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Minnesota Break and Leave Law Quick Reference Chart

EXCEPTIONAL SERVICE  FOCUSED ON YOU

Statute	Topic	Employee entitled to...	Applies if employer has X employees	Who is an employee?	Employer Notice required?	Attorneys' fees available?	Paid or unpaid?
Minn. Stat. § 177.253¹	Bathroom breaks	“Adequate time” to use nearest restroom ² within each 4 consecutive hrs. worked (no specific time defined, although ordinarily less than 20 mins.). ³	1 or more	“[A]ny individual employed by an employer” is an employee. <i>See</i> Minn. Stat. § 177.23 Subd. 7. ⁴	Copy of statute must be posted in a place accessible to employees. <i>See</i> Minn. Stat. § 177.31.	Yes. <i>See</i> Minn. Stat. § 177.27 Subd. 10.	Paid, if less than 20 minutes (per Minn. Rule 5200.0120, subp. 1, rest periods less than 20 minutes may not be deducted from the hours worked).
Minn. Stat. § 177.254¹	Meal breaks	A “bona fide” meal break (30 min. in an 8-hour shift) ⁵	1 or more	“[A]ny individual employed by an employer” is an employee. <i>See</i> Minn. Stat. § 177.23, Subd. 7. <i>See also</i> , footnote 4.	Copy of statute must be posted in a place accessible to employees. <i>See</i> Minn. Stat. § 177.31.	Yes. <i>See</i> Minn. Stat. § 177.27, Subd. 10.	Unpaid.

¹ Our communications with the Minnesota Department of Labor suggest they believe these statutes apply to both exempt and nonexempt employees, although we could locate no authority precisely addressing that point.

² Employers and employees may collectively bargain for something different than what the statute requires. Minn. Stat. § 177.253, Subd. 2. *But see, Prince v. Electrolux Home Prods*, 2014 WL 583412 *6 (Minn. Dist. Ct. 2014) (though there was a collective bargaining agreement in place, the court did not defer to it because it did not specifically address the issue of “adequate time” to use the restroom).

³ Employers with 15 or more employees must also consider if longer or more frequent breaks are required as a reasonable accommodation for disabled employees.

⁴ Note: Although some exceptions may apply, the Minnesota Department of Labor and Industry favors a broad interpretation of “employee” in this context and employers would be well-advised to tread carefully; be more inclusive than less regarding the definition of “employee.”

⁵ Subd. 3 notes that collective bargaining agreements can establish different meal periods.

Statute	Topic	Employee entitled to...	Applies if employer has X employees	Who is an employee?	Employer Notice required?	Attorneys' fees available?	Paid or unpaid?
Minn. Stat. § 181.92	Leave for adoptive parents	The same parental leave as allowed for biological parent or adoptive parents. Must be at least 4 weeks.	No express provision in statute.	No express provision in statute.	No express provision in statute.	No express provision in statute.	May be paid or unpaid in accordance with employer's policies; must be the same as any leave allowed for biological parents.
Minn. Stat. § 181.939	Breast-pumping breaks ⁶	Reasonable paid break time each day to express breast milk in a private place, <i>other than</i> a bathroom or toilet stall shielded from view and from intrusion and including access to an electrical outlet and must run concurrently with any break time already provided.	1 or more	No statutory definition. But, employee is entitled to break time for "the twelve months following the birth of the child"	Division of Labor Standards and Apprenticeship shall make an educational poster that employers may display. <i>See</i> Minn. Stat. § 181.9436.	Yes. <i>See</i> Minn. Stat. § 181.944.	Paid. (Law changed to paid leave on 1/1/2022)

⁶ Breast feeding in public is not considered indecent exposure and authorized by Minn. Stat. § 617.23, Subd.4.

Statute	Topic	Employee entitled to...	Applies if employer has X employees	Who is an employee?	Employer Notice required?	Attorneys' fees available?	Paid or unpaid?
Minn. Stat. § 181.941	Parenting / adoption leave	Up to 12 weeks of leave in conjunction with the birth or adoption of a child within 12 mos. of birth, adoption or when child leaves hospital.	21 or more at "at least one site." See Minn. Stat. § 181.940, Subd. 3.	Anyone performing services for hire for an employer for at least 12 months prior to the leave request, and is working at least half-time ⁷ for the 12-month period immediately preceding the leave; excludes independent contractors. See Minn. Stat. § 181.940, Subd. 2.	Division of Labor Standards and Apprenticeship shall make an educational poster that employers may display. See Minn. Stat. § 181.9436.	Yes. See Minn. Stat. § 181.944.	Leave is unpaid, but employer must continue to make insurance coverage available to the employee.
Minn. Stat. § 181.942	School conference and activities leave (includes pre-school)	Up to 16 hours of time per 12-month period to attend school conferences or activities.	1 or more. See Minn. Stat. § 181.940, Subd. 3.	Anyone working half-time or more.	Division of Labor Standards and Apprenticeship shall make an educational poster that employers may display. See Minn. Stat. § 181.9436.	Yes. See Minn. Stat. § 181.944.	Unpaid, but employee may substitute PTO at his/her discretion.
Minn. Stat. § 181.943	Sick and safety leave	Use leave or PTO to care for sick or injured family member or other personal situation. ⁸	21 or more at "at least one site." Minn. Stat. § 181.940, Subd. 3.	Anyone performing services for hire for an employer for at least 12 months prior to leave request, and is working at least half-time; excludes independent contractors. Minn. Stat. § 181.940, Subd. 2.	Division of Labor Standards and Apprenticeship shall make an educational poster that employers may display. See Minn. Stat. § 181.9436.	Yes. See Minn. Stat. § 181.944.	Variable; depends on employer's sick leave policies for employee sick leave.

⁷ Note: half-time = one half of how employer's policies' define full-time.

⁸ "Family" also includes grandchildren, step-grandchildren and spouse's parents.

Statute	Topic	Employee entitled to...	Applies if employer has X employees	Who is an employee?	Employer Notice required?	Attorneys' fees available?	Paid or unpaid?
Minn. Stat. § 518B.01(23)	Domestic Abuse Leave	Employers may not discharge, discipline, threaten or otherwise discriminate an employee because the employee took reasonable time off to obtain or attempt to obtain an order of protection in a case of domestic abuse.	No express provision in statute but likely covers all employers.	No express provision in statute.	If the employee or their child is in imminent danger or unless impractical, the employee shall give 48 hours notice.	Yes.	No express provision in statute.
Minn. Stat. § 609.748, Subd. 10	Crime Victims Leave	Employers may not discharge, discipline, threaten or otherwise discriminate an employee because the employee took reasonable time off to obtain or attempt to obtain a harassment restraining order.	No express provision in statute but likely covers all employers.	No express provision in statute.	If the employee or their child is in imminent danger or unless impractical, the employee shall give 48 hours notice.	Yes.	No express provision in statute.

Statute	Topic	Employee entitled to...	Applies if employer has X employees	Who is an employee?	Employer Notice required?	Attorneys' fees available?	Paid or unpaid?
Minn. Stat. § 611A.036	Crime Victim/Witness Leave	An employer must provide reasonable time off to an employee attend court or give testimony and shall not discharge, discipline, threaten, otherwise discriminate against an employee because the employee took reasonable time off from work to attend a criminal proceeding.	No express provision in statute but likely covers all employers.	No express provision in statute.	Unless an emergency or impractical, the employee shall give 48 hours notice and verification of the reason if requested by the employer.	Yes.	No express provision in statute.

Statute	Topic	Employee entitled to...	Applies if employer has X employees	Who is an employee?	Employer Notice required?	Attorneys' fees available?	Paid or unpaid?
Minn. Stat. § 181.939⁹	Pregnancy accommodations added to the MHRA under WESA.	Reasonable accommodation of health conditions related to pregnancy or childbirth. Note that additional accommodations may be mandated by other laws.	15 or more employees. §181.939, subd. 2.	Anyone performing services for hire for an employer for at least 12 months prior to leave request, and is working at least half-time; excludes independent contractors. <i>See</i> Minn. Stat. § 181.940, Subd. 2.	Division of Labor Standards and Apprenticeship shall make an educational poster that employers may display. <i>See</i> Minn. Stat. § 181.9436.	Yes. <i>See</i> Minn. Stat. § 181.944.	N/A
Minn. Stat. § 181.945	Bone marrow donation leave	Up to 40 hours of leave to donate bone marrow.	20 or more employees at "at least one site." Minn. Stat. § 181.945, Subd. 1(c).	Anyone providing services for hire for an employer, for an average of at least 20 hours a week; excludes independent contractors. <i>See</i> Minn. Stat. § 181.945, Subd. 1(b).	Division of Labor Standards and Apprenticeship shall make an educational poster that employers may display. <i>See</i> Minn. Stat. § 181.9436.	No express provision in statute. <i>See</i> Minn. Stat. § 181.944 (allowing recovery of reasonable attorneys' fees for suits concerning Minn. Stat. § 181.939-181.943). Note Minn. Stat. § 645.241 which provides criminal penalties when a statute provides no other remedy.	Paid.

⁹ This was initially acted as part of 181.9414, but moved to 181.939, effective January 1, 2022

Statute	Topic	Employee entitled to...	Applies if employer has X employees	Who is an employee?	Employer Notice required?	Attorneys' fees available?	Paid or unpaid?
Minn. Stat. § 181.9456	Organ donation leave	Up to 40 hours of leave to donate an organ.	20 or more, but only applies to public employers (defined as "any governmental subdivision"). ¹⁰	Anyone who performs services for a public employer for an average of 20 hours a week or more; excludes independent contractors.	No express provision in statute.	No express provision in statute.	Paid; leave may not exceed 40 work hours per donation.
Minn. Stat. § 181.9458	Blood drive leave	Paid leave to donate blood at a blood drive.	No express provision in statute.	No express provision in statute.	No express provision in statute.	No express provision in statute.	Paid, but seems to be offered at employer's discretion.
Minn. Stat. § 181.946	Civil air patrol leave	Leave to serve in civil air patrol.	20 or more employees at at least one site. Minn. Stat. § 181.945, Subd. 1(c).	Anyone providing services for hire for an average of at least 20 hours a week; excludes independent contractors.	No express provision in statute.	No express provision in statute.	Unpaid.
Minn. Stat. § 181.947	Leave for immediate family of military personnel injured or killed in active service	Up to 10 days of leave following injury or death of family member killed in service.	1 or more.	Anyone providing services for an employer, including independent contractors.	No express provision in statute.	No express provision in statute.	Unpaid.
Minn. Stat. § 181.948	Leave to attend military ceremonies	Leave to attend send-offs, homecomings and other ceremonies.	1 or more.	Anyone providing services to an employer; excludes independent contractors.	No express provision in statute.	No express provision in statute.	Unpaid.

¹⁰ Note, however, FMLA, ADA and/or state disability laws may apply to non-public employers of employees donating organs.

Statute	Topic	Employee entitled to...	Applies if employer has X employees	Who is an employee?	Employer Notice required?	Attorneys' fees available?	Paid or unpaid?
Minn. Stat. § 192.26	Leave for public employees serving in the MN National Guard	Protection from loss of pay while serving in MN National Guard. Not to exceed 15 days in a calendar year.	No definition in statute, likely applied broadly.	Any public entity.	No express provision in statute.	No express provision in statute.	Paid.
Minn. Stat. § 204C.04¹¹	Voting	Paid time to travel to polling place, vote and return to work; ¹² no express requirement in statute that employee give notice.	No statutory definition, likely applied broadly.	No statutory definition, likely applied broadly.	No express provision in statute.	No express provision in statute; violation is a misdemeanor to be prosecuted by county attorney.	Paid.
Minn. Stat. § 204B.195¹³	Time off to serve as election judge	Paid time to serve as an election judge.	No statutory definition, likely applied broadly.	No statutory definition, likely applied broadly.	No express provision in statute. ¹⁴	No express provision in statute.	Paid, but pay may be reduced by the amount employee receives for serving as an election judge while absent from work.

¹¹ The definitions section applicable to the voting and election judge sections cited here contains no definition or “employee” or “employer.” *See* Minn. Stat. § 200.02.

¹² There is no minimum or maximum time period set forth in the statute.

¹³ The definitions section applicable to the voting and election judge sections cited here contains no definition or “employee” or “employer.” *See* Minn. Stat. § 200.02.

¹⁴ Employee must give written notice at least 20 days in advance.

Statute	Topic	Employee entitled to...	Applies if employer has X employees	Who is an employee?	Employer Notice required?	Attorneys' fees available?	Paid or unpaid?
Minn. Stat. § 202A.135	Time off for Party Officers/ Delegates	Employee allowed to attend meeting of state central committee or executive committee or, if a delegate, major political party convention or official convention committees.	No statutory definition, likely applied broadly.	No statutory definition, likely applied broadly.	At least ten days' written notice.	No but violation of the statute is a misdemeanor.	Unpaid.
Minn. Stat. § 202A.19, Subd. 2	Caucus Meetings	Every employee who is entitled to attend a major political party precinct caucus.	No statutory definition, likely applied broadly.	No statutory definition, likely applied broadly.	Ten days' written notice.	No express provision in statute.	Unpaid.

Statute	Topic	Employee entitled to...	Applies if employer has X employees	Who is an employee?	Employer Notice required?	Attorneys' fees available?	Paid or unpaid?
Minn. Stat. § 211B.10, subd. 2.	Time off for public office meetings	A person elected to a public office must be permitted time off from regular employment to attend meetings required by reason of the public office. No retaliatory action may be taken by the employer for absences to attend meetings necessitated by reason of the employee's public office.					The time off may be without pay, with pay, or made up with other hours, as agreed between the employee and employer. When an employee takes time off without pay, the employer shall make an effort to allow the employee to make up the time with other hours when the employee is available.
Minn. Stat. § 593.50	Jury duty	Not to be deprived of employment, threatened or coerced due to jury duty obligations.	No statutory definition, likely applied broadly.	No statutory definition, likely applied broadly.	No express provision in statute.	Yes.	No express provision in statute; however, jurors receive basic compensation from courts.

Statute	Topic	Employee entitled to...	Applies if employer has X employees	Who is an employee?	Employer Notice required?	Attorneys' fees available?	Paid or unpaid?
38 U.S.C. §§ 4301-4334	USERRA	Reemployment upon return from military service.	1 or more.	“Any person employed by an employer”; may include seasonal workers and those employer believes to be independent contractors.	Yes; employers required to post information detailing employee rights under USERRA. <i>See</i> http://www.dol.gov/vets/programs/userra/poster.htm	Yes. <i>See</i> 38 U.S.C. §§ 4323-4324.	Unpaid, but employee may be entitled to same seniority benefits as though they had been continuously employed.
Minneapolis Ordinance No. 2016-065 (Title 2, Chapter 40).	Sick and Safe Time	1 hour of “sick and safe” leave for every 30 hours worked, up to a maximum of 48 hours per calendar year. Employees may carry over hours from year to year, but may not accrue more than a total of 80 hours (unless the employer agrees to a higher amount).	1 or more. 1 to 5 unpaid; 6 or more paid. Employer does not have to have a location in Minneapolis.	Any employee (exempt, non-exempt, part-time or temporary) who performs work for an employer within the geographic boundaries of the City of Minneapolis for at least 80 hours. *The definition of employee does not include independent contractors.	Yes; employers will be required to post a notice of employee rights relating to paid sick and safe time in the workplace (this notice will be developed by the Department of Civil Rights). If an employer has a handbook, they must give notice of the rights and remedies of this ordinance within the handbook.	Yes. But only to the City Attorney on referral by the Department.	Paid/Unpaid. *During the first 5 years the ordinance goes into effect, new businesses (other than “chain establishments” ¹⁵) will only be required to provide <i>unpaid</i> leave during the first 12 months after they hire their first employee.

¹⁵ Chain establishments means, any establishment doing business under the same trade name used by two or more establishments, or under the same ownership and doing the same business, whether such other establishments are located in the city or elsewhere and regardless of the type of ownership of each individual establishment.

Statute	Topic	Employee entitled to...	Applies if employer has X employees	Who is an employee?	Employer Notice required?	Attorneys' fees available?	Paid or unpaid?
St. Paul Ordinance (Title XXIII, Chapter 233)	Sick and Safe Time	1 hour of "sick and safe" leave for every 30 hours worked, up to a maximum of 48 hours per calendar year. Employees may carry over hours from year to year, but may not accrue more than a total of 80 hours (unless the employer agrees to a higher amount).	24 or more, during the timeframe of July 1, 2017 thru December 31, 2017. 23 or less employees beginning January 1, 2018. Employer must maintain a physically permanent location in St. Paul.	Any person who is employed by the employer, including temporary and part-time employees, who perform work within the geographic boundaries of the city for at least eighty (80) hours in a year for that employer. *The definition of employee does not include independent contractors.	Yes; employers will be required to post a notice of employee rights relating to paid sick and safe time workplace and anti-retaliation (this notice will be developed by the Department of Human Rights and Equal Economic Opportunity). If an employer has a handbook, they must give notice of the rights and remedies of this ordinance within the handbook.	Yes. But only for retaliation.	Paid/Unpaid. Until January 1, 2023, employers operating in their first six months after the hire date of their first employee are only required to provide unpaid sick and safe time. After six months, the employer will be required to provide paid sick and safe time in accordance with the ordinance.

<p>Duluth Sick and Safe Time Ordinance (Ordinance No. 10571, Chapter 29E)</p>	<p>Sick and Safe Time.</p>	<p>Earned at a rate of one hour per 50 hours worked, for a maximum of 64 hours per year. Can carry forward at least 40 hours to the next year. Employees begin accruing on their first day of employment. Employees can begin using up to 40 hours of accrued SST after 90 days of employment.</p> <p>Alternatively, the employer may provide employees with 40 hours of SST up front after 90 days of employment, and an additional 40 hours of SST up front at the beginning of each subsequent year.</p>	<p>5 or more.</p> <p>Employer does not have to have a location in Duluth.</p>	<p>Any person who performs work within the city of Duluth:</p> <ol style="list-style-type: none"> 1. For more than 50% of the employee's working time in a 12-month period; or 2. Is based in the city of Duluth and spends a substantial part of his or her time working in the city and does not spend more than 50% of their work time in a 12-month period in any other particular place <p>Independent contractors, student interns, seasonal employees, and persons covered under the Railway Unemployment Insurance Act, are exempted. Construction companies may opt to satisfy the ordinance by paying the prevailing wage.</p>	<p>Yes. Employers must display a notice in a conspicuous, accessible, and readily visible place in each establishment where such employees are employed and provide every new employee with an individual copy of the employer's earned sick and safe time policy or the employer's substantially equivalent paid leave policy. If an employer maintains an employee handbook, a copy of the employer's earned sick and safe time policy or the employer's sustainably equivalent paid leave policy must be included in the employee handbook</p>	<p>Yes. But only to the City Attorney on referral by the City Clerk.</p>	<p>Paid.</p>
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