

**Testimony of Associate Commissioner Steven Kelly
New York City Department of Consumer Affairs**

**Before the
Westchester County Committees on Budget & Appropriations, Labor & Housing,
and Legislation**

**Committee Meeting on
Westchester County Local Law Intro No. ___ - 2018
in relation to amending the Laws of Westchester County by adopting a new
Article III Chapter 700 providing paid sick leave for certain employees.**

September 17, 2018

Good evening, Chair Borgia, Chair Maher, Chair Perez and members of the committees. My name is Steven Kelly, and I am the Associate Commissioner of the Office of Labor Policy and Standards at the New York City Department of Consumer Affairs (DCA). On behalf of Mayor Bill de Blasio, DCA Commissioner Lorelei Salas, and Deputy Commissioner Liz Vladeck, I appreciate the opportunity to, again, represent the administration at today's committee meeting and provide testimony regarding our experience implementing and enforcing one of the Mayor's initial signature initiatives, New York City's Earned Safe and Sick Time Act. In New York City, our Mayor and the City Council have shown great leadership in supporting laws and policies that ensure workers, particularly the most vulnerable among them, have the support they need to take care of themselves and their families.

This past February, I provided testimony that spoke to both DCA and our Office of Labor Policy and Standards' commitment to educating workers, employers and the public about workplace protections as well as our role advancing research, policy analysis and enforcing local workplace law. I encourage the Committee to look back on our testimony submitted on February 26th.¹ As I mentioned then, and remains true today, paid sick leave is beneficial to employers, employees and to the public. The effects are tangible – higher employee morale, less turnover, and a healthier workforce with lower healthcare costs in the long term. It's my pleasure to provide further remarks before the Committees today.

Notably, since I last addressed this body, an expansion of the law to incorporate "safe" leave took effect. The expanded Paid Safe and Sick Leave Law allows workers to take time off to restore their physical, psychological, and economic health or that of a family member when dealing with domestic violence, sexual assault, stalking, or human trafficking. For example, this can include taking time off to obtain counseling or other services, enroll a child in a new school, meet with an attorney, and file paperwork to ensure safety and more. The amendments also expanded the definition of family member for all uses of paid time to recognize chosen families, not just biological ones.

¹ See Testimony of Assoc. Comm. Steven Kelly, NYC Dept. of Consumer Affairs, Westchester County Budget & Appropriations and Legislation Committee Meeting (Feb. 26, 2018).

Our robust multilingual outreach efforts to employers and employees continues. This past June, DCA announced a new public awareness campaign to educate New Yorkers about their rights and protections under the expanded law. The campaign highlights workers in industries that disproportionately employ low-wage and immigrant workers. As of today, we have distributed more than two million pieces of paid sick leave informational literature, visited more than 1,600 businesses in person to educate owners about the law, and held or attended nearly 900 paid sick leave-related events across the five boroughs.

An important feature of the new ads also highlights that these rights apply to all workers, regardless of immigration status, and that retaliation is illegal. In our settlement efforts and at trial, we focus on obtaining restitution for all workers who have been affected by a policy or practice of not providing or refusing to allow the use of sick time as required under the law. It is, therefore, incredibly important for the legislation to state explicitly that workers are entitled to restitution when the employer's policy or practice constructively denied them the opportunity to take time off when they were sick.

We are also sensitive to claims alleging employer retaliation against workers attempting to exercise their rights under the law. Retaliation in the workplace does not simply affect the worker experiencing the adverse action, but has a chilling effect on other workers who fear for their job safety as well. About one-third of all of our complaints filed by workers allege some type of retaliatory policy or practice at the workplace. Like the bill under consideration by this body, our law explicitly authorizes back-wages for workers who are unlawfully terminated and, in certain circumstances, reinstatement. To further deter employers from punishing workers for exercising their rights, it also includes a higher civil penalty, \$2,500 for each violation, when the employer unlawfully terminates a worker for their use or attempted use of sick leave. We have successfully used this authority to secure tens of thousands of dollars in back-wages for workers and, in some cases, get them back to work. In total, OLPS has closed more than 1,400 paid sick leave investigations, securing \$8.5 million in fines and restitution for more than 26,000 New York City workers who were denied their right to paid sick leave, and we have ensured that thousands more workers receive sick leave to which they are entitled.

Conclusion

We thank the Committees for the opportunity to provide testimony and applaud their continued focus on such an important issue. No worker should have to choose between their paycheck and going to work sick. By including "family members" that extend beyond legal and blood relatives and establishing a rebuttable presumption of a violation of the law when the employer has no records evidencing compliance, this bill reflects Westchester County's recognition that this issue is critically important and sets forth legislative measures to address it.

OLPS' mission includes enforcing key workplace laws and rules; educating workers, employers, and the public about workplace protections under local, state and federal law; and researching and advancing policy initiatives that can raise the floor for workers and respond to a changing economy. Empowering the vulnerable workers protected by this legislation is part of that mission. We remain a partner for any jurisdiction seeking to implement and enforce the laws that affect so many workers. We look forward to engaging

further with this body on the important proposal being discussed today and remain available as a resource for Westchester County as it further contemplates the legislation and, if passed, advise on implementation.