

House Bill 78

By: Representatives Alexander of the 66th, Bazemore of the 69th, Gladney of the 130th, Anulewicz of the 42nd, Jackson of the 165th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial
2 relations, so as to require all employers to implement paid sick leave for employees; to
3 provide for definitions; to provide for exceptions; to provide for eligibility and conditions;
4 to specify purposes for which paid sick leave may be taken and the rate at which paid sick
5 leave accrues; to require advance notice of intention to use sick leave under certain
6 circumstances; to provide for verification of the need for sick time in certain circumstances;
7 to provide for record keeping; to provide for construction; to prohibit discrimination against
8 an employee for inquiring about or using paid sick leave; to provide for applicability of
9 chapter with collective bargaining agreements; to authorize a civil action for any violation;
10 to provide for related matters; to provide for a short title; to repeal conflicting laws; and for
11 other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 SECTION 1.

14 This Act shall be known and may be referred to as the "Paid Sick Leave Act."

SECTION 2.

15
16 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,
17 is amended by revising Chapter 11, which is reserved, as follows:

"CHAPTER 11

18
19 34-11-1.

20 As used in this chapter, the term:

21 (1) 'Employee' means an individual who works for salary, wages, or other remuneration
22 for an employer for at least 30 hours per week.

23 (2) 'Employer' means any individual or entity that employs 25 or more employees and
24 shall include the State of Georgia and its political subdivisions and instrumentalities.

25 Such term shall not include the federal government or the legislative branch or judicial
26 branch of state government.

27 (3) 'Family member' means:

28 (A) The spouse of an employee;

29 (B) A biological, adoptive, or foster parent or child of the employee;

30 (C) A grandparent or grandchild of the employee;

31 (D) A parent-in-law of the employee;

32 (E) An individual with whom the employee was or is in a relationship of in loco
33 parentis; or

34 (F) An individual related by blood or affinity to the employee whose close association
35 with the employee is the equivalent of a family relationship.

36 (4) 'Paid sick leave' means time off that is provided to an employee by an employer that
37 may be used for the purposes specified in this chapter and is compensated at the same rate
38 of pay and with the same benefits, including, but not limited to, healthcare benefits, as
39 the employee earns from the employer at the time the employee uses the sick time.

40 (5) 'Sick time' means an absence from work for a reason authorized under this chapter.

41 (6) 'Year' means a consecutive 12 month period. Such term shall include, but shall not
42 be limited to, a calendar year, tax year, fiscal year, contract year, or the 12 month period
43 beginning on the anniversary of the date of employment of the employee. Reserved.

44 34-11-2.

45 (a) Employers shall implement a sick time policy that allows an employee to earn and
46 accrue at least 56 hours of paid sick leave per year. Paid sick leave shall accrue at the rate
47 of one hour of paid sick leave for every 30 hours worked.

48 (b) An employee shall begin to earn and accrue paid sick leave on the first day of
49 employment with an employer. Unused paid sick leave shall be carried over from one year
50 to a subsequent year; provided, however, that an employer may adopt a policy that limits
51 an employee from accruing or using more than 56 hours of paid sick leave in a year.

52 (c) An employer shall not be required to carry over unused paid sick leave if, by mutual
53 consent, the employer and the employee agree that the employee will be paid for all unused
54 paid sick leave at the end of the year in which the paid sick leave is accrued or the
55 employer will credit the employee with an amount of paid sick leave that meets the
56 requirements of this Code section on the first day of the immediately subsequent year.

57 (d) Employees who are exempt from overtime requirements under the federal Fair Labor
58 Standards Act of 1938, as amended, 29 U.S.C. Section 213(a)(1), shall be presumed to
59 work 40 hours in each workweek for the purpose of accrual of paid sick leave unless the
60 actual workweek of the employee is less than 40 hours, in which case paid sick leave shall
61 accrue based on the actual workweek of the employee.

62 (e) The requirements of subsection (a) of this Code section shall not apply to an employer
63 that has a sick time or time off policy that:

- 64 (1) Provides employees with sick time or time off that equals or exceeds the paid sick
65 leave required by this Code section and that may be used by the employee under the
66 terms and conditions as and for the purposes specified in Code Section 34-11-4; and
- 67 (2) Specifies that the protections against retaliation specified in Code Section 34-11-9
68 are applicable to the employees.
- 69 (f) Nothing in this chapter shall require an employer to compensate an employee for
70 accrued unused paid sick leave upon the employee's termination, resignation, retirement,
71 or other separation from employment.
- 72 (g) An employer shall not require an employee to:
- 73 (1) Search for or find a replacement worker as a condition of the employee's use of
74 accrued paid sick leave; or
- 75 (2) Work an alternate shift to make up for the use of paid sick leave.
- 76 (h) Upon mutual consent by the employee and the employer, an employee may work
77 additional hours or shifts during the same or next pay period without using accrued paid
78 sick leave for the hours or shifts missed; provided, however, that the employer shall not
79 require the employee to work such additional hours or shifts. If the employee works
80 additional hours or shifts, the employer shall comply with any applicable federal or state
81 laws regarding overtime pay.
- 82 (i) If a different employer succeeds or takes the place of an existing employer, all
83 employees of the original employer who remain employed by the successor employer shall
84 be entitled to all earned paid sick leave they accrued when employed by the original
85 employer, and shall be entitled to use earned paid sick leave previously accrued.
- 86 (j) An employer shall restore previously accrued unused paid sick leave to an employee
87 who is rehired by that employer within 180 days of separation from employment with the
88 employer. The employee shall be entitled to use previously accrued paid sick leave
89 immediately upon reemployment.

90 (k) If an employee is transferred to a separate division, entity, or location of the employer
91 but remains employed by that same employer, the employee shall be entitled to use all paid
92 sick leave accrued while working at the former division, entity, or location of the employer
93 and shall be entitled to retain or use all paid sick leave as provided by this chapter.

94 34-11-3.

95 (a) An employee shall be eligible to use paid sick leave beginning on the ninetieth calendar
96 day of employment with the employer and may use paid sick leave as it is accrued.

97 (b) An employer may authorize an employee to use accrued paid sick leave prior to the
98 ninetieth calendar day of employment.

99 (c) Employees shall be paid for accrued paid sick leave used at the regular rate of pay of
100 the employee.

101 (d) Accrued paid sick leave may be taken in one-hour increments or the smallest
102 increments that the payroll system of the employer uses to account for absences or use of
103 other time.

104 (e) Notwithstanding any other provision of this Code section, an employee who is
105 employed by an employer on July 1, 2023, shall be eligible to use any accrued paid sick
106 leave as it accrues on or after July 1, 2023.

107 34-11-4.

108 (a) Paid sick leave required under this chapter may be taken by an employee:

109 (1) For an employee's mental or physical illness, injury, or health condition; need for
110 medical diagnosis, care, or treatment of a mental or physical illness, injury, or health
111 condition; or need for preventive medical care;

112 (2) For care of a family member who has a mental or physical illness, injury, or health
113 condition; who needs medical diagnosis, care, or treatment of a mental or physical illness,
114 injury, or health condition; or who needs preventive medical care;

- 115 (3) In the event of a public health emergency, including, but not limited to:
116 (A) Closure of the employee's place of business or closure of the school or place of
117 care of the employee's child by order of a public official due to a public health
118 emergency;
119 (B) Self-care or for the care of a family member, if it has been determined by a federal
120 or state health department or agency or by a healthcare provider that the presence of the
121 employee or the family member of the employee in the community would jeopardize
122 the health of others; or
123 (C) Under any law, rule, or regulation that requires the employer to exclude the
124 employee from the workplace for health reasons; or
125 (4) In hourly increments or the smallest increments that the payroll system of the
126 employer uses to account for absences or use of other time.

127 34-11-5.

- 128 (a) Upon the request of an employee with accrued paid sick leave available, an employer
129 shall provide the employee with paid sick leave. If possible, the employee shall include
130 in the request the anticipated duration of the sick time requested.
131 (b) An employer may require the employee to comply with the employer's usual and
132 customary notice and procedural requirements for absences or for requesting time off if
133 such requirements do not interfere with the ability of the employee to use paid sick leave.
134 (c) If the need to use paid sick leave is foreseeable:
135 (1) The employer may require reasonable advance notice of the intention to use paid sick
136 leave, not to exceed ten days prior to the date the sick time is to begin or as soon as
137 otherwise practicable; and
138 (2) The employee shall make a reasonable attempt to schedule the use of paid sick leave
139 in a manner that does not unduly disrupt the operations of the employer.

140 (d) If the need to use paid sick leave is unforeseeable, the employee shall provide notice
141 to the employer as soon as practicable and shall comply generally with the employer's
142 notice or procedural requirements for requesting or reporting other time off, if such
143 requirements do not interfere with the ability of the employee to use paid sick leave.

144 34-11-6.

145 (a)(1) If an employee takes more than 24 consecutive hours of paid sick leave for a
146 purpose described in Code Section 34-11-4, an employer may require the employee to
147 provide verification from a healthcare provider of the need for the sick time or to provide
148 other certification of the need for leave.

149 (2) If the need for sick time is foreseeable and an employee is required to provide notice
150 under Code Section 34-11-5, the employer may require that verification or certification
151 be provided before the sick time commences or as soon as otherwise practicable. If the
152 employee commences paid sick leave without providing prior notice required by the
153 employer under Code Section 34-11-5, medical verification or certification shall be
154 provided to the employer within 15 calendar days after the employer requests the
155 verification or certification or as soon as otherwise practicable.

156 (b) All costs for providing medical verification or certification required under this Code
157 section shall be paid by the employer.

158 (c) The employer shall not require that the verification or certification required under this
159 Code section explain the nature of the illness, injury, or health condition that necessitates
160 the use of sick time, except as may be required by federal or state law.

161 34-11-7.

162 (a) An employer shall:

163 (1) Maintain records of the hours worked and the paid sick leave accrued and used by
164 each employee;

165 (2) Provide written notification at least quarterly to each employee of the amount of
166 accrued and unused paid sick leave available for use by the employee;

167 (3) Make records required to be maintained under this Code section available for
168 inspection by the Department of Labor upon request. An employer shall not
169 unreasonably delay or refuse to allow the Commissioner of Labor or his or her designee
170 to review the records required to be maintained under this Code section; and

171 (4) Maintain records required under this Code section for three years from the date any
172 paid sick leave accrues.

173 (b) Any health information of an employee obtained related to paid sick leave shall be
174 maintained in accordance with federal and state laws governing such information.

175 (c)(1) An employer shall provide written notice of the requirements of this chapter to
176 each employee individually.

177 (2) The notice required under paragraph (1) of this subsection shall be in the language
178 the employer typically uses to communicate with the employee.

179 (d) The Department of Labor shall provide employers with a template that meets the
180 required notice provisions of this Code section.

181 34-11-8.

182 The provisions of this chapter establish minimum requirements pertaining to paid sick
183 leave and shall not be construed to preempt, limit, or otherwise affect the applicability of
184 any law, regulation, ordinance, requirement, policy, standard, or collective bargaining
185 agreement that provides for greater use of paid sick leave or unpaid sick time or the accrual
186 of more than 56 hours of paid sick leave in a year.

187 34-11-9.

188 It shall be an unlawful practice for an employer or any other person to:

- 189 (1) Deny, interfere with, restrain, or fail to pay for paid sick leave to which an employee
190 is entitled under this chapter;
- 191 (2) Retaliate or in any way discriminate against an employee with respect to any term or
192 condition of employment because the employee has:
- 193 (A) Inquired about any of the provisions of this chapter;
194 (B) Submitted a request for paid sick leave;
195 (C) Taken paid sick leave;
196 (D) Participated in any manner in an investigation, proceeding, or hearing related to
197 any of the provisions of this chapter; or
198 (E) Invoked any provision of this chapter; or
- 199 (3) Apply an absence control policy that includes sick time as an absence that may lead
200 to or result in an adverse employment action against the employee.

201 34-11-10.

202 The requirements of this chapter shall not apply to an employee whose terms and
203 conditions of employment are covered by a collective bargaining agreement, if the
204 agreement includes a statement in clear and unambiguous terms that the paid sick leave
205 requirements of this chapter are expressly waived.

206 34-11-11.

207 (a) Any individual claiming to be aggrieved by an unlawful practice specified in Code
208 Section 34-11-9 may file a civil action in a court of competent jurisdiction. In any action
209 under this Code section, the court may order injunctive relief and any other equitable relief
210 that may be appropriate, including, but not limited to, reinstatement or the hiring of
211 employees with or without back pay. In any action under this Code section, the court may
212 allow the prevailing party costs and reasonable attorney fees.

213 (b) The court may award, in addition to the relief authorized under subsection (a) of this
214 Code section, compensatory damages or \$200.00, whichever is greater, and punitive
215 damages."

216 **SECTION 3.**

217 All laws and parts of laws in conflict with this Act are repealed.