

Hedge Up: A Heads-Up on Employment Issues Confronting the Hedge Fund and Private Equity Industries

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NYC Expands Earned Sick Time Act to Cover “Safe Time”

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Key Points

- New measure expands the NYC Earned Sick Time Act to Cover “Safe Time.”
- Safe Time can be used when an employee or a member of the employee’s family has been the victim of a family offense matter, sexual offense, stalking, or human trafficking.
- The new law does not expand the maximum amount of leave that employees can take in a given year; rather, it expands the purposes for which such leave can be taken to include Safe Time in addition to Sick Time.

Effective May 5, 2018, employees in New York City are eligible to take paid “safe time” leave when the employee or a member of the employee’s family has been the victim of a family offense matter, sexual offense, stalking, or human trafficking.

Employees’ eligibility for such leave is granted through an amendment to the Earned Sick Time Act, which we previously discussed here. This amendment does not change the total amount of paid leave available under the Act (i.e., a maximum of forty (40) hours of leave per calendar year for eligible employees), and instead expands the reasons for which such leave may be taken.

Permitted Uses of Safe Time Leave

When an eligible employee’s right to safe time leave has been triggered, the employee can use such leave for the following reasons:

- To obtain services from a domestic violence shelter, rape crisis center, or other shelter or services program for relief from a family offense matter, sexual offense, stalking, or human trafficking;
- To participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee’s family members from future family offense matters, sexual offenses, stalking, or human trafficking;

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- To meet with a civil attorney or other social service provider to obtain information and advice on, and prepare for or participate in, any criminal or civil proceeding, including but not limited to matters related to a family offense matter, sexual offense, stalking, human trafficking, custody, visitation, matrimonial issues, orders of protection, immigration, discrimination in employment, housing or consumer credit;
- To file a complaint or domestic incident report with law enforcement;
- To meet with a district attorney's office;
- To enroll children in a new school; or
- To take other actions necessary to maintain, improve, or restore the physical, psychological, or economic health or safety of the employee or the employee's family member or to protect those who associate or work with the employee.

As is the case with employees' use of covered sick time leave, firms can require reasonable documentation when an employee takes safe time leave for more than three consecutive days. Where the need for safe time leave is foreseeable, firms can require employees give up to seven days' advance notice. Firms cannot require employees who take sick or safe time leave to find their own replacement coverage. Also as with sick time leave, the law does not appear to provide employees with a private right of action; rather, only the Department of Consumer Affairs (DCA) has the ability to enforce the law. The DCA will also be issuing further guidance regarding the new legislation in the days and months ahead.

What Firms Should Do Now

Firms located in New York City should take the following steps in light of the new law:

- Firms should revise their employee handbooks to reflect employees' right to take safe time leave. Firms with broad paid time off (PTO) policies, combining sick, vacation and personal days, should ensure that safe time leave is covered by such policies.
- Firms should provide the DCA's new "Notice of Employee Rights," reflecting employees' right to take safe time leave, to all new hires. A copy of this notice is available [here](#).
- By June 4, 2018, firms should provide the updated "Notice of Employee Rights" to all existing employees.