

## NEW JERSEY EARNED SICK LEAVE LAW

**Covered Employees:** The act applies to most employees working in New Jersey “for compensation.” The act expressly excludes employees in the construction industry employed under a collective bargaining agreement, per diem healthcare employees, and public employees who already have sick leave benefits.

### Accrual Limits

In each benefit year (i.e., January 1 to December 31), an employee will accrue up to 40 hours of sick time at a rate of one hour for every 30 hours worked.

### Waiting Period Before Use

Employees can **use** accrued sick time after the 120th day of the act’s effective date or their first date of employment in New Jersey.

### Accrual Cap and Carry Forward

Employees can accrue up to 40 hours in a 12-month period (i.e., January 1 to December 31) and can carry over all accrued, unused sick time up to 40 hours (i.e., annual cap).

Employee Working in New Jersey <u>Has Accrued</u> Earned Sick Leave Prior to 10/29/2018	Employee Working in New Jersey <u>Has Not Accrued</u> Prior Earned Sick Leave Prior to 10/29/2018
Employees who were working in one of the New Jersey municipalities and have accrued, unused paid sick time available will be able to carry over up to 40 hours of unused time. You will not be able to use more than 40 hours in the calendar year.	<p>Earned sick leave shall <u>accrue on 10/29/2018</u> (effective date of the act); eligible to use sick leave beginning the 120<sup>th</sup> calendar day after the employee commences employment; or</p> <p>If hired after 10/29/2018, shall be eligible to accrue on the <u>date employee commences employment</u> in New Jersey and shall be eligible to use on the 120<sup>th</sup> calendar day after the employee commences employment in New Jersey.</p>



### EFFECTIVE: 10/29/2018

In the case of a temporary help service firm placing an employee with client firms, paid sick leave will accrue on the basis of the total time worked on assignment with the firm, not separately for each client firm to which the employee is assigned.

**Note:** If you are eligible for a policy that grants employees paid time off in a manner consistent with the act’s requirements, you will not be eligible for additional paid leave. It will, however, need to conform its policy to meet the requirements of the act.

No person shall interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this act. No person shall retaliate against an employee because the employee has properly exercised rights protected under this act.

## Use of Paid Sick Time

Accrual begins at commencement of employment (or effective date), but sick time cannot be used during the first 120 calendar days of employment.

Upon request, employees can use accrued paid sick time for the following reasons:

1. Time needed for diagnosis, care, or treatment of, or recovery from, an employee's mental or physical illness, injury or other adverse health condition, or for preventive medical care for the employee;
2. Time needed for the employee to aid or care for a family member of the employee during diagnosis, care, or treatment of, or recovery from, the family member's mental or physical illness, injury or other adverse health condition, or during preventive medical care of the family member;
3. Absence necessary due to circumstances resulting from the employee, or a family member of the employee, being a victim of domestic or sexual violence, if the leave is to allow the employee to obtain for the employee or the family member: medical attention needed to recover from physical or psychological injury or disability caused by domestic or sexual violence; services from a designated domestic violence agency or other victim services organization; psychological or other counseling; relocation; or legal services, including obtaining a restraining order or preparing for, or participating in, any civil or criminal legal proceeding related to the domestic or sexual violence;
4. Time during which the employee is not able to work because of a closure of the employee's workplace, or the school or place of care of a child of the employee, by order of a public official due to an epidemic or other public health emergency, or because of the issuance by a public health authority of a determination that the presence in the community of the employee, or a member of the employee's family in need of care by the employee, would jeopardize the health of others, or
5. Time needed by the employee in connection with a child of the employee to attend a school-related conference, meeting, function or other event requested or required by a school administrator, teacher, or other professional staff member responsible for the child's education, or to attend a meeting regarding care provided to the child in connection with the child's health conditions or disability.

Leave **can be used one hour increments** but cannot be larger than the number of hours an employee was scheduled to work in a given shift. For example, if an employee is scheduled to work a 7-hour shift, the employee cannot use eight hours of paid sick time for that day.

"Family Member" means:

A child, grandchild, sibling, spouse, domestic partner, civil union partner, parent, or grandparent of an employee, or a spouse, domestic partner, or civil union partner of a parent or grandparent of the employee, or a sibling of a spouse, domestic partner, or civil union partner of the employee, or any other individual related by blood to the employee or whose close association with the employee is equivalent of a family relationship.

- Child - A biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner or civil of the employee;
- Parent - A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or of an employee's spouse, domestic partner or civil union partner, or a person who stood in local parentis of the employee or the employee's spouse, domestic partner, or civil union partner when the employee, spouse or partner was a minor child;
- Spouse – means a husband or wife.
- A grandparent or spouse, civil union partner or domestic partner of a grandparent;
- A grandchild;
- Civil union – means a civil union as defined in section 2 of P.L.2006, c.103 (C.36:1-29);
- Domestic partner – means a domestic partner as defined in section 3 of P.L.2003, c.246 (c.26:8A-3);
- Sibling – means a biological, foster, or adopted sibling of an employee.

Any information an employer possesses regarding the health of an employee or any family member of the employee or domestic or sexual violence affecting an employee or employee's family member shall be *treated as confidential and not disclosed* except to the affected employee or with the written permission of the affected employee.

## Employee Notice Requirements

- Where the need for leave is foreseeable, an Employer may require reasonable advance notice, not to exceed seven calendar days, of the intention to use Paid Sick Time and the expected duration. Please schedule the use of sick time in a manner that does not unduly disrupt the operations of the employer/customer. **Employers may prohibit employees from using foreseeable sick leave on certain dates, and require reasonable documentation if sick leave that is not foreseeable is used during those dates.**
- Where such notice is not foreseeable, an Employer may require an Employee to provide notice of the need for the use of sick time before the beginning of the Employee's work shift or work day or, in cases such as emergencies where advanced notice is not possible, as soon as practicable.

An employer may request an employee confirm in writing following use of paid sick time that the paid sick time was used for an authorized purpose under the Ordinance.

For earned sick leave of three or more consecutive days, an employer may require for uses (1) or (2) above, reasonable documentation signed by a health care professional indicating the need for leave and, if possible, the number of days of leave.

For use (3) or (4) above, reasonable documentation may be required if three or more consecutive days are used. For use (4), a copy of the order of the public official or the determination by the health authority shall be considered reasonable documentation.

## Paid Sick Time Accrual

- Sick leave accrual for all eligible existing employees begins on October 29, 2018. New employees hired after October 29, 2018 will begin to accrue sick leave when an employee begins work in New Jersey.
- Sick leave will accrue at a rate of 1 hour for every 30 hours actually worked, up to a maximum of 40 hours per calendar year.
- Employees are required to immediately begin accruing sick leave, but cannot take accrued leave until after 120 calendar days of employment with that employer.
- Accrued but unused paid sick time shall be carried over to the following calendar year, provided that no employer shall be required to carry over more than forty (40) hours of unused paid sick time from one calendar year to the next or allow the use of more than forty (40) hours of paid sick time in a calendar year.
- For hourly employees, overtime hours are included in that calculation; salaried employees are presumed to work 40 hours a week, unless their contract provides for a lesser workweek.
- Employees who are exempt from overtime requirements under the federal Fair Labor Standards Act are assumed to work 40 hours in each work week unless their normal work week is less than 40 hours, in which case paid sick time accrues based upon that normal work week.

No employer shall count earned sick leave taken under this act as an absence that may result in the employee being subject to discipline, discharge, demotion, suspension, a loss of reduction of pay, or any other adverse action.

Employers shall retain records documenting hours worked by employee and earned sick leave taken by employees, for a period of five years and permit the department access to those records.

## No Pay Out Upon Termination

- There will be no pay out of accrued but unused sick time upon termination, lay off, furlough, resignation, retirement, or other separation from employment.

### Rehires

- If there is a separation from employment and the employee is rehired within six (6) months of separation, previously accrued unpaid sick time that had not been used shall be reinstated. Prior employment with the employer shall be counted towards meeting the eligibility requirements set forth in the act.

If an employee is transferred to a separate division, entity, or location, that remains employed by the same Employer in New Jersey, the employee is entitled to all paid sick time accrued at the prior division, entity, or location and is entitled to use all paid sick time as provided in this ordinance.

When a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all paid sick leave previously accrued.

**New Jersey** – In SmartSearch, if the employee is *working* in New Jersey, mark Personnel subarea as “New Jersey.”

# New Jersey Earned Sick Leave

## Notice of Employee Rights

Under New Jersey's Earned Sick Leave Law, most employees have a right to accrue up to 40 hours of earned sick leave per year. Go to [nj.gov/labor](http://nj.gov/labor) to learn which employees are covered by the law.

**New employees must receive this written notice from their employer when they begin employment, and existing employees must receive it by November 29, 2018. Employers must also post this notice in a conspicuous and accessible place at all work sites, and provide copies to employees upon request.**

## YOU HAVE A RIGHT TO EARNED SICK LEAVE.

### Amount of Earned Sick Leave

Your employer must provide up to a total of 40 hours of earned sick leave every benefit year. Your employer's benefit year is:

Start of Benefit Year: \_\_\_\_\_ End of Benefit Year: \_\_\_\_\_

### Rate of Accrual

You accrue earned sick leave at the rate of 1 hour for every 30 hours worked, up to a maximum of 40 hours of leave per benefit year. Alternatively, your employer can provide you with 40 hours of earned sick leave up front.

### Date Accrual Begins

You begin to accrue earned sick leave on October 29, 2018, or on your first day of employment, whichever is later.

*Exception:* If you are covered by a collective bargaining agreement that was in effect on October 29, 2018, you begin to accrue earned sick leave under this law beginning on the date that the agreement expires.

### Date Earned Sick Leave is Available for Use

You can begin using earned sick leave accrued under this law 120 days after you begin employment.

### Acceptable Reasons to Use Earned Sick Leave

You can use earned sick leave to take time off from work when:

- You need diagnosis, care, treatment, or recovery for a mental or physical illness, injury, or health condition; or you need preventive medical care.
- You need to care for a **family member** during diagnosis, care, treatment, or recovery for a mental or physical illness, injury, or health condition; or your family member needs preventive medical care.
- You or a family member **have been the victim of domestic violence or sexual violence** and need time for treatment, counseling, or to prepare for legal proceedings.
- You need to attend **school-related conferences, meetings, or events** regarding your child's education; or to attend a school-related meeting regarding your child's health.
- Your employer's business **closes due to a public health emergency** or you need to care for a child whose school or child care provider closed due to a public health emergency.

### Family Members

The law recognizes the following individuals as "family members:"

- Child (biological, adopted, or foster child; stepchild; legal ward; child of a domestic partner or civil union partner)
- Grandchild
- Sibling
- Spouse
- Domestic partner or civil union partner
- Parent
- Grandparent
- Spouse, domestic partner, or civil union partner of an employee's parent or grandparent
- Sibling of an employee's spouse, domestic partner, or civil union partner
- Any other individual related by blood to the employee
- Any individual whose close association with the employee is the equivalent of family



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## Advance Notice

If your need for earned sick leave is foreseeable (can be planned in advance), your employer can require up to 7 days' advance notice of your intention to use earned sick leave. If your need for earned sick leave is unforeseeable (cannot be planned in advance), your employer may require you to give notice as soon as it is practical.

## Documentation

Your employer can require reasonable documentation if you use earned sick leave on 3 or more consecutive work days, or on certain dates specified by the employer. The law prohibits employers from requiring your health care provider to specify the medical reason for your leave.

## Unused Sick Leave

Up to 40 hours of unused earned sick leave can be carried over into the next benefit year. However, your employer is only required to let you use up to 40 hours of leave per benefit year. Alternatively, your employer can offer to purchase your unused earned sick leave at the end of the benefit year.

## You Have a Right to be Free from Retaliation for Using Earned Sick Leave

Your employer cannot retaliate against you for:

- Requesting and using earned sick leave
- Filing a complaint for alleged violations of the law
- Communicating with any person, including co-workers, about any violation of the law
- Participating in an investigation regarding an alleged violation of the law, and
- Informing another person of that person's potential rights under the law.

Retaliation includes any threat, discipline, discharge, demotion, suspension, or reduction in hours, or any other adverse employment action against you for exercising or attempting to exercise any right guaranteed under the law.

## You Have a Right to File a Complaint

You can file a complaint with the New Jersey Department of Labor and Workforce Development online at [nj.gov/labor/wagehour/complnt/filing\\_wage\\_claim.html](https://nj.gov/labor/wagehour/complnt/filing_wage_claim.html) or by calling 609-292-2305 between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday.

**Keep a copy of this notice and all documents that show your amount of sick leave accrual and usage.**

You have a right to be given this notice in English and, if available, your primary language.

For more information visit the website of the Department of Labor and Workforce Development: [nj.gov/labor](https://nj.gov/labor).

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Enforced by: NJ Department of Labor and Workforce Development  
Division of Wage and Hour Compliance, PO Box 389, Trenton, NJ 08625-0389 • 609-292-2305

This and other required employer posters are available free online at [nj.gov/labor](https://nj.gov/labor), or from the Office of Constituent Relations, PO Box 110, Trenton, NJ 08625-0110 • 609-777-3200.

If you need this document in Braille or large print, call 609-292-2305. TTY users can contact this department through the New Jersey Relay: 7-1-1.



**Display this poster in a conspicuous place**

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