

***Paid Sick Time During a Public Health Emergency:
Key Policy Elements to Include in an Emergency Paid Sick Time Bill***

More than 33 million Americans lack a single day of paid sick time they can use for themselves or to care for a loved one. With the current public health crisis, many cities and states are taking steps to ensure that workers who need to stay home from work or care for a loved one due to the pandemic are able to receive paid sick time.

This document highlights several key provisions that policymakers and advocates should include in a paid sick time bill related to a public health emergency. Please note that legal authority varies at the local level, and cities and states may want to look at whether emergency paid sick time protections can be passed legislatively or through emergency powers. For additional technical support, model legislation, or other information, please contact us at sleiwant@abetterbalance.org or jmake@abetterbalance.org.

Purposes for Taking Leave

All of the paid sick time laws passed around the country have covered the need for workers to take time off to: respond to their own health needs (physical and/or mental health) or a family member's health needs; seek or obtain medical care, including preventive care, either personally or for a family member; and, under many laws, respond to needs related to domestic violence, sexual assault, and stalking. Many paid sick time laws also include measures that allow workers to respond to a public health emergency.

In a public health emergency like the current coronavirus pandemic, any emergency paid sick leave should cover the following needs:

- When the worker needs to take steps to obtain a diagnosis or seek care due to symptoms related to a public health emergency, or help a family member seek a diagnosis or care.
- When the worker's or the worker's family member's presence on the job or in the community would jeopardize the health of others because of exposure to a communicable disease or the exhibiting of symptoms related to the public health emergency.
 - The determination can be made by a health authority, public official, or health care provider.
 - This purpose should be covered regardless of whether the employee has been diagnosed with the contagious illness, especially since workers may need to isolate if they have been exposed or have symptoms, even without a diagnosis.
- When an employee's place of employment is closed by the employer or a public health official due to a public health emergency.
- When the child of an employee—or a family member for whom the employee is responsible for providing care—needs care because a school or care center is closed due to a public health emergency, including if the school or place of care is physically closed but education continues remotely.
 - The closure can be done by a public official, health authority, the school itself, or a care provider itself due to the public health emergency.
- When regular child care is otherwise unavailable due to the public health emergency.

Immediate Use

Paid sick time laws typically allow workers to start accruing paid sick time when employment begins, but limit use of that time until after a certain period of time. **In a public health emergency, it is important that paid sick time be made available for use immediately.**

- Workers should have the right to choose to use emergency paid sick time for the purposes flagged above, prior to any existing paid leave.

Sufficient Amount of Paid Sick Time and Access Regardless of Business Size

In a public health emergency, like the coronavirus pandemic, workers are facing extended closures and recommendations for 2-week quarantines. At least 14 days of paid sick time for the purposes above should be available for immediate use upon declaration of a public health emergency, and it should be available to all employees regardless of business size. Part-time workers should receive an amount that is equivalent to the amount of time they regularly work or are scheduled to work within a 14-day period.

Inclusive Family Member Definition

Families are diverse, and it is essential *especially* during a public health emergency that workers can care for their loved ones. In the face of widespread travel restrictions and social isolation, many workers are providing care—or relying on care from—loved ones with whom they may not have a biological or legal relationship (a significant other, a best friend who is like a sibling, etc.). It is also important to allow workers to provide care to biological relatives, especially older adult relatives who may be at higher risk (an elderly aunt or uncle, for example).

- We urge coverage of: a child (*regardless of age*), a parent, a spouse, a domestic partner (whether or not registered under state or local law), a sibling, a grandparent, a grandchild, and “*any other individual related by blood or whose close association with the employee is the equivalent of a family relationship*”.
- The definition of parent and child should include *in loco parentis* relationships (as under the federal Family and Medical Leave Act), which refers to someone who acts in the place of a parent or intentionally assumes the role of parent to a child.

Documentation

Paid sick time bills typically do not require documentation until workers have been absent for more than 3 consecutive days. *During a public health emergency, documentation requirements should be waived, given the difficulty of obtaining documentation with travel/health care restrictions as well as social distancing.*

Enforcement

Any paid sick time bill related to public health emergencies must include strong protections against retaliation and discrimination, as well as accessible means to enforce a worker’s rights (through both administrative action and the ability to file a complaint in court).