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AT ISSUE *By Stefanie Riehl, Assistant Vice President, Employment and Labor Policy*

The Scope of NJ's Paid Sick Leave Mandate

Should government mandate that all workers receive paid sick leave? It's a question that keeps coming up as state lawmakers debate legislation that would require employers with 10 or more employees to offer nine paid sick days, and all other employers to offer five. While no one wants a worker coming in sick, the legislation goes way beyond simply providing a worker with a day here or there to get well. In some respects, it is far more expansive than nearly every other state or federal leave law already in existence.

Take the definition of family member, for instance. Under the bill, those for whom an employee could take leave include a 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.

Compare that to the federal Family and Medical Leave Act (FMLA), where an employee's spouse, children and parents are the only family members for whom leave can be taken for specified family and medical reasons. Similarly, the New Jersey Security and Financial Empowerment Act (NJ SAFE Act), which provides leave for circumstances resulting from domestic or sexual violence, only includes children, parents, spouses, domestic partners or civil union partners. Neither law includes "in-laws," nor grandparents or grandchildren.

Perhaps of even greater concern is that A-2354 (Lampitt)/ S-785 (Weinberg) requires employers to adopt a one-size-fits-all approach in awarding benefits. It also comes with a large price tag.

The legislation's one-size-fits-all approach makes "any individual engaged in service to a company" eligible for paid sick leave, including independent contractors, board of directors, interns, temporary workers, seasonal workers, etc. These individuals could begin to take leave as soon as they clocked-in 30 hours and worked 90 days. This clearly disregards employer policies for PTO (paid time off) eligibility, procedural requirements for requesting PTO, call-in procedures and policies to control excessive absenteeism. The bill also does not address whether sick time must be taken in full-day, half-day or hourly increments. Aside from those

issues, employers would have to keep confidential records of any sick time used by every employee for five years or risk being charged with failing to provide sick leave.

The legislation's price tag is likely to be enormous, even for those who already have generous benefits. An employer with 15 employees who currently offers five paid days of sick time will now have to tack on four more. That may mean paying double wages – wages for the



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absent worker and for their replacement – not to mention increased payroll taxes. The legislation also allows the carryover of unused leave from one year to the next – up to 40 hours for small companies and up to 72 hours for larger companies. So the same 15-person employer mentioned above would still have to provide nine days of paid protected leave even if it cut its workforce in half because it was struggling. There are also handbook revisions, upgrades to systems that keep track of time and other changes to contend with to stay in compliance.

Many employers have already concluded that offering paid sick leave to their employees makes sense, and they have tailored policies to fit their workplaces. Lawmakers, however, should be careful of what they mandate. A well-intentioned policy is not synonymous with a good policy, especially in the case of paid sick leave.

More information about the unintended consequences of this proposal and how you can help to educate policymakers engaged in the dialogue is available by visiting www.keepnjcompetitive.org. NJB