



# **WE'VE GOT CHICKEN SOUP FOR YOU: HOW TO COMPLY WITH MARYLAND'S NEW SICK & SAFE LEAVE LAW**

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# PRESENTATION OVERVIEW

- History of the Maryland Healthy Working Families Act
- Overview of the Basic Provisions of the MHWFA
- Discussion Scenarios
- Questions

# MARYLAND HEALTHY WORKING FAMILIES ACT: HISTORY AND ENFORCEMENT

- The Maryland Healthy Working Families Act (MHWFA) was passed in 2017 but vetoed by Governor Larry Hogan
- On January 12, 2018 the veto was overridden
- The MHWFA is now set to go into effect to on February 11, 2018
- There is a bill pending in the legislature that could delay enforcement of the MHWFA until April 12, 2018
  - Emergency bill - needs 3/5 majority in the House of Delegates and Senate to pass

# THE BASICS OF THE MHWFA: WHICH EMPLOYERS AND EMPLOYEES ARE COVERED?

- The new law applies to all private employers with employees in Maryland as well as local and state governments
  - 14 or fewer employees – sick and safe leave can be unpaid
  - 15 or more employees – sick and safe leave must be paid
- In general ALL employees including full-time, part-time, temps and seasonal employees are eligible for leave under the MHWFA
  - Common exceptions:
    - Employees who work fewer than 12 hours per week
    - Employees who are under 18
    - Employees who are employed by an employment or temp agency to provide temporary or part-time services to another person
- Properly classified independent contractors are not eligible for leave

# THE BASICS OF THE MHWFA: SICK AND SAFE LEAVE REQUIREMENTS

- Eligible employees must accrue 1 hour of sick and safe leave for every 30 hours worked, up to 40 hours per year
- Employees must start accruing leave on their first day of employment - but can be required to wait up to 106 days before using the leave
- If an employee is accruing the leave (rather than getting it up front) s/he must be permitted to carryover up to 40 hours of unused leave from one year to the next
- Employees must be permitted to use up to 64 hours of sick and safe leave per year and accrue up to 64 hours of sick and safe leave at any given time

# THE BASICS OF THE MHWFA: USES OF SICK AND SAFE LEAVE

- An employee who has accrued paid sick and safe leave must be permitted to use it:
  - To care for or treat the employee's own, or a family member's mental or physical illness, injury or condition;
  - To obtain preventative medical care for the employee or a family member;
  - For maternity or paternity leave; or
  - Where the employee or a family member is a victim of domestic violence, sexual assault or stalking and the absence is necessary for the employee or family member to obtain related medical or mental health attention, obtain services from a victim service organization, obtain legal services or participate in related proceedings, or relocate as the result of the situation

# THE BASICS OF THE MHWFA: TAKING AND REQUESTING SICK AND SAFE LEAVE

- Where the need for leave is foreseeable – employees can be required to provide up to 7 days' advance notice
- Where the need for leave is unforeseeable – employees can be required to provide notice as soon as practicable
- Employees must be permitted to take sick and safe leave in the smallest increment available in the employer's payroll system or 4 hours, whichever is less
- For paid sick and safe leave, the leave must be paid at the employee's regular rate, except in the case of tipped employees

# THE BASICS OF THE MHWFA: NOTICE AND RECORDKEEPING

- Employers must notify employees of their rights under the MHWFA
  - The law directs the Commissioner of Labor and Industry to publish a model notice for employers to post, as well as a sample handbook policy, on the required leave
- Employers must also notify employees of their sick and safe leave balances in writing each time they are paid
- Employers must maintain records of each employee's sick and safe leave accrual and use for at least three years



# INTERPLAY WITH EXISTING POLICIES AND OTHER LEAVE LAWS

- Employers that already offer leave, do not need to offer new sick and safe leave, as long as the leave currently offered meets the minimum accrual and use requirements of the MHWFA
- Montgomery County's sick and safe leave law remains in effect
- Prince George's County's new sick and safe leave law (passed in December) is preempted
- Going forward, no Maryland counties or localities can pass new sick and safe leave laws

# COMPARING PAID SICK LEAVE JURISDICTIONS

	<u>MD</u>	<u>Montgomery County</u>	<u>D.C.</u>	<u>Executive Order 13706 Government Contractors</u>	<u>AZ</u>	<u>CA</u>	<u>CT</u>	<u>MA</u>	<u>OR</u>	<u>RI</u> (not in effect yet)	<u>VT</u>	<u>WA</u>
<b>Min Rate of Accrual</b>	1 hour for every 30 hours worked	1 hour for every 30 hours worked	100+ employees: 1 hour for every 37 hours; 25 to 99 employees: 1 hour for every 43 hours worked; 24 or fewer employees: 1 hour for every 87 hours worked	1 hour for every 30 hours worked	1 hour for every 30 hours worked	1 hour for every 30 hours worked or no less than 24 hours of paid leave accrued by the 120th day of the year	1 hour for every 40 hours worked	1 hour for every 30 hours worked	1 hour for every 30 hours worked	1 hour for every 35 hours worked	1 hour for every 52 hours worked	1 hour for every 40 hours worked
<b>Permitted Cap on Annual Accrual</b>	40 hours	56 hours	100+ employees: 7 days; 25 to 99 employees: 5 days; Less than 25 employees: 3 days	56 hours	15+ employees: 40 hours; Less than 15 employees: 24 hours	None (but see cap on use)	40 hours	40 hours	40 hours	2018: 24 hours; 2019: 32 hours; Beyond: 40 hours	None (but see cap on use)	None
<b>Permitted Cap on Annual Use</b>	64 hours	80 hours	Law is silent	None	40 hours	24 hours or three days	40 hours	40 hours	40 hours	2018: 24 hours; 2019: 32 hours; Beyond: 40 hours	2017 and 2018: 24 hours, 2019 and Beyond: 40 hours	None
<b>Minimum Rollover*</b>	64 hours	56 hours	Unlimited	56 hours	15+ employees: 40 hours; Less than 15 employees: 24 hours	Unlimited but employer can cap total accrued leave at 6 days or 48 hours	40 hours	40 hours	40 hours	Unlimited	2017 and 2018: 24 hours, 2019 and Beyond: 40 hours	40 hours
<b>New EE Max Wait Time Before Use</b>	106 days	90 days	90 days	None	© 2018 Paley Rothman 90 days	90 days	680 hours	90 days	90 days	90 days	1 year	90 days

## DISCUSSION SCENARIO 1:

Our company has employees in Montgomery County, Prince George's County and the District of Columbia – what are our options?

## DISCUSSION SCENARIO 2:

We currently offer PTO to full-time employees that will satisfy the new requirements, but do not provide PTO to part-time employees – what are our options?

## DISCUSSION SCENARIO 3:

We have employees who split their time between Maryland and Virginia – how should we handle them?

# CONCLUSION AND QUESTIONS

We hope this has been a helpful overview of Maryland's new sick and safe leave law

If there are any questions we would be happy to address them now

Thank you!

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