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Paid Sick Leave in San Francisco

On November 7, 2006, San Francisco voters passed Measure F, which provided paid sick leave for workers to be paid when they must take time off to care for their own health and the health of their family. This measure took effect on February 5, 2007. This fact sheet explains the measure and how it applies to employees working in San Francisco.

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1. Does my employer have to provide me with paid sick leave?

   Beginning on February 5, 2007, if you work in the city and county of San Francisco you must be provided with paid sick leave. You are eligible for sick leave even if you are a part-time or temporary worker, and regardless of the size of your employer. Even if you live outside of San Francisco or your employer is headquartered outside of San Francisco, you are entitled to paid sick leave if you are actually doing your job within the city limits.

   Exceptions:

   1. Employees who are covered by a collective bargaining agreement through their union may not be covered by the law if the union has agreed to waive the requirement;
   2. Employers that already have a paid time off policy (where you can take paid leave for at least as many hours as the ordinance requires) are not affected by this new law.

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2. How many paid sick days do I get?

   You will generally receive one hour of paid sick leave for every thirty hours worked. However, when you start a new job, you will not start receiving sick leave until you have been at the job for at least three months.

   If you work at an organization with ten or more employees, you can accumulate up to 9 work days (72 hours) of paid sick leave. However, for businesses with fewer than ten employees, the maximum amount of paid sick time is 5 work days (40 hours). You can carry over sick leave from year to year, but the accrual of sick time stops when you reach the maximum of 72 hours (or 40 hours for small businesses). You are not entitled to be paid for unused hours of sick leave when you leave a job.

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3. What can I use my paid sick days for?

   Paid sick leave can be used for a wide variety of things related to your health and the health of your family members. You can use sick leave to miss work because of an illness or injury or because of a regular medical appointment for treatment or a checkup. You can also use paid sick leave to aid or care for a parent or legal guardian, sibling, child, spouse or registered domestic partner, or grandparent. Children and parents under this law include step, adopted and foster children and parents.

   If you do not have a spouse or registered domestic partner, you can also designate one additional person whose care requires you to use your sick leave. Before you start accruing sick leave, your employer must offer you the opportunity to designate that person as the one that may require your care. Your employer must give you at least ten days to make the choice of who that person is. Once you have designated that person, you can use your sick leave to care for that person just as you could to care for the other family members described above. However, once you choose that person, your employer does not have to let you change to a new person until one year has passed from the date you first designated the person.

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Can my boss stop me from taking my paid sick leave?

One important requirement for taking paid sick leave is that you must provide your employer with “reasonable” notice that you are going to take leave. For example, your employer may not be required to give you paid sick leave if you call your manager after your shift starts to say that you will not be coming to work because of a doctor’s appointment that was scheduled three months earlier. However, if you or a family member is unexpectedly sick, your employer must allow you to take sick leave as long as you notify the employer reasonably soon after you are aware that you will not be able to come to work.

If you provide reasonable notice, the law specifies that your employer cannot require you to find a replacement for your hours if you have to take sick leave. Your employer can also take “reasonable” measures to verify that your sick leave was valid, but cannot use unreasonable measures. For example, your employer may ask for a doctor’s verification of the family member’s illness.

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5. Can I be fired or disciplined for taking my paid sick leave?

No. The law specifically says that if you accumulate paid sick leave and take it for a valid reason, your employer cannot punish you for doing so. For example, your employer cannot count your paid sick leave as an absence that leads to you getting disciplined, demoted, suspended, or fired. The law also specifies that you cannot be fired or disciplined for asserting your rights to sick leave under the law.

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6. What should I do if my employer is violating the law?

If your employer is not giving you paid sick leave, you should first notify your employer of your rights under the law. If your employer refuses to comply, you can notify San Francisco’s Office of Labor Standards Enforcement. That agency can award you the payments you are owed for the hours you took off for sick leave. It can also ensure that your employer offers sick leave in the future, and can assess a penalty against your employer for violating the law. Finally, if you are fired for taking sick leave, the agency can order that you be given your job back. You can also file a lawsuit in court to enforce your rights.

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For further information about your employment rights, contact the Workers’ Rights Clinic.

Disclaimer

This Fact Sheet is intended to provide accurate, general information regarding legal rights relating to employment in California. Yet because laws and legal procedures are subject to frequent change and differing interpretations, the Legal Aid Society–Employment Law Center cannot ensure the information in this Fact Sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation.