

Is the New York City Council Barking up the Wrong Tree with its Pet Leave Bill?

On October 23, 2024, New York City councilmembers introduced a bill, Int. 1089, to amend the New York City Earned Safe and Sick Time Act (“ESSTA”) to allow employees to use sick time to care for animals. While employers may not find this amendment to be the “cat’s meow,” the proposed amendment to the existing law, as currently drafted, would expand the list of reasons why an employee could use ESSTA leave to include those associated with the care of an employee’s “covered animal” as discussed below. It would not, however, require employers to provide increased paid sick leave.

The Requirements of ESSTA

As we discussed previously in more detail [here](#), under ESSTA, employers in New York City with 100 or more employees must provide up to 56 hours of paid safe and sick time leave each calendar year. Employers with between 5 and 99 employees (or who employ at least one domestic worker) must provide up to 40 hours of paid safe and sick time leave. Employers with four or fewer employees must provide up to 40 hours of safe and sick time leave, but that leave may be unpaid if the employer has a net income of less than \$1,000,000 during the previous year.

Currently, employees may use safe and sick time for a variety of reasons, including (i) to obtain medical treatment for themselves (including preventative, prenatal, dental, or mental health care), (ii) to recover from illness, (iii) to care for an ill family member, (iv) to accompany a family member to a medical appointment, (v) to receive vaccinations, (vi) to care for a child whose school has closed due to a public health emergency, or (vii) to obtain services or attend court proceedings for themselves or a family member who has been the victim of domestic violence, stalking, a family offense, sexual violence, or human trafficking. The law defines “family member” broadly, and can include a child, parent, spouse, or any other individual related to the employee or with whom the employee has a close association that is the equivalent of a family relationship.

In March 2024, the City amended ESSTA to provide a private right of action, enabling employees to bring claims in court alleging violations of ESSTA within two years of the date the employee knew or should have known of such violation. In addition to bringing claims in courts, employees can also raise concerns about ESSTA violations with the City’s Department of Consumer and Worker Protection (“DCWP”).

Pets are Family Too?

Although ESSTA broadly defines family for the purposes of taking protected safe and sick time leave, the current definition does not apply to furry or other non-human companions. Int. 1089, however, seeks to permit employees to use ESSTA leave for “care of a covered animal that needs medical diagnosis, care or treatment of a physical illness, injury or health condition that needs preventative medical care.” This would presumably include visits to veterinarians and other animal health providers.

Int. 1089 defines a “covered animal” as “an employee’s animal that is a service animal or is an animal kept primarily for companionship in compliance with all applicable laws.” Such a definition would presumably include all service animals and domesticated pets. From the plain text of the bill it appears that, if passed, the law would not require employers to permit employees to use ESSTA leave for an animal that does not belong to the employee, such as caring for a neighbor’s or a relative’s pet or a stray animal (although there is an absence of guidance as to when a stray which is taken in and becomes a “pet” becomes domesticated and a “covered animal”).

Care for Fido but not Moo Deng?

The bill, as drafted, also appears to exclude animals that are not kept in compliance with applicable laws. New York City's Department of Health and Mental Hygiene ("DOHMH") limits acceptable pets to cats, dogs, rabbits, horses, gerbils, hamsters, guinea pigs, chinchillas, small birds (including hens), non-snapping turtles larger than four inches, certain reptiles, honeybees, and properly maintained pigeon coops. Banned pets include ferrets, roosters, giraffes, kangaroos, elephants, venomous snakes, and hippopotamuses (although good luck to anyone who decides to keep a hippo for "companionship" in a New York City apartment!). The bill does not currently offer guidance as to whether an employee who lives outside of New York City, in a nearby jurisdiction where it is permissible to raise "exotic animals" or farm animals as pets, can take ESSTA leave from their City-based job to care for one of these "excluded creatures." In one manner, this amendment and the controversy which its potential passage raises is similar to the airlines' recent crackdown on what constitutes an "emotional support animal" for purposes of accompanying their owners on airline flights regardless of duration and their human neighbors' allergies are other concerns onboard.

Guidance for Employers

Int. 1089 has been referred to the Committee on Consumer and Worker Protection and currently has four sponsors in the City Council. We venture a guess that each sponsor is the proud owner of at least one covered animal. If passed, the amendment to the existing law would go into effect in 120 days from passage.

For now, employers are not required to grant employees' requests to use ESSTA leave for pet care and may deny such requests with impunity. However, even if passed, this bill would not increase the amount of ESSTA leave that each employee can use each year; it would simply expand the basis on which leave must be granted. The total amount of ESSTA leave time provided to each employee remains the same, regardless of the number of covered family members—human or otherwise—an employee may have. As such, employers will not be required to grant more paid leave to employees regardless of the number of pets owned and cared for by an employee, or offer lesser amounts of paid sick leave to employees without pets.

Further, because employers must not request documentation to support an employee's ESSTA leave unless an employee has been absent for three or more consecutive work days, it is possible that employees have already been calling out "sick" from work to take their beloved pet to the vet. Nonetheless, it's completely fair to assume that if Int. 1089 becomes law, employers will see an increased amount of leave for pet-related reasons as employees will no longer have to shroud their time off for vet visits as associated with those criteria already permissible under existing law.

As written, the bill would not require employers to offer any type of "bonding leave" (or "pet-ternity leave") for an employee who becomes a new pet parent (although it is certainly likely that a new pet might require medical care that would qualify for ESSTA leave). The bill also does not require employers to permit the use of ESSTA leave in the unfortunate situation of the death of a pet, although New York employers are not legally required to provide any bereavement leave for actual family members either. Employers of course have discretion whether or not to include pets in existing bereavement leave and other permissive policy statements, or whether to grant employees paid or unpaid leave above and beyond what is required under ESSTA.

We will continue to monitor this bill and bark out an update if the bill passes.

Key Contacts

Our Labor & Employment Law team is available to assist employers in navigating full compliance with New York Labor Laws and the New York City Earned Safe and Sick Time Act, including assisting with time and leave policies and pet-sitting if needed.

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