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Earned Sick Leave

How Local Officials Can Improve
Public Health and Economic Security



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Everyone gets sick, but not everyone is able to take the time they need to get better. Without the ability to take paid time away from work to deal with illness, workers must either forgo critical wages — and possibly risk job loss — in order to stay home and recover, or come into work sick and risk their own health and that of their coworkers and the public. The COVID-19 pandemic has exacerbated this tension by significantly increasing people’s need for time off for the purposes of testing, treatment of and recovery from illness, child and elder care closures, vaccination, and recovery from side effects of vaccination. In addition, recent data from multiple cities indicates that domestic violence incidents increased 8.1% during pandemic lockdowns,¹ which is likely to result in greater need for time away from work for survivors to obtain crucial services.

The impossible choice between economic security and health is the reality for many workers in the U.S. Nearly one quarter of private sector workers — and nearly seven in 10 of the lowest-income workers in that sector — don’t have access to even a single earned sick day.² Millions more don’t have access to Earned Sick Leave because they are too new to their jobs to be eligible for their employers’ policies. In total, more than 26 million U.S. workers don’t have access to this basic protection.³

Fortunately, a policy solution to this dilemma is within reach. Earned Sick Leave policies allow workers to accrue time off with pay to use when they must be absent from work to deal with a personal or family member’s illness. This report explores the need for Earned Sick Leave laws, what cities can do to ensure access to Earned Sick Leave, the benefits of Earned Sick Leave for workers, communities, and businesses, examples of cities that have successfully passed Earned Sick Leave laws, and the limits that state preemption can pose for cities’ ability to enact such laws.

Access to Earned Sick Leave Impacts Economic Security and Racial Equity

Twenty-three percent of private sector workers lack access to even a single earned sick day. Access is lowest for the most marginalized workers: only 33% of the lowest-paid full-time workers (those in the lowest 10%



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of wage earners) have access to Earned Sick Leave, as do only 48% of all part-time workers. Disparities in access to all types of leave can exacerbate existing racial inequities in the workplace: nearly half (48%) of Latinx workers and more than one-third (36%) of Black workers report having no paid time away from work of any kind.⁴ The consequences of this lack of access can be devastating for the health of workers, their families, their coworkers and their communities, as well as the economic stability of these workers and their families.

EARNED SICK LEAVE POLICIES allow workers to take brief periods of time away from work to attend to their and their family’s health. These laws allow workers to accrue time so they can recover from illness, attend doctor’s appointments, pick up sick children from school, and accommodate public health emergencies and business or school closures. Some Earned Sick Leave laws also include paid safe days that allow survivors of domestic violence, sexual assault, or stalking to seek services related to these incidents.

Getting sick can have serious economic consequences for workers without access to Earned Sick Leave. For typical families that lack paid sick time, just a few days of lost pay is equivalent to losing an entire month’s worth of groceries or health care expenses.⁵ In addition, many people go to work sick because they fear



workplace discipline or losing their jobs. A 2010 study found that nearly one in four workers reported either losing a job or being threatened with job loss for needing to take a sick day.⁶

The lack of access is also compounded by racial wage and wealth gaps. Since Latinx and Black workers, on average, are paid less, have less savings, and have less access to wealth than white workers, a loss of income can add up even more quickly.⁷ Only 45% of Black adults and 47% of Latinx adults reported that they would cover a \$400 emergency expense using cash, compared to 72% of white adults.⁸ In 2018, more than one in six Latinx individuals and nearly 20% of Black individuals were living in poverty.⁹ These conditions make it much more difficult to weather a loss of income due to illness or health needs.

Lack of Earned Sick Leave Increases Risk of Community Contagion and Workplace Injury

People with Earned Sick Leave are 1.5 times less likely than those without these protections to report going to work with a contagious illness like the flu or a viral infection.¹⁰ Workers who interact the most with the public are often the least likely to have Earned Sick

Leave. The vast majority of people working in food service (81%) and in personal care and service (including child care) (75%) lack access to Earned Sick Leave.¹¹ Workers in these occupations are also more likely to be exposed to contagious illnesses and, therefore, to spread illnesses to the public when they are forced to go to work while sick.

Food service workers who have certain illnesses, including the flu or norovirus, are required by the Food and Drug Administration to work on a restricted basis until 24 hours after symptoms subside,¹² yet these workers typically can't afford to take unpaid sick leave. Nearly 60% of food service workers surveyed in a Centers for Disease Control and Prevention study reported working while sick, and 43% of those workers said they went to work because they didn't have Earned Sick Leave.¹³ Nearly half (46%) of restaurant-associated illness outbreaks involve an infected food service worker.¹⁴

Lack of Earned Sick Leave also increases workers' likelihood of being injured on the job. Illness can reduce workers' functional capacity, such as physical capability and ability to focus, making worksites less safe. Impacts are greater in more dangerous occupations; a construction worker without Earned Sick Leave is 21% more likely to experience a non-fatal occupational injury than one with these protections.¹⁵

AT THE BEGINNING OF THE COVID-19

PANDEMIC, Congress passed the Families First Coronavirus Response Act (FFCRA), which provided many workers across the country with emergency Earned Sick Leave. This emergency leave helped flatten the curve in the U.S. In the states where workers gained access to emergency sick leave because of FFCRA, there were 400 fewer coronavirus cases per state per day, which translated to a national impact of 15,000 fewer cases per day.¹⁶ While FFCRA greatly helped those who gained access to Earned Sick Leave — along with their families and thousands of people who were spared exposure to coronavirus — many workers were exempted and the protections expired at the end of 2020 while the pandemic was still in full force.

People without Earned Sick Leave Are Less Likely to Obtain Timely and Cost-Effective Preventive Care

Workers without Earned Sick Leave are more likely to delay needed medical care, which can lead to prolonged illnesses and turn minor health problems into major, more costly ones.¹⁷ Workers who do not have Earned Sick Leave are three times more likely than those with Earned Sick Leave to neglect medical care for themselves, and they are nearly two times more likely to forgo medical care for their families.¹⁸ Workers who lack Earned Sick Leave are also less likely to be able to afford health care goods and services, more likely to incur high medical expenses, and more likely to have a family income below the poverty threshold than those who have Earned Sick Leave.¹⁹

Not having sick days remains a significant barrier to health care access, despite increased affordability of

preventive health care services under the Affordable Care Act. Workers without Earned Sick Leave are less likely to go to the doctor or access preventive care, such as cancer screenings, annual physicals, and Pap smears.²⁰ Workers lacking access to Earned Sick Leave are also 61% less likely to have received a flu shot.²¹ When workers cannot take time off to seek medical care during normal work hours, they are left with few choices for care and are more likely to resort to costly emergency room visits. Working people with Earned Sick Leave are 32% less likely than people without Earned Sick Leave to visit the emergency department recurrently.²² It is estimated that preventable emergency room visits among workers without Earned Sick Leave cost the United States more than \$1.1 billion per year, with nearly half of the costs coming from taxpayer-funded programs like Medicaid, Medicare, and the State Children's Health Insurance Program.²³

Children Whose Parents Lack Earned Sick Leave Face Negative Health Consequences

With widespread returns to in-person learning and the continuing pandemic, families face disruptions including school and child care closures, quarantines, and the spread of other illnesses. Even before the school year began, children were experiencing an unseasonable surge in severe colds, croup, and respiratory syncytial virus.²⁴ Even in a non-pandemic year, seven in 10 school-aged children miss a day or more of school each year due to illness or injury.²⁵ As of January 2022, the American Academy of Pediatrics estimates that nearly 9.5 million children have tested positive for COVID-19 since the start of the pandemic.²⁶ In August 2021, an average of one in five parents per week faced an interruption in their child care arrangements.²⁷

In a recent survey, when a child stayed at home in the prior eight weeks, only about one in four parents was able to take paid time off to be at home with them.²⁸ Working parents without Earned Sick Leave are more than twice as likely as those with Earned Sick Leave to send a sick child to school or daycare. As a result, they are forced to put the health of their children — and that of their children's classmates and teachers — at risk. A 2010 study suggests that working parents

without Earned Sick Leave are also 2.5 times more likely than those with Earned Sick Leave to report taking a child or family member to the emergency room because they were unable to take time off during their normal job hours.²⁹

Sick children have more trouble learning, and it is more difficult for teachers to teach them. Healthy children miss fewer days of school and experience fewer behavioral problems.³⁰ And research consistently suggests that student performance and overall achievement is lower when teachers are absent.³¹ When parents have access to Earned Sick Leave, they can take their children to get checkups, vaccines, and regular care for chronic illnesses, which help children stay healthy. Parents with Earned Sick Leave can use preventive care to address their children's health conditions,

which helps to promote academic success by keeping manageable problems from leading to excessive school absences.³² Additionally, sick children recover better when cared for by their parents.³³ Among children with serious illnesses, the presence of a parent shortens a child's hospital stay by 31%.³⁴ Active parental involvement in a child's care may head off future health care needs, partly due to increased parental education and awareness.³⁵

Children whose parents do not have Earned Sick Leave are less likely to receive preventive health care themselves, such as flu vaccines and annual checkups, compared to children whose parents do have Earned Sick Leave.³⁶ Children whose mothers lack Earned Sick Leave are also less likely to receive routine well-child checkups, dental care, and flu shots.³⁷



Local Officials Can Lead the Way on Earned Sick Leave Laws

When designing Earned Sick Leave laws, policymakers should be aware of the decision points that particularly impact low-income workers and structure laws in a way that alleviates rather than exacerbates existing inequalities. This policy overview is based on the National Partnership for Women & Families' experience with providing policy and technical assistance to advocates and policymakers developing Earned Sick Leave policies and implementing these laws; research on Earned Sick Leave access for workers in low-wage jobs; and consulting with organizations that work directly on behalf of such workers.

Many state and local governments have adopted earned sick leave laws due to their multiple benefits. Thirty-seven jurisdictions nationwide have adopted Earned Sick Leave laws, including 13 states, 20 cities and four counties:³⁸

- **Statewide Laws:** Arizona, California, Colorado, Connecticut, Massachusetts, Maryland, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, and Washington state
- **California:** Berkeley, Emeryville, Los Angeles, Oakland, San Diego, San Francisco, and Santa Monica
- **District of Columbia:** Washington, D.C.
- **Illinois:** Chicago and Cook County
- **Maryland:** Montgomery County
- **Minnesota:** Duluth, Minneapolis, and Saint Paul
- **New York:** New York City and Westchester County
- **Pennsylvania:** Allegheny County, Pittsburgh, and Philadelphia
- **Texas:** Austin, Dallas, and San Antonio*
- **Washington:** Seattle and Tacoma

* Currently, all three ordinances passed in Texas are on hold pending review by the courts.

There is an opportunity for other cities to learn from the experience of cities that have Earned Sick Leave laws in place. What follows is an overview of the major policy questions that cities may wish to consider when enacting Earned Sick Leave laws, with a particular lens towards helping the most marginalized workers.

For cities considering Earned Sick Leave policies, an assessment of the legal authority and potential pathways to implementation is required. Accordingly, cities should research whether their state has any laws that explicitly prohibit localities from enacting Earned Sick Leave laws. A locality's authority is typically determined by the parameters of home rule power, which may be found in the state constitution, the city's or county's own charter, other state laws, and state court decisions. Typically, cities and other localities will have home rule power to legislate with respect to public safety, health, and welfare, which forms the basis for the power to enact an Earned Sick Leave law. The past decade has seen a national trend of state legislatures passing laws that prohibit local governments from passing laws that go beyond state or federal law in regulating business activities such as wages and benefits.³⁹ These laws have had the effect of preventing cities and counties from passing Earned Sick Leave laws and retroactively undoing laws that have already been enacted. To date, laws prohibiting local Earned Sick Leave ordinances have been passed in 19 states, and preemption is regularly introduced in states across the country.⁴⁰ Preemption laws can also lead to confusion and litigation as the courts sort through challenges to existing ordinances.

Earned Sick Leave Laws Should Be Written to Cover a Broad Range of Health-Related Purposes and Family Members

At minimum, Earned Sick Leave laws should guarantee access to leave to deal with one's own illness, including mental health needs, and caring for an ill family member. These are the basic purposes that are

necessary for realizing benefits from an Earned Sick Leave law and are covered in all state and local Earned Sick Leave laws that are in place.

Several jurisdictions also require leave for dealing with certain needs related to domestic violence, sexual assault, or stalking. These protections are important for gender and economic equity because economic security is a key barrier to escaping and addressing domestic violence, sexual assault, and stalking. Victims of domestic violence may urgently need to seek medical assistance, obtain a protective order, access assistance, or relocate from their current dwelling. Domestic violence has been shown to have significant negative effects on women's job stability and economic well-being.⁴¹

Increasing economic stability is one recommended intervention to prevent family and domestic violence.⁴² Women in economically distressed households and neighborhoods are more likely to experience domestic violence and a lack of financial resources often traps these women in cycles of abuse.⁴³ Additionally, low-income workers typically cannot afford the lost wages and out-of-pocket costs associated with the fallout from domestic violence incidents. Nearly three in 10 stalking victims incur out-of-pocket costs from attorney fees, replacing or repairing damage to property, child care, and moving or changing phone numbers.⁴⁴ Allowing Earned Sick Leave to be used for time needed away from work for issues related to domestic violence and sexual assault encourages economic stability and personal safety, particularly for women workers.

A number of jurisdictions also allow workers to use their accrued Earned Sick Leave time in the event of a public health emergency.⁴⁵ Access to Earned Sick Leave reduces the spread of infectious diseases and curbs the financial risk of unforeseen public health emergencies and closures — which is especially important in the wake of the economic and public health devastation of the coronavirus pandemic. Allowing for accrued paid sick time to be used in the event of an unforeseeable public health emergency or the closure of a child's school or place of care is key to protecting low-income workers, particularly those who work in public-facing industries, from penalties that may be incurred for circumstances beyond their control.

Often, when such an emergency — like the closure of a child's place of care — arises, child care can be difficult to find or cost prohibitive. People with low incomes are less likely to have savings to cover such an unexpected cost. And in most households, particularly those below the poverty level in which families have extremely limited savings, losing pay due to an unforeseen circumstance can be financially devastating.⁴⁶ Unexpected closures of schools or places of business due to public health emergencies can result in unexpected costs for those most likely to lose pay. Allowing Earned Sick Leave to be used to cover such unforeseeable events can mitigate any additional cost that might be incurred by the employee.

Earned Sick Leave Laws Should Cover All Employers, Regardless of Size or Industry

A broad definition of employer — such as not having an employer size threshold — allows for the greatest share of workers to be covered under an Earned Sick Leave law. Employer size thresholds disproportionately exclude low-wage workers: 42% of low-wage workers and 35% of workers in low-income families with children are employed by businesses with fewer than 10 workers.⁴⁷ And roughly half of the minimum-wage workforce is employed at businesses with 100 or fewer employees.⁴⁸

Earned Sick Leave Laws Should Cover All Workers — Including Those on Public Assistance

Carving out workers in seasonal or agricultural, temporary services, and tipped industries — jobs which tend to be low wage — puts the most vulnerable workers at risk of financial insecurity. For example, tipped workers are nearly twice as likely to be in poverty (12.8%) than non-tipped workers (6.5%).⁴⁹ It is also important to include public assistance recipients (i.e., those workers who have jobs but also receive public assistance) and nontraditional workers in Earned Sick Leave policies. As the majority of recipients of public assistance hold jobs or have family members who work,⁵⁰ inclusion under the law allows for greater access to paid sick time and stronger economic



stability for these workers. Cities should also consider following the lead of Seattle's lawmakers by extending Earned Sick Leave protections to cover gig workers.

Seattle implemented an Earned Sick Leave law in 2012, helping tens of thousands of workers access paid time off when they or a family member was ill. The ordinance passed with the support of a diverse range of stakeholders, including many small businesses who spoke out in support of the ordinance.⁵¹ Seattle's leadership and the success of its Earned Sick Leave law — both its effectiveness at providing economic security to workers and creating healthy workplaces — paved the way for the state of Washington to implement a statewide Earned Sick Leave law in 2018. In 2020, during the COVID-19 pandemic, Seattle again led the way by temporarily expanding its paid sick leave requirement to cover gig workers, like those driving or making deliveries for app-based platforms.

Local Earned Sick Leave Laws Should Offer a Sufficient Amount of Earned Sick Leave

The vast majority of state Earned Sick Leave laws require employers to provide at least 40 hours of paid sick time per year, and nearly half of the city and

county laws require 48 hours per year or more. Offering a greater amount of time is especially critical for workers with greater health needs, including workers with disabilities or chronic health conditions, new parents, and workers of color (who face significant health disparities as a consequence of institutionalized racism).⁵²

Cities that Lead on Earned Sick Leave Stand to Reap Significant Benefits

A recent study found that the general flu rate in jurisdictions with Earned Sick Leave laws decreased by 5.5%-6.5% after the laws took effect.⁵³ Connecticut's Earned Sick Leave law led to a faster decline in occupational injuries and illnesses in jobs covered by the law compared to rates for those same occupations in New York and nationally.⁵⁴ In Washington state, the Earned Sick Leave law cut the share of retail and food service workers who reported working while sick by 8%.⁵⁵ If all workers had Earned Sick Leave, research suggests that 1.3 million emergency room visits could be prevented and public and private costs would be saved.⁵⁶ Evidence strongly demonstrates that public policies that guarantee a minimum amount of Earned Sick Leave benefit public health and provide working people the time they

need to recover from an illness or care for a sick family member without compromising their financial stability.

Businesses also benefit when their employees have access to Earned Sick Leave. Workers can obtain timely medical care and recover faster from illness, enabling them to get back to work sooner and reducing health care costs. Many businesses have implemented sick leave policies that give workers paid, job-protected time off to address basic health needs. These business leaders understand the benefits of allowing employees to take time away from work to address personal and family illnesses. These benefits include:

► **Cost savings from greater workforce stability:**

Replacing workers can cost anywhere from 16 to 200% of annual compensation.⁵⁷ Earned Sick Leave reduces turnover, which leads to reduced costs incurred from advertising, interviewing, and training new hires.⁵⁸ This is particularly important in lower-wage industries where turnover is highest. A study of restaurant industry practices found that implementing better workplace practices, including Earned Sick Leave, can reduce turnover by 50%.⁵⁹ In Austin, Texas, a cost-benefit analysis of the citywide Earned Sick Leave ordinance showed that on net, city businesses stood to save \$4.5 million annually, largely as a result of reduced employee turnover. In addition, the community stood to save \$3.8 million per year due to reduced flu contagion, fewer emergency room visits and other public health benefits.⁶⁰

► **Increased productivity:** Earned Sick Leave helps to reduce the productivity lost when employees work sick — known as “presenteeism” — which was estimated to cost the national economy \$160 billion in 2003, or about \$234 billion when adjusted for inflation, surpassing the cost of absenteeism.⁶¹ Most human resources executives agree that presenteeism is a problem because of potential productivity loss (averaging 20% for an employee working while sick)⁶² and the risk of spreading infection.⁶³

► **Disease and illness prevention:** Employees who go to work sick endanger public health by putting the health and productivity of other workers — as well as customers and the public — at risk, which carries an economic burden for employers. Providing Earned Sick Leave could save employers up to \$1.8 billion each year through fewer absences from reduced

spread of flu-like illnesses alone.⁶⁴ The risks and costs of contagion are highest in workplaces where employees regularly deal with the public, and these are frequently the very workplaces that typically do not allow workers to earn Earned Sick Leave. For example, in a survey of women fast food workers, the vast majority (86%) said they lack access to Earned Sick Leave, and 7 in 10 reported going to work at least once in the previous year while coughing, vomiting, having a fever, or other serious symptoms.⁶⁵ This puts workers, customers, and the business itself in danger.

► **Lower health care costs:** Working adults without Earned Sick Leave are more likely to incur high family medical expenses.⁶⁶ Workers without Earned Sick Leave are twice as likely as those with Earned Sick Leave to seek emergency room care for themselves because they can’t take time away from work during normal business hours to obtain routine care. Those without Earned Sick Leave are also 2.5 times more likely to seek emergency room care for their children or other relatives.⁶⁷ These expensive emergency trips end up replacing routine medical appointments and preventive care, leading to higher health insurance costs for businesses.

A growing body of evidence from the longest standing Earned Sick Leave laws suggests that these policies are working for businesses. The majority of employers support existing Earned Sick Leave laws: In jurisdictions with Earned Sick Leave laws in effect, the majority of employers say they are supportive of the law and many did not need to change their policies to be in compliance. Almost two years after New York City’s strong Earned Sick Leave law took effect, 86% of employers expressed support for it.⁶⁸ And in San Francisco, more than three years after the city passed its law, more than two-thirds of employers expressed support for Earned Sick Leave.⁶⁹

Businesses have reported little or no impact on their bottom line after Earned Sick Leave laws take effect. Employers in jurisdictions where employees have Earned Sick Leave have seen increased growth and reported no negative impact on profitability. Connecticut, the first state to enact an Earned Sick Leave law, reported that the vast majority of employers saw minimal effects on cost and made no changes such as increased prices or reduction in employee hours.⁷⁰




CityHealth's Earned Sick Leave Medal Criteria

As a reflection of the public health and economic security implications of Earned Sick Leave, CityHealth assesses and awards medals to cities based on their adoption of high-quality Earned Sick Leave policies. City laws receive a bronze medal if they allow leave to care for family members and to deal with certain issues related to domestic violence, both of which are critical to realizing the benefits of an Earned Sick Leave policy. A silver medal is awarded to cities that provide at least 40 hours of Earned Sick Leave, which is the standard amount of leave for the majority of state and local Earned Sick Leave laws. Finally, cities that go above and beyond by providing at least 48 hours of Earned Sick Leave and covering all sizes of employers receive a gold medal.

In Seattle, employer growth was significantly stronger than in Bellevue, Tacoma, and Everett combined in the year following implementation of its Earned Sick Leave law.⁷¹ And San Francisco experienced higher rates of job and business growth than neighboring counties after its Earned Sick Leave law took effect, including in the sectors most impacted by the law.⁷²

Earned Sick Leave doesn't just benefit employees — it benefits communities as well. In cities with Earned Sick Leave laws, economic growth is a common occurrence: Nearly two years after New York implemented its Earned Sick Leave law, the number of businesses grew, consumer prices fell, labor participation was the highest on record, and unemployment was at its lowest in six years.⁷³ In Seattle, the number of employees and total wages in the city increased, and no negative impact on the economy was reported.⁷⁴

EARNED SICK LEAVE MEDAL CRITERIA

	 Bronze	 Silver	 Gold
1. City has an earned sick leave law	✓	✓	✓
2. Employee can use earned sick leave to care for family members	✗	✓	✓
3. Employee can use earned sick leave for domestic violence recovery	✗	✓	✓
4. Minimum amount of earned sick leave time an employee can earn	✗	✓ ≥ 40 hours	✓ ≥ 48 hours
5. Smallest business size covered under earned sick leave law	✗	✗	✓ = 1 employee

Conclusion

The COVID-19 pandemic made it clearer than ever that workers need policies that allow them to care for themselves and their families while maintaining their economic security. The evidence is strong: Earned Sick Leave laws protect the health of workers, families, and communities, increase health and economic equity, improve businesses' bottom lines, and boost the economy. These tried and tested policies present a prime opportunity for city lawmakers to show leadership and ensure that all workers have a fair shot at getting the care they need or caring for a loved one.

Endnotes

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