



Labor & Employment

Alert

Proposed “Healthy Families Act” Would Mandate Paid Sick Leave

BY DAVID C. BURTON¹

Congress is currently considering the issue of mandatory paid sick leave. The proposed Healthy Families Act (“Act”) would require employers with more than 15 employees to provide up to seven days of paid sick leave per year.



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Under the Act, for every 30 hours worked, an employee would receive an hour of paid sick time, up to 56 hours a year. Leave would begin to accrue immediately, and an employee would be eligible to use leave as it accrued once the employee had been with the employer for 60 days. Unused hours would carry over year to year, although employers would not be required to allow accrual beyond 56 total hours.

Paid sick leave would cover absences relating to physical or mental health, including preventative care, for the employee, a relative, or another closely associated person. An employee could also take leave in cases of domestic violence, sexual assault or stalking. The Act requires employees to request leave at least a week in advance when the need for leave is foreseeable. Employers may request certification when leave lasts more than three consecutive workdays.

If an employer’s current leave policy meets all of the Act’s requirements, that employer need not

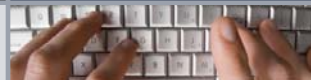
provide additional leave time. Unlike the version introduced in 2007, the proposed Healthy Families Act would not prohibit employers from modifying their current leave policies.

Employers should be aware of several provisions of the Act. The Act mandates paid sick time for all employees, including part-time employees, based on hours worked. Moreover, a workplace leave policy should encourage maximum flexibility for both employees and employers, and must avoid a mandated one-size-fits-all approach. Instead, paid leave offerings should accommodate the increasing diversity in workforce needs and environments. Employees and employers can benefit from a public policy that meets the diverse needs of the workplace in supporting and encouraging flexible work options such as telecommuting, flexible work arrangements, job sharing and compressed or reduced schedules. Employers must keep compliance records and post a notice regarding the Act. Furthermore, the Act provides that employers may be sued for violations.

The Healthy Families Act specifies that employers are not required to reimburse employees at employment separation for unused paid sick

1. Karen C. Otto, summer clerk, also assisted on this piece.

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time. Companies that do not already have such a policy should consider adopting one as state law allows. Neither Virginia nor North Carolina requires employers to reimburse employees for unused sick leave.

Companies might also consider replacing their current leave policies with a paid time off (“PTO”) bank. A PTO bank provides a set amount of time off to be used as the employee chooses for vacation, sick leave, or other needs. A PTO bank that complies with the Healthy Families Act’s requirements, including the minimum hours requirements, would be a viable alternative in light of this pending legislation.

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