



## Earned Sick and Safe Leave

On June 23, 2015, the County Council enacted Bill 60-14, Earned Sick and Safe Leave, which was signed by the County Executive on July 2, 2015, and became effective October 1, 2016. The law requires certain employers (anyone who employs one or more persons in the County, including the County government) to provide earned sick and safe leave to employees working in the County.

Earned sick and safe leave is paid leave away from work that is provided by the County to eligible temporary and seasonal employees for certain purposes. As a result, most temporary and seasonal County employees will begin to earn one hour of sick and safe leave for every 30 hours worked, up to a maximum of 56 hours in a calendar year.

Regular County employees will not receive any additional leave nor will MLS employees receive any additional Paid Time Off (PTO). However, Regular County employees will be able to use accrued sick leave for an additional purpose, safe leave (when absence from work is due to domestic violence, sexual assault, or stalking suffered by an employee or member of the employee's family).

The following questions and answers were developed to provide additional information for regular and temporary/seasonal employees. Please direct any questions about the sick and safe leave program to the Office of Human Resources at [OHR.Compensation2@montgomerycountymd.gov](mailto:OHR.Compensation2@montgomerycountymd.gov).

### Regular Employees

#### 1. How does an employee use earned sick and safe leave?

An employee may use up to 120 hours of accrued sick leave in a calendar year to care for an immediate family member as defined in Section 1-32 of the Personnel Regulations and Article 15.1(d) of the MCGEO collective bargaining agreement. An employee may use up to 80 hours of these 120 hours of accrued sick leave in a calendar year for the purpose of earned sick and safe leave.

#### 2. What is the difference between immediate family member for purposes of family sick leave and family member for purposes of earned sick and safe leave?

The definition of family member under the Earned Sick and Safe Leave Act is more expansive and includes the spouse of a sibling of the employee ("brother or sister-in-law") as well as the spouse of a grandparent of the employee. Neither of these categories are included in the definition of immediate family in Section 1-32 of the Personnel Regulations.

#### 3. Does an employee have to designate use of sick and safe leave on their time card?

Yes, by using a new reason code, *SICKSAFE*, on the time card in coordination with a pay code (e.g., sick, PTO, etc.).

#### 4. How does an employee request use of earned sick and safe leave?

An employee follows the same procedure in place in their department for requesting use of sick leave.

#### 5. When can a supervisor require reasonable documentation to verify that the leave was appropriately used by an employee?

Under the Earned Sick and Safe Leave Act, an employer may require reasonable documentation from an employee who uses "more than three consecutive days of earned sick and safe leave." However, this provision does not prohibit an employer from adopting or retaining a sick leave restriction policy or a policy requiring written documentation any time the employer reasonably suspects misuse of leave.

## **6. What constitutes reasonable documentation that safe leave was appropriately used by an employee?**

Reasonable documentation to support the use of safe leave includes:

1. A police report indicating that the employee or a family member was a victim of domestic violence, sexual abuse, or stalking;
2. A court order; or
3. A signed statement from a victim and witness advocate, or domestic violence counselor affirming that the employee or employee's family member is involved in a legal action relating to domestic violence, sexual abuse, or stalking.

## **7. Who enforces the Earned Sick and Safe Leave Act?**

The Montgomery County Office of Human Rights has the responsibility of enforcing the Act.

## **8. What action may an employee take if the employee believes that the County or a department has violated any of the provisions of the Earned Sick and Safe Leave Act?**

An employee may file a written complaint with the [Montgomery County Office of Human Rights](#). Unrepresented employees may file a grievance under Section 34 of the Personnel Regulations. The union may file a grievance on behalf of a bargaining unit employee under the collective bargaining grievance procedure.

## **Temporary and Seasonal Employees**

### **1. When can a temporary or seasonal employee begin to use earned sick and safe leave?**

A temporary or seasonal employee begins to earn sick and safe leave on day one at a rate of one hour of sick and safe leave for every 30 hours worked up to a maximum of 56 hours in a calendar year. A temporary or seasonal employee may begin to use sick and safe leave after it has accrued. The County does not require temporary or seasonal employees to have worked for the County for 90 days before they can use earned sick and safe leave.

### **2. What can earned sick and safe leave be used for?**

An employee may use sick and safe leave to:

1. Care for or treat the employee's mental or physical illness, injury, or condition;
2. Obtain preventive medical care for the employee or family member;
3. Care for a family member with a mental or physical illness, injury, or condition;
4. Use if the employer's place of business has closed by order of a public official due to a public health emergency;
5. Use if the school or child care center for the employee's family member is closed by order of a public official due to a public health emergency;
6. Care for a family member if a health official or health care provider has determined that the family member's exposure to a communicable disease would jeopardize the health of others;
7. Use if the absence from work is due to domestic violence, sexual assault, or stalking committed against the employee or family member and the leave is used by the employee to obtain for the employee or family member:
  - a. Medical attention needed to recover from a physical or psychological injury due to domestic violence, sexual assault, or stalking;
  - b. Service from a victim services organization related to the domestic violence, sexual assault, or stalking;
  - c. Legal service, including preparing for or participating in a civil or criminal proceeding related to the domestic violence, sexual assault, or stalking; or
8. Use during the time that employee has temporarily relocated due to the domestic violence, sexual assault, or stalking.

Please note that the County Council is currently considering a bill, Bill 32-16, to allow earned sick and safe leave to be used for the additional purpose of parental leave.

### **3. How can a temporary or seasonal employee check his or her sick and safe leave balance?**

MCTime will display sick and safe leave balances for temporary and seasonal employees. The amount of leave accrued will be provided on the employee's online payroll statement.

### **4. What does a temporary or seasonal employee need to do to use earned sick and safe leave?**

An employee must request sick and safe leave under the department's established procedure or practices. Temporary and seasonal employees will use a new pay code, *Sick and Safe Leave*, on their time card.

**5. When can a supervisor require reasonable documentation to verify that the leave was used appropriately by an employee?**

Under the Earned Sick and Safe Leave Act, an employer may require reasonable documentation from an employee who uses "more than three consecutive days of earned sick and safe leave." However, this provision does not prohibit an employer from adopting or retaining a sick leave restriction policy or a policy requiring written documentation any time the employer reasonably suspects misuse of leave.

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**7. Can a temporary or seasonal employee carry over unused sick and safe leave?**

Yes. A temporary or seasonal employee may carry over up to 56 hours of sick and safe leave and may use up to 80 hours of sick and safe leave in a leave year.

**8. What happens to accrued sick and safe leave when a temporary or seasonal employee leaves County employment?**

A temporary or seasonal employee forfeits all accumulated earned sick and safe leave when the employee leaves County employment. However, if a temporary or seasonal employee is rehired by the County within nine months of separation from County service, the County must reinstate any unused sick and safe leave that the employee had when the employee left employment, unless the employee would not be eligible for unemployment benefits due to leaving voluntarily without good cause.