

Michigan Amends Paid Sick Leave Law

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Michigan joined other states with paid sick leave laws on September 5, 2018, enacting the Earned Sick Time Act. Now, amidst political controversy, the Earned Sick Time Act (which never became effective) has been amended and renamed the [Michigan Paid Medical Leave Act](#). The Act requires employers in Michigan to provide their employees with accrued paid leave to use for their own or their family members' medical needs and for purposes related to domestic violence and sexual assault.

The new law, signed by Governor Rick Snyder on December 13, 2018, will become effective in March 2019 (91 days after the legislature officially adjourns for the year), which is the same as under the original law. Other provisions of the original law that are unchanged include:

- An employer's paid time off (PTO) policy may satisfy the Act's paid leave requirements;
- There are posting and record retention requirements; and
- Paid medical leave begins to accrue when the law becomes effective (*i.e.*, in March 2019) or on the commencement of the employee's employment, whichever is later.

(For other details of the original law, see [Michigan Passes Paid Sick Leave Law](#).)

Here are some key points of the new Act:

- The law *covers only employers with at least 50 employees* (the original law had no employee threshold).
- "Employee" is more specifically defined to include individuals for whom the employer is required to withhold federal income tax. Exclusions on who constitutes an eligible employee have been added. *The exclusions include employees who fall under the Fair Labor Standards Act "white collar" overtime exemptions, worked an average of fewer than 25 hours during the previous calendar year, are covered by a collective bargaining agreement, OR are employees of the state or federal government.*
- Both the accrual rate and maximum allowable accrual were lowered. Now, *employees accrue one hour of paid leave for every 35 hours worked, for a maximum of one hour per calendar week and 40 hours in a benefit year.* An employer also is not required to allow an employee to carry over more than 40 hours of accrued leave per year, or allow employees to use more than 40 hours per year.
- As a new alternative to accrual, the law adopts "frontloading," an approach that some other states took. *Employers may "frontload" 40 hours of paid medical leave to employees at the beginning of the benefit year.* If an employer frontloads, then it is not required to allow an employee to carry any paid medical leave to another year.
- Clearing up an ambiguity in the original law, *an employer may require ALL employees to wait until the 90th calendar day after commencing employment before using accrued medical leave.*
- Paid leave must be used in one-hour increments, unless the employer has a different increment policy in writing.
- The law now defaults to the employer's usual and customary notice, procedural, and documentation requirements for requesting leave, so long as the employee has at least three days to provide medical documentation.

- All references to “domestic partner” have been removed from the law.
- The statute of limitations to bring a claim has been shortened from three years to six months, and any claim alleging a violation of the Act must be made as an administrative complaint, rather than as a lawsuit in court.

Stay tuned, as Michigan’s paid medical leave law may go through yet another iteration. Given the politically controversial way in which it was enacted and then amended, at least one lawsuit challenging the validity of the amendment may be on the horizon.

Please contact a Jackson Lewis attorney with any questions about this and other developments.

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