

ARIZONA

23-371. Definitions

For purposes of this article:

A. "Abuse" means an offense prescribed in section 13-3623, Arizona Revised Statutes.

B. "Commission" is as defined in section 23-362, Arizona Revised Statutes.

C. "Domestic Violence" is as defined in section 13-3601, Arizona Revised Statutes.

D. "Earned paid sick time" means time that is compensated at the same hourly rate and with the same benefits, including health care benefits, as the employee normally earns during hours worked and is provided by an employer to an employee for the purposes described in section 23-373 of this article, but in no case shall this hourly amount be less than that provided under the Fair Labor Standards Act of 1938 (29 United States Code section 206(A)(1)) or section 23-363, Arizona Revised Statutes.

E. "Employ" is as defined in section 23-362, Arizona Revised Statutes.

F. "Employee" is as defined in section 23-362, Arizona Revised Statutes. Employee includes recipients of public benefits who are engaged in work activity as a condition of receiving public assistance.

G. "Employer" includes any corporation, proprietorship, partnership, joint venture, limited liability company, trust, association, political subdivision of the state, individual or other entity acting directly or indirectly in the interest of an employer in relation to an employee, but does not include the State of Arizona or the United States.

H. "Family member" means:

1. Regardless of age, a biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, a child to whom the employee stands in loco parentis, or an individual to whom the employee stood in loco parentis when the individual was a minor;
2. A biological, foster, stepparent or adoptive parent or legal guardian of an employee or an employee's spouse or domestic partner or a person who stood in loco parentis when the employee or employee's spouse or domestic partner was a minor child;
3. A person to whom the employee is legally married under the laws of any state, or a domestic partner of an employee as registered under the laws of any state or political subdivision;
4. A grandparent, grandchild or sibling (whether of a biological, foster, adoptive or step relationship) of the employee or the employee's spouse or domestic partner; or
5. Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

I. "Retaliation" is as defined in section 23-364, Arizona Revised Statutes.

J. "Sexual violence" means an offense prescribed in: (a) title 13, chapter 14, Arizona Revised Statutes, except for sections 13-1408 and 13-1422; or (b) sections 13-1304(A)(3), 13-1307, 13-3019, 13-3206, 13-3212, 13-3552, 13-3553, 13-3554, or 13-3560, Arizona Revised Statutes.

K. "Stalking" means an offense prescribed in section 13-2923, Arizona Revised Statutes.

L. "Year" means a regular and consecutive 12-month period as determined by the employer.

23-372. Accrual of earned paid sick time

A. Employees of an employer with 15 or more employees shall accrue a minimum of one hour of earned paid sick time for every 30 hours worked, but employees shall not be entitled to accrue or use more than 40 hours of earned paid sick time per year, unless the employer selects a higher limit.

B. Employees of an employer with fewer than 15 employees shall accrue a minimum of one hour of earned paid sick time for every 30 hours worked, but employees shall not be entitled to accrue or use more than 24 hours of earned paid sick time per year, unless the employer selects a higher limit.

C. In determining the number of employees performing work for an employer for compensation during a given week, all employees performing work for compensation on a full-time, part-time or temporary basis shall be counted. In situations in which the number of employees who work for an employer for compensation per week fluctuates above and below 15 employees per week over the course of the year, an employer is required to provide earned paid sick time pursuant to subsection A of this section if it maintained 15 or more employees on the payroll for some portion of a day in each of 20 different calendar weeks, whether or not the weeks were consecutive, in either the current or the preceding year (irrespective of whether the same individuals were in employment in each day).

D. All employees shall accrue earned paid sick time as follows:

1. Earned paid sick time as provided in this section shall begin to accrue at the commencement of employment or on July 1, 2017, whichever is later. An employer may provide all earned paid sick time that an employee is expected to accrue in a year at the beginning of the year.

2. An employee may use earned paid sick time as it is accrued, except that an employer may require an employee hired after July 1, 2017, to wait until the ninetieth calendar day after commencing employment before using accrued earned paid sick time, unless otherwise permitted by the employer.

3. Employees who are exempt from overtime requirements under the Fair Labor Standards Act of 1938 (29 United States Code section 213(A)(1)) will be assumed to work 40 hours in each work week for purposes of earned paid sick time accrual unless their normal work week is less than 40 hours, in which case earned paid sick time accrues based upon that normal work week.

4. Earned paid sick time shall be carried over to the following year, subject to the limitations on usage in subsections A and B. Alternatively, in lieu of carryover of unused earned paid sick time from one year to the next, an employer may pay an employee for unused earned paid sick time at the end of a year and provide the employee with an amount of earned paid sick time that meets or exceeds the requirements of this article that is available for the employee's immediate use at the beginning of the subsequent year.

5. If an employee is transferred to a separate division, entity or location, but remains employed by the same employer, the employee is entitled to all earned paid sick time accrued at the prior division, entity or location and is entitled to use all earned paid sick time as provided in this section. When there is a separation from employment and the employee is rehired within nine months of separation by the same employer, previously accrued earned paid time that had not been used shall be reinstated. Further, the employee shall be entitled to use accrued earned paid sick time and accrue additional earned paid sick time at the re-commencement of employment.

6. 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 earned paid sick time they accrued when employed by the original employer, and are entitled to use earned paid sick time previously accrued.

7. At its discretion, an employer may loan earned paid sick time to an employee in advance of accrual by such employee.

E. Any employer with a paid leave policy, such as a paid time off policy, who makes available an amount of paid leave sufficient to meet the accrual requirements of this section that may be used for the same purposes and under the same conditions as earned paid sick time under this article is not required to provide additional paid sick time.

F. Nothing in this article shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement or other separation from employment for accrued earned paid sick time that has not been used.

23-373. Use of earned paid sick time

A. Earned paid sick time shall be provided to an employee by an employer for:

1. An employee's mental or physical illness, injury or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; an employee's need for preventive medical care;

2. Care of a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; care of a family member who needs preventive medical care;

3. Closure of the employee's place of business by order of a public official due to a public health emergency or an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency, or care for oneself or a family member when it has been determined by the health authorities having jurisdiction or by a health care provider that the employee's or family member's presence in the community may jeopardize the health of others because of his or her exposure to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease; or

4. Notwithstanding section 13-4439, Arizona Revised Statutes, absence necessary due to domestic violence, sexual violence, abuse or stalking, provided the leave is to allow the employee to obtain for the employee or the employee's family member:

(a) Medical attention needed to recover from physical or psychological injury or disability caused by domestic violence, sexual violence, abuse or stalking;

(b) Services from a domestic violence or sexual violence program or victim services organization;

(c) Psychological or other counseling;

(d) Relocation or taking steps to secure an existing home due to the domestic violence, sexual violence, abuse or stalking; or

(e) Legal services, including but not limited to preparing for or participating in any civil or criminal legal proceeding related to or resulting from the domestic violence, sexual violence, abuse or stalking.

B. Earned paid sick time 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.

C. When the use of earned paid sick time is foreseeable, the employee shall make a good faith effort to provide notice of the need for such time to the employer in advance of the use of the earned paid sick time and shall make a reasonable effort to schedule the use of earned paid sick time in a manner that does not unduly disrupt the operations of the employer.

D. An employer that requires notice of the need to use earned paid sick time where the need is not foreseeable shall provide a written policy that contains procedures for the employee to provide notice. An employer that has not provided to the employee a copy of its written policy for providing such notice shall not deny earned paid sick time to the employee based on non-compliance with such a policy.

E. An employer may not require, as a condition of an employee's taking earned paid sick time, that the employee search for or find a replacement worker to cover the hours during which the employee is using earned paid sick time.

F. Earned paid sick time may be used in the smaller of hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time.

G. For earned paid sick time of three or more consecutive work days, an employer may require reasonable documentation that the earned paid sick time has been used for a purpose covered by subsection

A. Documentation signed by a health care professional indicating that earned paid sick time is necessary shall be considered reasonable documentation for purposes of this section. In cases of domestic violence, sexual violence, abuse or stalking, one of the following types of documentation selected by the employee shall be considered reasonable documentation:

1. A police report indicating that the employee or the employee's family member was a victim of domestic violence, sexual violence, abuse or stalking;

2. A protective order; injunction against harassment; a general court order; or other evidence from a court or prosecuting attorney that the employee or employee's family member appeared, or is scheduled to appear, in court in connection with an incident of domestic violence, sexual violence, abuse, or stalking;

3. A signed statement from a domestic violence or sexual violence program or victim services organization affirming that the employee or employee's family member is receiving services related to domestic violence, sexual violence, abuse, or stalking;

4. A signed statement from a witness advocate affirming that the employee or employee's family member is receiving services from a victim services organization;

5. A signed statement from an attorney, member of the clergy, or a medical or other professional affirming that the employee or employee's family member is a victim of domestic violence, sexual violence, abuse or stalking; or

6. An employee's written statement affirming that the employee or the employee's family member is a victim of domestic violence, sexual violence, abuse, or stalking, and that the leave was taken for one of the purposes of subsection A, paragraph 4 of this section. The employee's written statement, by itself, is reasonable documentation for absences under this paragraph. The written statement does not need to be in an affidavit format or notarized, but shall be legible if handwritten and shall reasonably make clear the employee's identity, and if applicable, the employee's relationship to the family member.

H. The provision of documentation under subsection G does not waive or diminish any confidential or privileged communications between a victim of domestic violence, sexual violence, abuse or stalking with one or more of the individuals named in subsection G.

I. An employer may not require that documentation under subsection G explain the nature of the health condition or the details of the domestic violence, sexual violence, abuse or stalking.