon the oral request of an employee. When possible, the request shall include the expected duration of the absence.

(3) When the use of paid sick and safe time is foreseeable, the employee shall make a good faith effort to provide notice of the need for such time to the employer in advance of the use of the sick and safe time and shall make a reasonable effort to schedule the use of sick and safe time in a manner that does not unduly disrupt the operations of the employer.

Issue for Advocates #19: Allowing the Employer to Require Notice

(4) An employer may not require, as a condition of an employee's taking paid sick leave, that the employee search for or find a replacement worker to cover the hours during which the employee is on paid sick leave.

Issue for Advocates #20: Additional Hours/Shifts in Lieu of Sick Time

(5) Accrued sick and safe time may be used in the smaller of hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time.

Issue for Advocates #21: Increments of Use

(6) For sick and safe time of more than 3 consecutive days, an employer may require reasonable documentation that the sick and safe time has been used for a purpose

covered by subsection (1). Documentation signed by a health care professional indicating that sick time is necessary shall be considered reasonable documentation. A police report indicating that the employee was a victim of domestic violence, stalking or sexual assault; a court order; or a signed statement from a victim and witness advocate affirming that the employee is involved in legal action related to domestic violence, stalking or sexual assault shall be considered reasonable documentation. An employer may not require that the documentation explain the nature of the illness or the details of the violence. If an employer chooses to require documentation for sick time and the employer does not offer health insurance to the employee, the employer is responsible for paying all out of pocket expenses the employee incurs in obtaining the documentation. If the employee does have health insurance, the employer is responsible for paying any costs charged to the employee by the health care provider for providing the specific documentation required by the employer.

Issue for Advocates #22: Certification Limits, Content and Costs

Section 4. Exercise of Rights Protected; Retaliation Prohibited

- (1) It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this Act.
- (2) An employer shall not take retaliatory personnel action or discriminate against an employee because the employee has exercised rights protected under this Act. Such rights include but are not limited to the right to use paid sick and safe time pursuant to this Act; the right to file a complaint or inform any person about any employer's alleged violation of this Act; the right to cooperate with the Agency in its investigations of alleged violations of this Act; and the right to inform any person of his or her potential rights under this section.
- (3) It shall be unlawful for an employer's absence control policy to count paid sick and safe time taken under this Act as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action.
- (4) Protections of this section shall apply to any person who mistakenly but in good faith alleges violations of this section.
- (5) There shall be a rebuttable presumption of unlawful retaliation under this section whenever an employer takes adverse action against a person within 90 days of when that person: (a) files a complaint with the Agency or a court alleging a violation of any provision of this section; (b) informs any person about an employer's alleged violation of this section; (c) cooperates with the Agency or other persons in the investigation or prosecution of any alleged violation of this section;

(d) opposes any policy, practice, or act that is unlawful under this section; or (e) informs any person of his or her rights under this section.

Section 5. Notice and Posting

(1) Employers shall give notice that employees are entitled to paid sick and safe time, the amount of paid sick and safe time, and the terms of its use guaranteed under this Act, that retaliation against employees who request or use paid sick and safe time is prohibited and that each employee has the right to file a complaint or bring a civil action if sick and safe time as required by this section is denied by the employer or the employee is retaliated against for requesting or taking paid sick and safe time.

(2) Employers may comply with this section by supplying each of their employees with a notice in English and in any language that is the first language spoken by at least **X%** of the employer's workforce that contains the information required in (1).

(3) Employers may comply with this section by displaying a poster in a conspicuous and accessible place in each establishment where such employees are employed. The poster displayed should be in English and in any language that is the first language spoken by at least **X%** of the employer's workforce that contains the information required in (1).

(4) The Agency shall create and make available to employers, in all languages spoken by more than **X%** of the **[State's/County's/City's]** workforce, posters that contain the information required under (1) for employers' use in complying with this subsection.

Issue for Advocates #23: Notice/Posting in Languages Other Than English
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(5) An employer who willfully violates the notice and posting requirements of this section shall be subject to a civil fine in an amount not to exceed \$100 for each separate offense.

Section 6. Employer Records

Employers shall retain records documenting hours worked by employees and paid sick and safe time taken by employees, for a period of five years, and shall allow the Agency access to such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of this Act. When an issue arises as to an employee's entitlement to paid sick and safe time under this section, if the employer does not maintain or retain adequate records documenting hours worked by the employee and paid sick and safe time taken by the employee, or does not allow the Agency reasonable access to such records, it shall be presumed that the employer has violated the Act, absent clear and convincing evidence otherwise.

Section 7. Regulations

The Agency shall be authorized to coordinate implementation and enforcement of this section and shall promulgate appropriate guidelines or regulations for such purposes.

Section 8. Enforcement

NOTE: There are four models of enforcement: (A) An individual can file a complaint with a State or local Agency that can investigate the claim and issue a decision; (B) An individual can file a complaint with the Agency and the Agency will hold a hearing and make a ruling; (C) An individual can file a claim in court; (D) A state or local attorney or the Agency can file a claim in court. Having an Agency that can take and investigate complaints and/or issue a ruling regarding discrimination is especially helpful because it may allow employees to proceed without legal representation. All of these mechanisms are included below, and all can be used. On the other hand, it may not be necessary or possible for a specific jurisdiction or a particular enforcing agency to use some of them. Some localities may have the authority of their enforcement agency limited by local or county charter or by state law and some localities may not have the home rule authority to allow decisions to be reviewed in court or may have to limit the courts they use. See Issue for Advocates #3: Selecting An Enforcement Agency.

(1) *Administrative Enforcement*

(A) An employee or other person may report to the Agency any suspected violation of this Act. The Agency shall encourage reporting pursuant to this subsection by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the employee or person reporting the violation, provided, however, that with the authorization of such person, the Agency may disclose his or her name and identifying information as necessary to enforce this Act or for other appropriate purposes.

(B) The Agency is authorized to take appropriate steps to enforce this section.

Issue for Advocates #24: Procedures for Agency Enforcement /Availability of Courts

(2) *Civil Enforcement*

(A) The Agency, the Attorney General, any person aggrieved by a violation of this Act, or any entity a member of which is aggrieved by a violation of this Act may bring a civil action in a court of competent jurisdiction against an employer violating this Act. Such action may be brought by a person aggrieved by a violation of this section without first filing an administrative complaint.

(B) Upon prevailing in an action brought pursuant to this section, aggrieved persons shall recover the full amount of any unpaid sick and safe time plus any actual damages suffered as the result of the employer's violation of this Act plus an equal amount of liquidated damages. Aggrieved persons shall also be entitled to reasonable attorney's fees.

Issue for Advocates #25: Liquidated Damages

(C) Upon prevailing in an action brought pursuant to this section, aggrieved persons shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation, including, without limitation, reinstatement in employment, back pay and injunctive relief.

(D) Any person aggrieved by a violation of this Act may file a complaint with the Attorney General. The filing of a complaint with the Attorney General will not preclude the filing of a civil action.

(E) The Attorney General may bring a civil action to enforce this Act. The Attorney General may seek injunctive relief. In addition to injunctive relief, or in lieu thereof, for any employer or other person found to have willfully violated this Act, the Attorney General may seek to impose a fine of \$1,000 per violation, payable to the state.

(F) The statute of limitations for a civil action brought pursuant to this section shall be for a period of # years from the date the alleged violation occurred.

Issue for Advocates #26: Setting the Statute of Limitations

(G) Actions brought pursuant to this section may be brought as a class action pursuant to the laws of [state].

Section 9. Confidentiality and Nondisclosure

An employer may not require disclosure of details relating to domestic violence, sexual assault or stalking or the details of an employee's or an employee's family member's medical condition as a condition of providing paid sick and safe time under this Act. If an employer possesses health information or information pertaining to domestic violence, sexual assault or stalking about an employee or employee's family member, such information shall be treated as confidential and not disclosed except to the affected employee or with the permission of the affected employee.

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

(1) Nothing in this Act shall be construed to discourage or prohibit an employer from the adoption or retention of a paid sick and safe time policy more generous than the one required herein.

(2) Nothing in this Act shall be construed as diminishing the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan or other agreement providing more generous sick and safe time to an employee than required herein.

Issue for Advocates #27: Collective Bargaining Agreements

(3) Nothing in this Act shall be construed as diminishing the rights of public employees regarding paid sick and safe time or use of sick and safe time as provided in [laws of the state pertaining to public employees].

Section 11. Other Legal Requirements

This Act provides minimum requirements pertaining to paid sick and safe time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater accrual or use by employees of sick and safe time, whether paid or unpaid, or that extends other protections to employees.

Section 12. Public Education and Outreach

The [enforcement agency] shall develop and implement a multilingual outreach program to inform employees, parents, and persons who are under the care of a health care provider about the availability of paid sick time under this Act. This program shall include the distribution of notices and other written materials in English and in other languages to all child care and elder care providers, domestic violence shelters, schools, hospitals, community health centers, and other health care providers.

Issue for Advocates #28: Public Education

Section 13. Severability

If any provision of this Act or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared severable.

Section 14. Effective Date

This Act will take effect # days following enactment provided that in the case of employees covered by a collective bargaining agreement in effect on the effective date prescribed herein, this Act shall apply on the date of the termination of such agreement.

Issue for Advocates #29: Effective Date