

2025 Delegate Assembly Proposed Legislative Resolution

TITLE OF RESOLUTION: Amend Earned Sick and Safe Time (ESST)

SUBMITTED BY: Hastings Public Schools, ISD 200, Carrie Tate, Board Member

RECOMMENDATION: Passage

BE IT RESOLVED, MSBA URGES THE LEGISLATURE TO amend the Earned Sick and Safe Time (ESST) mandate (Minnesota Statutes, sections 181.9445–181.9448) to redefine “family member” to include only immediate family (spouse, parents, grandparents, siblings, children), require reasonable verification (e.g., doctor’s note or equivalent documentation when applicable), and mandate employer approval for voluntary shift swaps not using ESST, to ensure operational stability and support districts’ ability to prioritize student learning.

DESCRIBE THE PROBLEM:

The ESST mandate’s broad “family member” definition includes vague categories like “any person with a close association equivalent to a family relationship,” “one individual annually designated by the employee,” step-grandchildren, children-in-law, siblings-in-law, and any individual related by blood, leading to increased employee absences and substitute teacher shortages in districts like Hastings Public Schools. Allowing self-written notes for verification and voluntary shift swaps without employer approval disrupts staffing schedules. Without state funding, ESST compliance increases costs for substitutes and administrative tracking, straining budgets when half of 2023 operating levies failed statewide (per MSBA).

EXPLAIN WHY THIS IS A PROBLEM:

Excessive absences from the overly broad family member definition disrupt classroom consistency, harming student learning by limiting access to qualified teachers. Unverified absences and unregulated shift swaps undermine districts’ ability to maintain stable schedules, exacerbating staffing challenges. These issues divert funds from critical student programs, such as special education or extracurriculars, to cover compliance costs, threatening districts’ financial stability and ability to prioritize local educational needs. Amending ESST would balance employee protections with operational and fiscal efficiency, ensuring stable learning environments.

CURRENT LAW:

Minn. Stat. 181.9445 Subd. 7. (Family Member) broadly defines family member to include immediate, extended, and in-law relatives, along with any non-blood individual considered family, plus one person that the employee designates each year.

Minn. Stat. 181.9447 Subd. 1. (Eligible Use) Employees can use ESST for personal or family illness, medical care, safety needs related to violence or stalking, time off for

funerals, and when emergencies or public health orders cause workplace or school closures.

Minn. Stat. 181.9447 Subd. 2. (Notice) For foreseeable leave, the employer can require up to seven days' advance notice; for unexpected absences, the employee must notify the employer as quickly as their reasonable written policy requires.

Minn. Stat. 181.9447 Subd. 3. (Documentation) An employer may request documentation, such as a written statement, only if an employee is absent using ESST for more than two consecutive scheduled workdays, but disclosure of specific details about a medical condition or domestic abuse is prohibited.

Minn. Stat. 181.9447 Subd. 4. (Replacement Worker) Employers cannot mandate an employee to find a replacement worker to cover a shift when using ESST, but the employee remains free to voluntarily trade shifts with a co-worker.

181.9445 DEFINITIONS.

Subd. 7. Family member.

"Family member" means:

- (1) an employee's:
 - (i) child, foster child, adult child, legal ward, child for whom the employee is legal guardian, or child to whom the employee stands or stood in loco parentis;
 - (ii) spouse or registered domestic partner;
 - (iii) sibling, stepsibling, or foster sibling;
 - (iv) biological, adoptive, or foster parent, stepparent, or a person who stood in loco parentis when the employee was a minor child;
 - (v) grandchild, foster grandchild, or stepgrandchild;
 - (vi) grandparent or stepgrandparent;
 - (vii) a child of a sibling of the employee;
 - (viii) a sibling of the parents of the employee; or
 - (ix) a child-in-law or sibling-in-law;
- (2) any of the family members listed in clause (1) of a spouse or registered domestic partner;
- (3) any other individual related by blood or whose close association with the employee is the equivalent of a family relationship; and
- (4) up to one individual annually designated by the employee.

181.9447 USE OF EARNED SICK AND SAFE TIME.

Subdivision 1. Eligible use.

An employee may use accrued earned sick and safe time for:

- (1) an employee's:
 - (i) mental or physical illness, injury, or other health condition;
 - (ii) need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition;
 - (iii) need for preventive medical or health care; or
 - (iv) need to make arrangements for or attend funeral services or a memorial, or address financial or legal matters that arise after the death of a family member;
- (2) care of a family member:

- (i) with a mental or physical illness, injury, or other health condition;
- (ii) who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or other health condition; or
- (iii) who needs preventive medical or health care;
- (3) absence due to domestic abuse, sexual assault, or stalking of the employee or employee's family member, provided the absence is to:
 - (i) seek medical attention related to physical or psychological injury or disability caused by domestic abuse, sexual assault, or stalking;
 - (ii) obtain services from a victim services organization;
 - (iii) obtain psychological or other counseling;
 - (iv) seek relocation or take steps to secure an existing home due to domestic abuse, sexual assault, or stalking; or
 - (v) seek legal advice or take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from domestic abuse, sexual assault, or stalking;
- (4) closure of the employee's place of business due to weather or other public emergency or an employee's need to care for a family member whose school or place of care has been closed due to weather or other public emergency;
- (5) the employee's inability to work or telework because the employee is: (i) prohibited from working by the employer due to health concerns related to the potential transmission of a communicable illness related to a public emergency; or (ii) seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, a communicable disease related to a public emergency and such employee has been exposed to a communicable disease or the employee's employer has requested a test or diagnosis; and
- (6) when it has been determined by the health authorities having jurisdiction or by a health care professional that the presence of the employee or family member of the employee in the community would jeopardize the health of others because of the exposure of the employee or family member of the employee to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease.

For the purposes of this subdivision, a public emergency shall include a declared emergency as defined in section [12.03](#) or a declared local emergency under section [12.29](#).

Subd. 2. Notice.

An employer may require notice of the need for use of earned sick and safe time as provided in this paragraph. If the need for use is foreseeable, an employer may require advance notice of the intention to use earned sick and safe time but must not require more than seven days' advance notice. If the need is unforeseeable, an employer may require an employee to give notice of the need for earned sick and safe time as reasonably required by the employer. An employer that requires notice of the need to use earned sick and safe time in accordance with this subdivision shall have a written policy containing reasonable procedures for employees to provide notice of the need to use earned sick and safe time, and shall provide a written copy of such policy to employees. If a copy of the written policy has not been provided to an employee, an employer shall not deny the use of earned sick and safe time to the employee on that basis.

Subd. 3. Documentation.

- (a) When an employee uses earned sick and safe time for more than two consecutive scheduled work days, an employer may require reasonable documentation that the earned sick and safe time is covered by subdivision 1.

(b) For earned sick and safe time under subdivision 1, clauses (1), (2), (5), and (6), reasonable documentation may include a signed statement by a health care professional indicating the need for use of earned sick and safe time. However, if the employee or employee's family member did not receive services from a health care professional, or if documentation cannot be obtained from a health care professional in a reasonable time or without added expense, then reasonable documentation for the purposes of this paragraph may include a written statement from the employee indicating that the employee is using or used earned sick and safe time for a qualifying purpose covered by subdivision 1, clause (1), (2), (5), or (6).

(c) For earned sick and safe time under subdivision 1, clause (3), an employer must accept a court record or documentation signed by a volunteer or employee of a victims services organization, an attorney, a police officer, or an antiviolence counselor as reasonable documentation. If documentation cannot be obtained in a reasonable time or without added expense, then reasonable documentation for the purposes of this paragraph may include a written statement from the employee indicating that the employee is using or used earned sick and safe time for a qualifying purpose covered under subdivision 1, clause (3).

(d) For earned sick and safe time to care for a family member under subdivision 1, clause (4), an employer must accept as reasonable documentation a written statement from the employee indicating that the employee is using or used earned sick and safe time for a qualifying purpose as reasonable documentation.

(e) An employer must not require disclosure of details relating to domestic abuse, sexual assault, or stalking or the details of an employee's or an employee's family member's medical condition as related to an employee's request to use earned sick and safe time under this section.

(f) Written statements by an employee may be written in the employee's first language and need not be notarized or in any particular format.

Subd. 4.Replacement worker.

An employer may not require, as a condition of an employee using earned sick and safe time, that the employee seek or find a replacement worker to cover the hours the employee uses as earned sick and safe time. This subdivision does not prohibit an employee from voluntarily seeking or trading shifts with a replacement worker to cover the hours the employee uses as earned sick and safe time.

BACKGROUND PROVIDED BY MSBA:

Minnesota's Earned Sick and Safe Time (ESST) law, which took full effect on January 1, 2024, marked a major shift from previous workplace standards. Before ESST, sick leave in Minnesota was not mandated at the state level; any time off provided was generally at the employer's discretion and usually restricted to an employee's own personal illness or injury or that of an immediate family member, such as a spouse, minor child or parent. The argument by lawmakers at the time was this left many workers without protection when a family member got sick or when they needed time off for safety reasons.

The new law created a minimum standard across the entire state, guaranteeing that almost all employees earn at least one hour of paid leave for every 30 hours worked, up to 48 hours per year.

The most significant change brought by ESST, especially concerning the definition of "family," was moving away from a traditional, restrictive list toward a more expansive approach. Before 2024, sick leave policies often recognized only immediate family members like a spouse or minor child. In contrast, the ESST law defines "family member" to include a vast network of relations, from grandparents and in-laws to cousins and siblings. Critically, the law also added two key protections: it includes any individual whose close association with the employee is the equivalent of a family relationship and allows the employee to designate one non-relative to use the leave for each year. This change was made to incorporate modern family structures and the diverse support systems people rely on, ensuring that ESST can be used when an important person in an employee's life needs care.

Changes made to ESST in 2025 aimed at clarifying the law after it had been in effect for a year. Modifications to the ESST law focused primarily on administrative clarity and employer control over scheduling and verification. The changes to "Notice" allow employers to require notification for unforeseeable leave as "reasonably required by the employer," replacing the previous, less defined "as soon as practicable" standard. Regarding "Documentation", the law was tightened to allow an employer to request reasonable verification of ESST usage (such as a doctor's note) after an employee has missed only two consecutive scheduled workdays, a reduction from the previous threshold of three. For "Replacement Workers", the language was clarified to explicitly confirm that while employers are strictly prohibited from *requiring* an employee to find coverage, the employee is *permissively allowed* to voluntarily seek or trade shifts to cover their absence if they choose.

RATIONALE:

The core rationale for amending the current ESST law is the urgent need to preserve student learning stability against unpredictable and excessive staff absences. The extremely broad definition of "family member," combined with documentation rules allowing for self-written notes and unregulated shift swaps, has led to unreliable staffing and increased employee time off, which severely disrupts classroom consistency and limits students' access to qualified, regular teachers. Furthermore, this volatility forces school districts to divert limited local funds, originally designated for essential programs like special education and extracurriculars, toward covering unexpected substitute costs and administrative tracking, thus threatening the financial health of the entire educational system.

Therefore, MSBA recommends passage.