

Massachusetts Paid Sick Time

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Rhode Island recently has followed Connecticut in mandating paid sick time, and now bills pending in Massachusetts and Vermont may spread the requirement through New England. New York and the District of Columbia also recently adopted similar requirements, and paid sick leave bills are pending, or campaigns to require them are under way, in 18 other states.

The Massachusetts bill, "An Act Establishing Earned Paid Sick Time" (S. 900/H. 1739), would mandate three tiers of mandatory sick leave, which in all cases would accrue at the rate of one hour for every 30 hours worked. Employers with fewer than six employees would be required to permit accrual of up to 40 hours of unpaid sick time per year. Employers with six to ten employees would be required to permit accrual of up to 40 hours of paid sick time per year, and employees at businesses with eleven or more employees would accrue 56 paid sick time hours per year. Accrued time rolls over from year to year, but an employee cannot take more leave in a year than they would accrue. The purposes for which sick time can be used is similar to the FMLA: for the employee's own health conditions or those of a spouse or other immediate family member. The bill also would permit use of such time "to address the psychological, physical or legal effects of domestic violence."

Vermont's bill, H. 208, similarly requires accrual of one hour of sick time for every thirty hours worked, with a 56-hour-per-year maximum accrual. The bill is more generous than Massachusetts in imposing the requirement on all employers.

The bill follows on the heels of Rhode Island's recently-enacted Temporary Caregiver Insurance Law, R.I. GEN. LAWS, §28-41-34 et seq., which provides up to four weeks of wage replacement benefits in a 12-month period to workers in "any week in which he or she is unable to perform his or her regular and customary work" because he or she is: 1) bonding with a newborn child or a child newly placed for adoption or foster care ("bonding leave"); or 2) caring for a child, parent, parent-in-law, grandparent, spouse, or domestic partner who has a "serious health condition" ("caregiver leave").

The Massachusetts and Vermont bills, if they are enacted, will require employers to review their paid leave policies, and not merely to ensure that they are compliant. Both bills, for example, would forbid an employer from requiring medical certifications for absences of fewer than three days, threatening to permit employees to use the paid sick time benefit as additional vacation time. Such provisions may prompt employers to consider converting to a unified paid time off (PTO) plan, eliminating distinctions between vacation and sick time, so as to minimize the cost and disruption of increased employee absences.

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