

"Sick and Safe Leave" Policies on the Rise at City and State Levels

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The City of Bloomington is the most recent Minnesota city to pass an ordinance requiring certain employers to offer paid sick leave to covered employees. While Bloomington's Earned Sick and Safe Leave ("ESSL") Ordinance was adopted almost one year ago, it took effect on July 1, 2023. Now, eligible workers in Bloomington can earn up to 48 hours of paid sick leave per year.

The cities of Minneapolis, St. Paul, and Duluth have adopted ESSL Ordinances, and the Minnesota legislature recently passed the Earned Sick and Safe Leave law, which takes effect on January 1, 2024. Details of Bloomington's ESSL Ordinance and what it means for employers and employees is discussed below.

Who Is Covered?

Bloomington's ESSL Ordinance applies to employers with six or more employees. The Ordinance covers employees who work more than 80 hours in a calendar year while physically located in Bloomington. The location of the employer does not affect an employee's eligibility for ESSL coverage.

For remote workers and those who work in multiple cities during a shift, such as delivery drivers and repairpersons, employers may make reasonable estimates regarding the amount of time an employee actually spends working in Bloomington for purposes of ESSL coverage, accrual, and use. However, employers have flexibility and may voluntarily allow accrual of ESSL regardless of the employee's geographic location.

How Is Sick and Safe Leave Accrued?

Covered employees are able to earn up to 48 hours of ESSL at a rate of one hour of leave for every 30 hours of work. Employees may roll over up to 80 hours of unused ESSL from one year to the next.

How Can Employees Use ESSL?

Covered employees are entitled to use accrued ESSL on the 91st day following the start date of their employment or on the effective date of the Ordinance, whichever comes later. Covered employees may use accrued ESSL for various reasons, including medical care and treatment, family caregiving, unexpected closure of a school or place of care, and for safety planning and related legal



proceedings.

The City of Bloomington's initial rules describe how ESSL may be used as follows:

- **Medical Care and Treatment.** "An employee's mental or physical illness, injury, health condition, need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition, or an employee's need for preventive medical or health care, including pre-natal and post-natal care."
- **Family Caregiving.** "An employee's need to provide care for a family member with mental or physical illness, injury, health condition, need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition, or an employee's need for preventive medical or health care, including pre-natal or post-natal care or the death of a family member."
- **Closure of Business, School, or Place of Care.** "The closure of the employee's place of business by a public official's order, closure of school or place of care by a public official's order, closure of school or place of care due to inclement weather, loss of power, loss of heating, loss of water, or other unexpected closure."
- **Safety Reasons.** "Seeking counseling services, seeking medical or psychological care, seeking services from victim services organizations including relocation, seeking legal advice, preparing for, or participating in legal proceedings due to sexual assault, domestic abuse, or stalking."

Statewide Changes

On May 24, 2023, Governor Walz signed the Omnibus Jobs Act, which includes ESSL provisions that take effect on January 1, 2024. Notably, the new law does not preempt ESSL city ordinances. For employers subject to a city ESSL ordinance with more generous benefits than those provided by state law, the employer is required to provide the more generous benefits to employees.

Next Steps for Employers

All Minnesota employers should review their policies regarding paid sick leave and ensure compliance with any applicable city ordinances and Minnesota's new ESSL law. *Please contact your employment law attorney at Moss & Barnett for guidance specific to your workplace.*

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