

WESTCHESTER COUNTY SAFE TIME LEAVE LAW

SAFE TIME LEAVE LAW

Westchester County's
Safe Time Leave Law
 Effective October 30, 2019

UNDER WESTCHESTER COUNTY'S SAFE TIME LEAVE LAW, COVERED EMPLOYERS IN WESTCHESTER COUNTY MUST PROVIDE PAID SAFE TIME LEAVE.

In general, covered employees who work for a covered employer in Westchester County for more than 90 days in a year, full-time or part-time, are covered by the Safe Time Leave Law and entitled to take up to 40 hours of paid safe time leave in full days or increments. Certain exceptions apply.

VICTIMS OF DOMESTIC VIOLENCE AND/OR HUMAN TRAFFICKING CAN USE SAFE TIME LEAVE TO:

- Attend or testify in criminal and/or civil court proceedings relating to domestic violence;
- Attend or testify in criminal and/or civil court proceedings relating to human trafficking; and/or
- Move to a safe location

YOU HAVE THE RIGHT TO BE FREE FROM RETALIATION FROM YOUR EMPLOYER FOR:

- Using safe time leave;
- Requesting safe time leave;
- Informing other employees of their rights under the law; and/or
- Filing a complaint alleging a violation of the law.

COVERED EMPLOYEES ARE ELIGIBLE TO USE SAFE TIME LEAVE WHEN THEY HAVE WORKED FOR A COVERED EMPLOYER FOR 90 DAYS.

- Employees who have already worked for an employer for 90 days by October 30, 2019 can use leave starting October 30, 2019.
- Newly or recently hired employees are eligible 90 days after the first day of employment.

If you think you've been subjected to a violation of any rights granted under the Safe Time Leave Law, please contact the Westchester County Department of Consumer Protection. Visit www.consumer.westchestergov.com or call (914) 995-2155. For general information about the law, contact the Human Rights Commission at (914) 995-7710 or by email at humanrights@westchestergov.com. FAQs can be found at www.humanrights.westchestergov.com/resources.

Condado de Westchester
Ley De Licencia de Tiempo Seguro
 Effective October 30, 2019

BAJO LA LEY DE AUSENCIA DE TIEMPO SEGURO DEL CONDADO DE WESTCHESTER, LOS EMPLEADORES CUBIERTOS DEL CONDADO DE WESTCHESTER DEBEN PROPORCIONAR SALIDA DE TIEMPO SEGURO PAGADO.

En general, los empleados cubiertos que trabajan para un empleador cubierto en el condado de Westchester durante más de 90 días en un año, a tiempo completo o parcial, están cubiertos por la Ley de tiempo asegurado por ausencia y tienen derecho a tomar hasta 40 horas de tiempo pagado en días completos o incrementos. Se aplican ciertas excepciones.

LAS VÍCTIMAS DE VIOLENCIA DOMÉSTICA Y / O TRÁFICO HUMANO PUEDEN UTILIZAR UN TIEMPO SEGURO PARA:

- Asistir o testificar en procesos judiciales penales y / o civiles relacionados con violencia doméstica;
- Asistir o testificar en procesos judiciales penales y / o civiles relacionados con la trata de personas; y/o
- Muévase a un lugar seguro.

TIENE DERECHO A ESTAR LIBRE DE REPRESALIAS DE SU EMPLEADOR PARA:

- Uso de tiempo seguro de Ausencia;
- Solicitar permiso de tiempo seguro;
- Informar a otros empleados de sus derechos bajo la ley; y/o
- Presentar una queja alegando una violación de la ley.

LOS EMPLEADOS CUBIERTOS SON ELEGIBLES PARA USAR TIEMPO ASEGURADO POR AUSENCIA CUANDO HAN TRABAJADO PARA UN EMPLEADOR CUBIERTO POR 90 DÍAS.

- Los empleados que ya han trabajado para un empleador durante 90 días antes del 30 de octubre de 2019 pueden usar la licencia a partir del 30 de octubre de 2019.
- Los empleados contratados recientemente son elegibles 90 días después del primer día de empleo.

Si cree que ha sido objeto de una violación de los derechos otorgados en virtud de la Ley de Tiempo Asegurado por Ausencia, comuníquese con el Departamento de Protección al Consumidor del Condado de Westchester. Visite www.consumer.westchestergov.com o llame al (914) 995-2155. Para obtener información general sobre la ley, comuníquese con la Comisión de Derechos Humanos al (914) 995-7710 o por correo electrónico a humanrights@westchestergov.com. Las preguntas frecuentes se pueden encontrar en www.humanrights.westchestergov.com/resources.

TO: HONORABLE BOARD OF LEGISLATORS, COUNTY OF WESTCHESTER

Your Committee has reviewed "A LOCAL LAW amending the Laws of Westchester County to add a new Chapter 586 which will provide safe time leave for victims of domestic violence and human trafficking." Your Committee has considered the issue of sick time to provide employees with the right to take time off from work to address and care for, among other things, their own physical and mental well-being as well as that of their families. This law addresses the delicate balance between maintaining an employee's privacy issues with respect to medical conditions while ensuring that the employee is not abusing sick leave. Your Committee reaffirms that the physical and emotional injuries suffered by all employees, including victims of domestic violence and human trafficking, are provided for in the Earned Sick Leave Law. There are some matters relating to victims of domestic violence and human trafficking, however, that are not covered under the Earned Sick Leave Law. For example, victims of domestic violence may be required to attend multiple court appearances necessary to obtain the requisite orders of protection for themselves and other family members affected by the domestic violence. Victims of domestic violence and human trafficking may need to testify in criminal proceedings and, if they fail to do so, any criminal charges against the perpetrator may be dismissed. The individual charged may be released without any negative consequence for their criminal behavior which can embolden the perpetrator and exacerbate dangers for the victim. Some victims of domestic violence and human trafficking need to relocate at times (e.g. work hours) that the aggressor would not suspect so that the aggressor may remain unaware of the victim's new residence. Your Committee recognizes that such victims are placed in a quandary attempts to relocate so as to become independent of the abuser versus fearing the loss of employment for taking time off from work above and beyond that which is necessary to take care of their physical and mental well-being. Your Committee notes that according to the National Domestic Violence Hotline, 24 people per minute, on average, are victims of rape, physical violence or stalking by an intimate partner in the United States—more than 12 million women and men over the course of a year. One survey of American employees found that 44% of full-time employed adults personally experienced domestic violence's effect in their workplace. Notwithstanding, more than 70% of United States workplaces do not have a formal program or policy that addresses such violence. Your Committee believes that victims of domestic violence are in need of additional support to help them overcome the dominance of their abuser. Moreover, providing victims with some relief from work-related tensions

will incentivize victims to take control of their lives sooner. Your Committee notes that human traffickers generate hundreds of billions of dollars in profits by trapping millions of people in horrific situations around the world, including in the U.S. Traffickers use violence, threats, deception, debt bondage, and other manipulative tactics to force people to engage in commercial sex or to provide labor or services against their will. While truly accurate statistical information is unavailable, the International Labour Organization estimates that there are 40.3 million victims of human trafficking globally of which 81% are trapped in forced labor; 25% are children; and 75% are women and girls. This proposed local law provides that victims of domestic violence and human trafficking are entitled to take up to 40 hours of paid leave. These days can be utilized in full days and/or increments in order to: attend/testify in criminal and/or civil court proceedings relating to their victimization; move away from the abuser's residence to a location where the victim is no longer under the control of the abuser; confer with lawyers or other advisers. The proposed local law further reaffirms the fact that the safe time leave provided herein is not the same as, but in addition to, the time provided under the Earned Sick Leave Law. As you know, this Honorable Board must comply with the requirements of the State Environmental Quality Review Act ("SEQRA"). Your Committee is advised that the Department of Planning has reviewed the applicable SEQRA regulations, and has concluded that this proposed local law does not meet the definition of an "action" as defined in section 617.2(b) of 6 NYCRR Part 617. As such, no environmental review is required. Your Committee concurs with that conclusion. An affirmative vote of a majority of the voting strength of your Honorable Board is required for approval of this Local Law. In light of the aforementioned, your Committee, after careful consideration, recommends the adoption of this local law.

Dated: 3/25, 2019
White Plains, New York

LOCAL LAW INTRO. NO. -2019

A LOCAL LAW amending the Laws of Westchester County to add a new Chapter 586 which will provide safe time leave for victims of domestic violence and human trafficking. BE IT ENACTED by the County Board of the County of Westchester as follows:

Section I. A new Chapter 586 is hereby added to the Laws of Westchester County to read as follows:

Chapter 586 - SAFE TIME LEAVE FOR VICTIMS OF DOMESTIC VIOLENCE AND HUMAN TRAFFICKING

- Sec. 586.01. Short Title.**
Sec. 586.02. Purpose.
Sec. 586.03. Definitions.
Sec. 586.04. Safe Time Leave for Victims of Domestic Violence and Human Trafficking.
Sec. 586.05. Procedures Relating to the Request to Use Safe Time Leave
Sec. 586.06. Exercise of Rights Protected; Retaliatory Personnel Actions Prohibited.
Sec. 586.07. Notice and Posting.
Sec. 586.08. Enforcement, Civil Action and Penalties.
Sec. 586.09. Confidentiality and Nondisclosure.
Sec. 586.10. Other Legal Requirements.
Sec. 586.11. Public Education and Outreach.
Sec. 586.12. Reverse Preemption.
Sec. 586.13. Severability.

Sec. 586.01. Short Title.
This Chapter shall be known as and may be cited as the "Safe Time Leave Law."

Sec. 586.02. Purpose.
The purpose of this legislation is to provide victims of domestic violence and human trafficking with safe time leave in order to attend criminal and civil court proceedings and/or to relocate to a safe location.

Sec. 586.03. Definitions.
For Purposes of this Chapter:

- "Calendar year" shall mean from January 1 to December 31 in any given year.
- "Domestic violence" shall mean a pattern of violent or abusive behavior used by one person to gain or maintain control over another. Abusive behavior includes, but is not limited to, family offense matters.
- "Employee" shall mean any person employed for hire by an employer in any employment within Westchester County for more than 90 days in a calendar year who performs work on a full-time or part-time basis, including work performed in subsidized private sector and not-for-profit employment programs, but not including:
 - work performed as a participant in a work experience program established by a social services district;
 - work performed pursuant to work study programs under 42 U.S.C. section 2753;
 - work performed by employees compensated by or through qualified scholarships as defined in 26 U.S.C. section 117.
- "Employer" shall mean any "employer" as defined in section 190(3) of New York State Labor Law, except that an employer includes Westchester County government for its employees that are not subject to a collective bargaining agreement.
- "Family offense matter" shall mean acts or threats of disorderly conduct, harassment in the first degree, harassment in the second degree, aggravated harassment in the second degree, sexual misconduct, forcible touching, sexual abuse in the third degree, sexual abuse in the second degree as set forth in subdivision 1 of section 130.60 of the penal law, stalking in the first degree, stalking in the second degree, stalking in the third degree, stalking in the fourth degree, criminal mischief, menacing in the second degree, menacing in the third degree, reckless endangerment, strangulation in the first degree, strangulation in the second degree, criminal obstruction of breathing or blood circulation, assault in the second degree, assault in the third degree, an attempted assault, identity theft in the first degree, identity theft in the second degree, identity theft in the third degree, grand larceny in the fourth degree, grand larceny in the third degree or coercion in the second degree as set forth in subdivisions 1, 2 and 3 of section 135.60 of the penal law between spouses or former spouses, or between parent and child or between members of the same family or household.
- "Human trafficking" involves the use of force, fraud, or coercion to obtain some type of labor or commercial sex act.
- "Members of the same family or household" shall mean (i) persons related by consanguinity or affinity; (ii) persons legally married to or in a domestic partnership with one another; (iii) persons formerly married to or in a domestic partnership with one another regardless of whether they still reside in the same household; (iv) persons who have a child in common, regardless of whether such persons have been married or domestic partners or have lived together at any time; and (v) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time.
- "Retaliatory personnel action" means denial of any right guaranteed under this Chapter or any threat, discharge, suspension, demotion, reduction of hours, reporting or threatening to report an employee's suspected citizenship or immigration status, or the suspected citizenship or immigration status of a family member of the employee to a federal, state

or local agency, or any other adverse action against an employee for the exercise of any right guaranteed herein including any sanctions against an employee who is the recipient of public benefits for rights guaranteed under this Chapter. Retaliation shall also include interference with or punishment for in any manner participating in or assisting an investigation, proceeding or hearing under this Chapter.

"Year," other than "calendar year" means a regular and consecutive 12-month period as determined by the employer.

Sec. 586.04. Safe Time Leave for Victims of Domestic Violence and Human Trafficking.

- Employees who are victims of domestic violence or victims of human trafficking are entitled to take up to 40 hours of paid leave, in any year or calendar year, which can be utilized in full days and/or increments in order to: attend/testify in criminal and/or civil court proceedings relating to domestic violence or human trafficking and/or to move to a safe location.
- The safe time leave provided for in section 1 above, shall be in addition to sick leave provided for under Westchester County's Earned Sick Leave Law.

Sec. 586.05. Procedures Relating to the Request to Use Safe Time Leave.

- Safe time leave shall be provided upon the request of an employee. Such request may be made orally, in writing, by electronic means or by any other means acceptable to the employer. When possible, the request shall include the expected duration of the absence.
- When the use of safe time leave is foreseeable, the employee shall make a good faith effort to provide notice to the employer in advance and, when possible, shall make a reasonable effort to schedule the use of safe time leave in a manner that does not unduly disrupt the operations of the employer.
- An employer may not require, as a condition of an employee's use of safe time leave, that the employee find another employee to work during the time of the employee's absence.
- An employer may require the employee to provide reasonable documentation that the safe time leave has been used for a purpose covered by section 586.03(1) above.

Documentation provided by the employee may include any one of the following:

- a court appearance ticket or subpoena;
- a copy of a police report;
- and affidavit from an attorney involved in the court proceeding relating to the issue of domestic violence and/or human trafficking; or
- an affidavit from an authorized person from a reputable organization known to provide assistance to victims of domestic violence and victims of human trafficking (such as My Sisters' Place).

Sec. 586.06. Exercise of Rights Protected; Retaliatory Personnel Actions Prohibited.

- It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, the right to use safe time leave.
- It shall be unlawful for an employer to include safe time leave as an absence that may lead to or result in discipline, discharge, demotion, or suspension.
- An employer shall not take retaliatory personnel action or discriminate against an employee because the employee has requested to use or has used safe time leave.
- An employer shall not take retaliatory personnel action or discriminate against an employee that has filed a complaint regarding an employer's alleged violation of Safe Time Leave Law.
- An employer shall not take retaliatory personnel action or discriminate against an employee that has informed another employee of his or her rights under the Safe Time Leave Law.
- There shall be a rebuttable presumption of unlawful retaliatory personnel action whenever an employer takes adverse action against an employee within 90 days of the filing of a complaint regarding an employer's alleged violation of this Safe Time Leave Law.

Sec. 586.07. Notice and Posting.

- At the commencement of employment or within 90 days of the effective date of this law, whichever is later, all employers shall give employees a copy of the Safe Time Leave Law and written notice of how the law applies to that employee.
- Employers shall display a copy of the Safe Time Leave Law and a poster in English, Spanish and any other language deemed appropriate by the County of Westchester, in a conspicuous location accessible to the employee.
- An employer who willfully violates the notice and posting requirements of this section shall be subject to a civil fine in an amount not to exceed \$500 for each separate offense.

Sec. 586.08. Enforcement, Civil Action and Penalties.

- The Department of Weights and Measures - Consumer Protection (hereinafter referred to in this section as the "Department") shall establish a process to receive complaints from a person alleged to have been aggrieved by an employer's non-compliance with this Chapter. Such complaint must be filed within one (1) year after the occurrence of the alleged violation. Once a complaint is received, the Department shall investigate the complaint, and if the Department finds probable cause to support that a violation has occurred, it shall attempt to facilitate a resolution.

2. If there has been no resolution of the matter in accordance with subdivision 1 above, then the Department shall issue a summons to the employer in the form of an appearance ticket that shall give notice of alleged violation and set forth the time and place of the hearing on such complaints, which shall not be less than eight days following service of the summons. Such hearing shall be held before a hearing officer who shall hear testimony and examine exhibits as may be offered and received in evidence, but shall not be required to follow strict rules of evidence. The hearing officer shall have the power to:

- dismiss the complaint if not proven by a preponderance of the evidence;
- adjust the matter upon consent; or
- determine a violation has occurred and impose any of the following penalties and any other penalties as may be provided for in this chapter:
 - Require the employer to pay the employee three times the wages that should have been paid under this Chapter or two hundred fifty dollars, whichever is greater for each instance of safe time leave taken by an employee but unlawfully not compensated by the employer;
 - Require the employer to pay the employee five hundred dollars for each instance of safe time leave requested by an employee but unlawfully denied by the employer and not taken by the employee or unlawfully conditioned upon searching for or finding another employee to work;
 - Grant such additional relief, as it deems appropriate, including any actual damages suffered as the result of the employer's violation of the Safe Time Leave Law, reasonable attorney's fees, the cost of the administrative hearing, and other monetary or equitable relief as may be appropriate, without limitation, reinstatement to employment and back pay.

The determination of the hearing officer shall be served upon the parties. The aggrieved party may appeal said determination to a court of competent jurisdiction by the commencement of a proceeding within 30 days after service of said order upon the aggrieved party. If the court finds an unlawful violation has occurred, the court may impose the penalties set forth in this subdivision.

3. In lieu of the procedures set forth in subdivision 1 & 2 above, any person who claims to have been aggrieved by a violation of this Chapter may commence a civil action in the appropriate court of jurisdiction not later than one (1) year after the occurrence of an alleged violation. If the court finds an unlawful violation has occurred, the court may impose the penalties set forth in subdivision 2 above.

Sec. 586.09. Confidentiality and Nondisclosure.

- Information about an employee or family member obtained solely for the purposes of utilizing safe time leave shall be treated as confidential and shall not be disclosed except with the written permission of the affected employee, unless such disclosure is otherwise required by law.
- Any health or safety information possessed by an employer regarding an employee or employee's family member must be maintained on a separate form and in a separate file from other personnel information.

Sec. 586.10. Other Legal Requirements.

This Chapter provides minimum requirements pertaining to safe time leave and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, or policy that provides for greater accrual or use by employees of safe time, or that extends other protections to employees. In addition, nothing in this Chapter shall be construed to prevent, interfere or conflict with any rights of an employee under any other law, including but not limited to, the New York State Paid Family Leave Benefits Law.

Sec. 586.11. Public Education and Outreach.

The Westchester County Human Rights Commission shall develop and implement a multilingual outreach program to inform the public, including employees, and persons providing and/or receiving emergency assistance relating to domestic violence or human trafficking about the availability of safe time leave under this Chapter. This program shall include the distribution of notices and other written materials in English and Spanish and any language deemed appropriate by the Westchester County Human Rights Commission to elder care providers, domestic violence shelters, hospitals, community health centers, office of court administration and legal service providers in Westchester County.

Sec. 586.12. Reverse Preemption.

This local law shall be null and void on the day that Statewide or Federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent State or Federal administrative agency issues and promulgates regulations preempting such action by the County of Westchester. The County Board of Legislators may determine via resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

Sec. 586.13. Severability.

If any provision of this Chapter or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared severable. \$2. This Local Law shall take effect 180 days after its adoption.

FISCAL IMPACT STATEMENT

SUBJECT: Safe Leave Act NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT
To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

- GENERAL FUND AIRPORT FUND SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ -
Total Current Year Revenue \$ -

Source of Funds (check one):
 Current Appropriations Transfer of Existing Appropriations
 Additional Appropriations Other (explain)

Identify Accounts: Consumer Protection (101-25-Variou)

Potential Related Operating Budget Expenses: Annual Amount
 Describe: Enforcement of this statute will result in minimal additional costs for the Department of Consumer Protection.

Potential Related Operating Budget Revenues: Annual Amount
 Describe:

Anticipated Savings to County and/or Impact on Department Operations:

Current Year:
Next Four Years:

Prepared by: Gideon Grande
Title: Deputy Director
Department: Budget
Date: January 23, 2019

Reviewed By: [Signature]
Budget Director
Date: 4/23/19

TO: Linda Trentacoste
Deputy County Attorney

FROM: David S. Kvinge, AICP, RLA, CFM
Director of Environmental Planning

DATE: March 25, 2019

SUBJECT: STATE ENVIRONMENTAL QUALITY REVIEW FOR SAFE TIME LEAVE LAW



PROJECT/ACTION: Add a new Chapter 586 to the Laws of Westchester County that will require employers to provide paid leave for victims of domestic violence and human trafficking in order to attend criminal or court proceedings and/or relocate to a safe location.

With respect to the State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617, the Planning Department recommends that no further environmental review is required because the project/action:

- DOES NOT MEET THE DEFINITION OF AN "ACTION" AS DEFINED UNDER SECTION 617.2(b)
 MAY BE CLASSIFIED AS TYPE 11 PURSUANT TO SECTION 617.5(c)()

COMMENTS: None

DSK/cmm
cc: Steve Bass, Assistant to the County Executive
Tina Limengo, Committee Coordinator, Board of Legislators
Stacey Dolgin-Kmetz, Chief Deputy County Attorney
Norma Drummond, Commissioner
Claudia Maxwell, Associate Environmental Planner



George Latimer
County Executive

James Maisano, Director
Department of Consumer Protection

Tejash V. Sanchala, Esq., Executive Director
Human Rights Commission



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