



**Governor's Advisory Council for Exceptional Citizens (GACEC)**  
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### **MEMORANDUM**

**DATE:** June 29, 2022

**TO:** The Honorable Members of the Delaware General Assembly

**FROM:** Ann C. Fisher, Chairperson  
GACEC

**RE:** **House Bill No. 409 Earned Sick Time and Safety Leave**

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed House Bill (HB) No. 409, which would require all employers within Delaware to provide employees (excepting federal employees and employees subject to Railroad Unemployment Insurance Act) with a minimum of one (1) hour of earned sick time and safety leave for every thirty (30) hours worked. Council **supports** the proposed legislation.

Under the proposed rules, accrued earned sick time and safety leave may be used by the employee for time off with pay at the employee's regular wage (or state minimum wage, if higher) and benefit rate. This paid leave will be available for employees working for employers with more than 10 employees. Employers may require employees to have been employed at least 90 days before they may take earned sick leave and safety time.

The bill includes a number of approved uses that would benefit people with disabilities, including if the employee requires time off (for the employee's needs or the employee's family member's needs) to:

- Address mental and physical health needs, including those caused by substance use,
- Obtain preventative medical care.
- Take time off due to school or daycare closure as a result of a public health or other emergency, is covered as well.
- Attend school-related meetings, conferences, or functions, if requested or required by a school administrator, and time to attend meetings regarding the care of a child with disabilities or health needs, is covered as well.
- Take any other action needed to maintain, improve, or restore the physical, psychological, or economic health and safety.

This legislation is similar to protections offered by the federal Family Medical Leave Act (FMLA), 29 U.S.C. 2601, et seq., which provides job protected leave to covered employees, who have family or medical need for leave time. However, this bill goes much farther than the FMLA in several ways. HB409 covers employees who are not covered by the FMLA due to the employer size – the FMLA requires 50 or more employees whereas HB409 covers all non-federal employers (those with under 10 employees are covered but are not required to provide paid leave). Second, HB409 takes effect much sooner than the FMLA. The FMLA requires an employee to have worked 1,250 hours and 12 (not necessarily consecutive) months; HB409 permits a 90-day waiting period before an employee can use the sick/safety leave. Third, with the exception of very small employers, HB409 provides paid leave rather than unpaid leave. Fourth, the reasons one can use sick/safety leave are much more expansive than the reasons under the FMLA, with explicit coverage for school and daycare related absences. Delaware would be joining a growing number of U.S. states and jurisdictions enacting paid sick leave.

Disability advocacy groups, such as the Arc, have advocated for the necessity of paid family and health leave, because “[p]eople with disabilities and their families often experience greater financial insecurity and are more likely to face barriers to employment that can render the financial impact of unpaid time off particularly devastating.” Thus, paid leave “increases opportunities to take time off for a serious medical condition without seeing a sharp drop in income or putting one’s job or employer-based health insurance at risk. In addition, it can increase access to preventive care, such as going to doctor’s appointments, and lead to better overall health and well-being. HB409 would address concerns for employees with disabilities, as well as employees caring for a family member with disabilities: it covers sick time to address medical conditions, it protects employer-based health insurance, it covers time to access preventative care, and can lead to overall well-being by not forcing workers to choose between their medical needs and financial security. Finally, the domestic violence safety provisions of HB409 will also be beneficial to employees with disabilities, who have a higher lifetime prevalence of being abuse victims than persons without disabilities.

Thank you for your time and consideration of our endorsement. Please feel free to contact me or Pam Weir at the GACEC office should you have any questions.