



new york becomes first state to implement “paid prenatal leave” for employees

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On April 19, New York officially became the first state to enact legislation requiring employers to provide pregnant employees with a bank of protected paid prenatal leave. Importantly, an eligible employee’s paid prenatal leave bank is separate and distinct from already-required paid sick and safe leave bank and paid family leave bank (as well as any unpaid leave an employee may also be eligible for, pursuant to the Family and Medical Leave Act or a reasonable accommodation for an employee with a disability, for example).

This new law applies to all New York employers, as it has no minimum employee threshold, nor does it have a minimum length of employment requirement threshold for employee eligibility. New York employers are required to begin providing paid prenatal leave to eligible employees beginning on January 1, 2025.

Pursuant to the new law, pregnant employees must be permitted to take up to 20 hours of paid prenatal leave for healthcare services they receive during or related to their pregnancy. This includes paid leave for physical exams, testing, monitoring, medical procedures and discussions with health care providers that relate to an employee’s pregnancy. Eligible employees must be permitted to use paid prenatal leave in increments of no less than one hour, and must be compensated at their regular rate of pay.

Pregnant employees cannot use more than 20 hours of paid prenatal leave in a 52-week period. However, except for this constraint, the law does not restrict the number of paid prenatal leaves employees are entitled to take over the course of their employment. The law does not require employers to pay employees for unused paid prenatal leave at termination, resignation, retirement or any other separation from employment.

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practice areas

employment litigation &
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There are still some open questions regarding the law, which the State legislature will likely clarify with implementing rules and regulations or FAQs in the coming months. Specifically, the law is currently unclear regarding the following: (1) whether paid prenatal leave must be provided as an upfront lump sum to eligible employees, or whether it may be provided on an accrual basis as an alternative; (2) how the leave must be documented on employee pay stubs; (3) whether unused leave carries over to the following calendar year (if it otherwise falls within an employee's 52-week eligibility period); (4) and whether new pregnant employees must be provided and permitted to use all 20 hours of paid prenatal leave immediately, upon hire.

We will provide updates regarding paid prenatal leave developments and/or clarifications to the extent they are provided by the New York legislature or implementing state agency. In the meantime, please reach out to an MSK Labor & Employment attorney with any questions about this new law.