



## FACT SHEET: Preemption of Paid Sick Time in Louisiana

When someone is sick or caring for a sick loved one, they should never be forced to choose between their health and their financial security. In Louisiana, this is the unfortunate reality for many workers in the private sector. Currently, Louisiana provides no guaranteed right to paid sick time, and many businesses do not provide paid time off or sick time under their own policies. Additionally, in Louisiana, a harmful state law prohibits municipalities from expanding access to paid sick time for their own communities, a concept otherwise known as abusive preemption. Despite this harmful state interference, A Better Balance, along with community members and elected leaders, are pushing back to protect workers' health and safety.

### What is preemption?

- Preemption occurs when a higher level of government seeks to limit or eliminate the power of a lower level of government to make their own decisions on a specific issue.<sup>1</sup> Historically, preemption has been used to strike an appropriate balance between state and local authority.
- However, preemption has increasingly been abused. In states across the country, especially in the South, state legislatures have frequently used preemption to limit local governments' ability to adopt laws that protect public health and welfare and promote economic security for families.
- For example, over the last decade, the Louisiana legislature has expressly preempted local governments from establishing a guaranteed, minimum number of vacation leave or sick days, paid or unpaid,<sup>2</sup> along with other critical labor protections.<sup>3</sup>
- Each community in Louisiana is unique and faces its own challenges. Local leaders need the freedom to consult with their constituents and make decisions on public health and worker protections that are best for their individual communities, without undue interference from the state.

### How does preemption limit local governments?

- Louisiana's 1974 state Constitution guarantees home rule authority for local government subdivisions, a term that covers both parishes and municipalities.
- Pre-1974 charters have powers as broad as that of the state, except when limited by the Constitution, laws permitted by the Constitution, or its own home rule charter. Post-1974 charters face more restrictions in their rulemaking authority.<sup>4</sup>
- Under current Louisiana law and home rule authority, localities can enact policies, such as paid sick time, for their own local government employees, but not for workers in the private sector.
- In practice, this means that local communities across Louisiana do not have the autonomy to make their own decisions on a wide range of policy issues that deeply impact working families in the private sector, such as access to paid leave or a living wage.

### Access to paid sick time benefits working families and the economy

Paid sick time is short-term leave, usually taken in hourly or daily increments. It is typically used to recover from short-term illness like the flu or a stomach bug, or for preventative care (like an annual check-up or routine testing, such as cancer screenings). Paid sick time is also used by workers to care for their loved ones, like a sick child. Currently, the United States does not have a federal law guaranteeing access to paid sick time, but a growing number of states and localities have passed laws to entitle workers to such leave for themselves and their loved ones.<sup>5</sup> **Nearly half of Louisiana workers lack access to paid sick time.**<sup>6</sup>

- Access to paid sick time increases worker productivity and reduces the spread of contagious illness in the workplace, leading to direct savings for businesses.<sup>7</sup>
- A lack of access to paid sick time is particularly harmful for service industry workers. Nearly two-thirds of restaurant workers have cooked or served food while sick, and in 2011, nearly one in five food service workers went to work while vomiting or with diarrhea, threatening the spread of illness and creating dangerous public health conditions. Over 167,240 workers are employed in the food service industry in Louisiana.<sup>8</sup>
- Only 49% of Latines and 60% of Black, non-Latine Americans have access to paid sick time, compared to 64% of White, non-Latine Americans.<sup>9</sup> With nearly 40% of Louisiana’s population identifying as Black or Latine, a large percentage of Louisiana’s workers are forced to work while sick or lose out on much needed paychecks.<sup>10</sup>
- In Louisiana, 81% of Black mothers, 47% of AAPI mothers, 45% of White mothers, and 44% of Latine mothers are the key family breadwinners for their families.<sup>11</sup> A significant percentage of mothers, however, are not able to take even a single paid sick day to care for a child; approximately 54% of working mothers in the U.S. lack paid sick time to care for a sick child or are not paid if they take such time.<sup>12</sup>
- Employers with paid sick time benefit from reduced worker turnover, fewer disruptive and costly outbreaks of illness in the workplace, and better relationships with employees. Turnover is estimated to cost employers the equivalent of 21% of a worker’s annual compensation—and paid sick time can help to reduce those costs.<sup>13</sup>
- According to a recent survey, paid sick leave is the top workplace benefit young adults prioritize.<sup>14</sup>

The lack of access to paid leave and other supportive policies is evident in Louisiana’s consistent last-place ranking for public health in the nation.<sup>15</sup> A guaranteed right to paid sick time would help rectify that failing grade and improve health outcomes. By preempting local progress on paid leave, Louisiana’s families, public health, and economy are hurt the most.

### Want to join the fight to defend local democracy?

Find more information on how to join the fight to defend local decision-making on paid sick time in Louisiana at [abetterbalance.org](https://abetterbalance.org) or contact Carmen McCoy at [cmccoy@abetterbalance.org](mailto:cmccoy@abetterbalance.org).

<sup>1</sup> See Article VI, Clause 2 of U.S. Constitution; LSSC, *What is Abusive Preemption and Why is it a Threat to Democracy?*, <https://www.supportdemocracy.org/what-is-state-preemption>. Note that there are different types of preemption such as floor, ceiling, and vacuum preemption. See CHANGELAB SOLUTIONS, FUNDAMENTALS OF PREEMPTION 2-3 (June 2019), [https://www.changelabsolutions.org/sites/default/files/2019-07/Fundamentals\\_of\\_Preemption\\_FINAL\\_20190621.pdf](https://www.changelabsolutions.org/sites/default/files/2019-07/Fundamentals_of_Preemption_FINAL_20190621.pdf)

<sup>2</sup> La Rev. Stat. § 23:642.

<sup>3</sup> EPI, *Worker’s rights preemption in the U.S.: Louisiana*, <https://www.epi.org/preemption-map/>.

<sup>4</sup> Home charters are limited by a private law exception, which restricts charters from enacting ordinances that govern private or civil relationships. See La. Const. Art. VI, § 9(A).

<sup>5</sup> See A Better Balance, *Map of Paid Sick Time Laws*, May 2023, <https://www.abetterbalance.org/resources/map-of-paid-sick-time-laws/>.

<sup>6</sup> Inst. for Women’s Pol’y Res., *Access to Paid Sick Days in Louisiana*, (March 2015), <https://iwpr.org/wp-content/uploads/wpallimport/files/iwpr-export/publications/B346%20Louisiana%20Access%20Rates.pdf>.

<sup>7</sup> A Better Balance, *Louisiana Families Need Paid Sick Leave*, Aug. 16, 2023, <https://www.abetterbalance.org/resources/fact-sheet-louisiana-families-need-paid-sick-leave/>.

<sup>8</sup> *Id.*

<sup>9</sup> Institute for Women’s Policy Research, *Fact Sheet: Paid Sick Days Access Varies by Race/Ethnicity, Sexual Orientation, and Job Characteristics*, July 2014, <https://iwpr.org/wp-content/uploads/2021/01/B337.pdf>.

<sup>10</sup> United States Census Bureau, *Quick Facts, Louisiana*, 2023, <https://www.census.gov/quickfacts/fact/table/LA/PST045223>.

<sup>11</sup> National Partnership for Women and Families, *Paid Leave Means A Stronger Louisiana*, January 2023, <https://nationalpartnership.org/wp-content/uploads/2023/02/paid-leave-means-a-stronger-louisiana.pdf>.

<sup>12</sup> National Partnership for Women and Families, *Working Women Need Paid Sick Days*, April 2013, <https://nationalpartnership.org/wp-content/uploads/2023/02/working-women-need-paid-sick-days.pdf>.

<sup>13</sup> A Better Balance, *Paid Sick Leave is Good for Business*, Mar. 31, 2022, <https://www.abetterbalance.org/wp-content/uploads/2021/02/Paid-Sick-Leave-Is-Good-for-Business-3.31.22.pdf>.

<sup>14</sup> Geo. U. McDonough Sch. of Bus., *Young Adults and Workplace Wellness*, 2023, <https://businessforimpact.georgetown.edu/wp-content/uploads/2023/06/Final-Young-Adult-Report-.pdf>.

<sup>15</sup> United Health Foundation, *America’s Health Rankings*, 2023, <https://www.americashealthrankings.org/explore/measures/Overall/LA>.