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EFFECTIVE IMMEDIATELY - Montgomery County Expands Sick and Safe Leave Law

By Jessica Summers

Summary: Much to the dismay of Montgomery County employers who just revised their leave policies to comply the County's Earned Sick and Safe Leave Act, the Montgomery County Council has passed an amendment to the Act which is effective immediately and which expands the purposes for which employees must be permitted to use their accrued paid sick and safe leave.

On June 23, 2015, the Montgomery County Council passed the Earned Sick and Safe Leave Act requiring, for the first time, that employers in the County provide employees with paid sick and safe leave. For the more details on the Sick and Safe Leave Act please see our earlier blog. The Sick and Safe Leave Act just went into effect on October 1, 2016. **Just a month later, on November 1, 2016, with little advance warning, the Montgomery County Council amended the Earned Sick and Safe Leave Act to add absences surrounding the birth, adoption or foster placement of a child to the purposes for which employee must be able to use the mandated leave. With this amendment, Montgomery County has joined just a handful of jurisdictions around the country that now require employers to provide some form of paid parental or bonding leave.**

More specifically, in its original form, the Sick and Safe Leave Act required that employees be permitted to use sick and safe leave (accrued as required under the Act) to:

- to care for or treat the physical or mental illness or injury of the employee or an immediate family member;
- to obtain preventative medical care for the employee or an immediate family member;
- if the employer's place of business is closed due to a public health emergency;
- if the school or child care center that the employee's family member attends is closed due to a public health emergency; or
- to seek medical attention or services or relocate temporarily due to domestic violence, sexual assault or stalking suffered by the employee or the employee's family member.

The November 1, 2016 amendment adds to this list providing that employees must also be permitted to use accrued sick and safe leave:

- for the birth, adoption or foster placement of a child; or
- to care for a child within a year of his or her birth, adoption or foster placement.

The November 1, 2016 amendment does not change any of the other provisions of the Sick and Safe Leave Act, which remain in full force and effect.

Practically speaking, for Montgomery County employers, this amendment means that they will need to once again revisit and revise their leave policies to ensure that these new protected uses are covered. Moreover, the expansion of the purposes for which an employee may use accrued sick and safe leave act may cause some employers to reassess decisions that they made when originally implementing the Sick and Safe Leave Act, including whether to provide employees with the required leave up front or allow them to accrue it over the course of the year.

Unlike the original Sick and Safe Leave Act which gave employers over a year to bring themselves into compliance, the amendment goes into effect immediately, meaning that these decisions and changes should be a top priority for all Montgomery County employers.

The explanations and discussions of legal principles herein are intended to be used for informational purposes and are not to be relied upon as legal advice. Situations may vary and nothing included herein is intended by the author to be used as the principal basis for specific action without first obtaining the review and advice of an attorney.

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