

# PAID SICK LEAVE: Are You On Board?

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Some states that have acted to control this growing movement (such as Alabama, Idaho, Michigan, North Carolina, and Wisconsin) have passed laws banning local paid sick leave laws. In these states, the state laws preempt any laws made at the local level. However, it is likely that many other states will begin to see a surge in local enactment for these laws thus increasing the possibility that funeral home owners may find themselves trying to address this issue within their business.

Some employers may not be too concerned about this issue. In fact, a significant number of employers do offer some amount of paid sick leave. However, mandated rules on sick leave may be dramatically different than what employers are currently offering for their employees.

To further complicate matters, there is no consistency in the rules between states, and even worse a lack of consistency between states and their local communities. For example, the state of California mandated rule applies to employees who work 30 or more days per year, but

**T**he newest employee policy being embraced by states, cities and counties is mandatory paid sick leave. In fact, on Friday, February 16th, 2018 Austin became the first city in Texas to require employers pay employees sick leave. The policy goes into effect on October 1, 2018. In less than 8 months, thousands of Austin employers will need to comply with this law. Can this happen in your area? Yes!

Employers may want to start considering their current sick leave policies. More importantly, it would be beneficial to get some idea of the impact such a policy

can have on your business as well as understanding what a possible mandatory paid sick leave policy enacted at federal, state or local level may require.

Currently there are nine states that have mandatory sick leave requirements of employers. These states are Arizona, California, Connecticut, Maryland, Massachusetts, Oregon, Rhode Island, Vermont, and Washington. Beyond the states there are 24 cities and 2 counties. At this point it is difficult to identify all the other states, cities and counties that are considering adding mandatory sick leave rules.

San Diego's city specific rule applies to employees who work at least two hours within the city in one or more calendar weeks per year. Meanwhile, San Francisco rules applies to all employees who work within the city or county.

When you start to consider the potential implications of mandated paid leave there are some concerns that should be considered. I've listed just a few:

➤ **The classification of employers that must adhere to the rules. In some cases, it is all employers while others are specific to just a certain industry.**

➤ **Covered employees could include all employees even part-time and temporary.**

➤ **Maximum allowed leave could be very generous such as Montgomery County in Maryland which allows up to 80 hours of paid leave.**

➤ **The qualifying reason for the leave can be defined very broadly. St. Paul, MN has a policy that includes providing paid leave for unexpected school or place of care closure.**

➤ **Family members whose care requires leave can be defined to include individuals 16 years or older who are living together or have lived together; individuals 16 years or older who are dating or had dated, such as Seattle, WA does.**

➤ **Accrual rates and accrual caps may also be part of the rules.**

➤ **SeaTac, WA has established that employees can begin using paid sick leave as soon as they accrue it.**

➤ **Many of these various paid leave laws give the employee the right to carry forward as many as 56 hours of leave a year.**

➤ **Various jurisdictions are requiring that employers pay out employees accrued unused sick leave at termination.**

➤ **There are some specific circumstances where employers are required to pay out to employees every 30 days the amount**



**of accrued paid sick leave that is unused above an established allowable cap.**

When the details of a mandatory paid leave policy are considered, it becomes clear that it is not only potentially costly for employers to adhere to, but are very complex to manage.

Many business owners are starting to question why mandatory sick leave policies are being legislated. There are many arguments on both sides about the value or cost of providing such a benefit to employees. Some of these factors include:

### **Pros:**

➤ **Sick employees stay home thereby reducing the potential spread of illness to other employees.**

➤ **Employees can recover faster if they receive timely medical treatment and care for themselves properly.**

➤ **Reduces the chances of creating a public health issue.**

➤ **Employees who come to work sick are not performing at top levels in terms of efficiency or quality of customer care.**

➤ **Sick employees may be at increased risk to work related injuries.**

➤ **Paid sick leave may improve employee satisfaction with their employment and reduce turnover.**

➤ **It is possible that a lack of a paid sick leave policy can increase overall health care cost as those employees without paid sick leave have a higher incidence of seeking emergency room treatment rather than visiting a doctor's office.**

## Cons:

- ▶ May increase prices for goods and services offered to customers.
- ▶ Other employee benefits may be reduced to absorb the cost of paid sick leave.
- ▶ Increased cost may result in employees experiencing reductions in their hours worked or even layoffs.
- ▶ Paid sick leave policy will not guarantee that an employee won't still come to work sick.
- ▶ Some employers perceive that employees would rather have higher overall compensation/benefits rather than paid sick leave.
- ▶ Many employers already provide paid sick leave and don't believe government intervention is needed.

The United States is the only country among 22 developed nations which does not provide some form of guaranteed sick leave for an employee who falls ill or needs to care for a sick family member. Those employers who do offer paid sick leave tend to focus only on full-time employees leaving part-time employees with a work-or-lost compensation mentality.

The perception that there is a large swath of disenfranchised employees deserving of fair and equitable employment has led to a rallying call among those who lobby for these types of issues and they have begun to

gain some traction. Unfortunately, what ground they have gained certainly does not reflect the term "fair and equitable" when you consider the lack of uniformity between the various jurisdictions or the true impact and cost for employers. Further, the ramifications of mandatory paid leave have had little true analysis from either the employee or employer perspective.

Regardless of the pros and cons, it is likely that there will be many more states and local jurisdictions that will seek to add mandatory paid sick leave to their laws. This is an issue that requires funeral service employers to be aware of what is happening within their local jurisdictions.

Employers must realize that policies such as this can dramatically impact their business in terms of appropriate staffing and employee cost which may take place at any time during the year after establishing annual budgets. This is especially true when enacted by city

and county legislative bodies which can quickly draft and pass such laws. While employers may believe they are only obligated to adhere to federal and state employment laws that is simply not true. They must also comply with city and county laws as well.

Funeral service owners should make sure they are on the mailing list for their local government entities, so they can be aware of what employment focused issues are being addressed that might affect their business. If you already reside in an area where mandatory paid sick leave laws have been enacted or will be enacted soon and you do not know how to structure your business operations to comply, please reach out to us for assistance.

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