



PAID SICK LEAVE

Cities across New Jersey have enacted mandatory paid sick leave laws over the past few years, and now an effort is underway to pass similar legislation at the state level. Regardless of whether this is a good policy choice, provisions that make the state's courts partially responsible for enforcing this legislation are concerning. As a means of regulating the state's businesses, the judicial system is not only a blunt instrument, it is also an extraordinarily unpredictable and expensive instrument.

Putting enforcement in the hands of the court lowers the fiscal note on a bill, but ignores the fact that requiring employees to file a lawsuit in the state's already over-burdened courts is not the most efficient means of solving sick leave disputes.

Employees will have to hire a lawyer, gather evidence admissible in court, and then wait for the courts to get around to taking up their case rather than enjoying swift action from a regulatory agency that specializes in resolving employer-employee disputes. The time and money spent pursuing the claim will far exceed the employees alleged damages.

If lawsuits are the legislature's preferred method of dispute resolution, lawmakers should at least ensure that both parties are starting on equal footing. Previous legislation has placed employers at a disadvantage by including a rebuttable presumption that an employer has committed an unlawful retaliatory action if they take an adverse action against an employee within 90 days of an employee exercising their rights under the bill. Though rebuttable, presumptions such as this are extremely difficult to overcome in court. If this provision is not removed from future bills, employers will not be able to make basic management decisions that negatively impact an employee that was sick within the last 3 months without worrying they will be sued for retaliation.

Putting enforcement of a paid sick leave mandate in the hands of the courts is overly burdensome on employees, employers, and the court system. Disputes over regulatory mandates such as paid sick leave can be resolved more expeditiously through agency actions, and more fairly by removing one-sided presumptions.