



ARE YOU PREPARED?

A Law Firm's Intro to Minnesota's Earned Sick and Safe Time

BY KIRALYN J. LOCKE AND KRISTIN KINGSBURY

Picture this, you head to daycare to drop off your child (or your dog or lizard – whichever applies to you), and you notice the other parents are carrying in fresh-baked homemade treats. Auuuuuugh! Today is the daycare bake sale! You run back to your car and scrounge around in the backseat. You are relieved to find an unopened yet crumpled-up bag of Doritos to save the day. It will have to do, right? Your child (or dog or lizard) is looking thoroughly embarrassed, but the show must go on. You do not win first prize or sell your goods that day.

Let's face it. We all miss "the memo" from time to time. But avoidable mistakes can be uncomfortable, embarrassing, and sometimes costly. This short article will help you and your law firm be proactive and prepare for a new change in Minnesota: Earned sick and safe time.

What Exactly Do We Need to Prepare For?

During the 2023 legislative session, the Minnesota legislature approved a state-wide plan that requires employers to provide their employees

with mandatory "earned sick and safe time." Essentially, this guarantees that employees will receive *paid time off* for certain qualifying events. Because this law goes into effect January 1, 2024, employers – including law firms – are making the necessary preparations to comply with the new requirements and provide this paid time off to their employees.

Which Employers are Required to Provide Earned Sick and Safe Time?

There are laws that only apply to employers of a certain size. For example, the Family and Medical Leave

Act (FMLA) only applies to private employers with 50 or more employees. However, Minnesota's Earned Sick and Safe Time applies to *all employers with one or more employees*. There is no exception for small businesses or small law firms.

What Must Be Provided to Employees?

Under Minnesota's earned sick and safe time laws, full time and part time employees (but not full time or part time independent contractors) must earn one hour of "earned sick and safe time" for every 30 hours worked. An employee can earn a maximum of 48 hours per year unless the employer permits a higher amount.

When an employee elects to use their earned sick and safe time, the employer must pay the employee at the employee's standard hourly rate. For salaried full-time employees, this is calculated based upon a 40-hour workweek.

What Can Employees Use This Time For?

An employee may use their earned sick and safe time for reasons such as: (1) the employee's physical or mental illness, treatment or preventative care; (2) a family member's physical or mental illness, treatment or preventative care; (3) time off due to domestic assault, sexual assault or stalking of the employee or a member of the employee's family; (4) closure of the workplace or a family member's school or care facility due to weather or public emergency; and (5) communicable disease of the employee or family members.

Regarding an employee's ability to elect to use time off to care for a family

member, the statute very broadly defines "family member." The statute's definition includes family members by blood, family members by marriage, spouses, partners, individuals "whose close association with the employee is the equivalent of a family relationship," and even the designation of "up to one person annually." If a legal assistant would like to use their earned sick and safe time to care for their best friend of 30 years, who is undergoing chemotherapy, it is likely permissible to do so.

What if the Employee Does Not Use All Earned Hours?

It is possible that some employees may not use all their earned sick and safe time in any given year. It is important to know that any accrued and unused sick and safe time must be "rolled over" to the next year, and that employers are permitted to "cap" the number of earned hours at 80 hours.

However, by "frontloading" sick and safe time at the beginning of the year for immediate use by the employee, an employer can avoid "roll over" hours into the following year. If the employer frontloads the minimum 48 hours for safe and sick time, unused time at year-end is not rolled over but must be paid out. If the employer frontloads the maximum 80 hours of sick and safe time, neither rollover nor pay-out of unused time is required.

Because employees often have differing start dates, it will be important to communicate to employees when their

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hours begin accruing and when their hours will be rolled over to the subsequent year. Consider whether you are operating on a calendar year basis, fiscal year basis, or whether you will keep track of when each employee began working. Regardless of how you choose to calculate the year, it must be a consecutive 12-month period and must be clearly communicated to employees.

What Happens Upon Separation or Termination?

If an employee quits or is terminated, an employer is not required to pay the employee their accrued and unused safe and sick time. However, if an employee is rehired within 180 days, their employer must reinstate the employee's previously accrued sick and safe time.

Time to Prepare

Minnesota's earned sick and safe time goes into effect January 1, 2024. If you are not yet prepared, now is the time! Though it is undisputed that Doritos are a delicious treat in a pinch, nobody wants their law firm to be the person who brings the crumpled-up bag of Doritos to the bake sale.

If you have any questions on how to prepare your law firm for these changes, Bassford Remele is here to help.



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