

# NEW YORK

## New York City Amends Paid Sick Leave Rules for Prenatal Leave

New York City has [amended](#) its rules for the city's Earned Safe and Sick Time Act (ESSTA) to incorporate the state law [paid prenatal leave](#) requirement that took effect Jan. 1, 2025. The city's new rules differ from the state paid prenatal leave requirements with respect to employers' written policies, employees' notification of the need for leave, documentation of leave and penalties for violations. The city also issued an updated paid safe and sick time [notice](#) for employer use.

The amendments to the ESSTA rules take effect **July 2, 2025**.

### New York State Prenatal Leave Requirement

On Jan. 1, 2025, New York state began requiring that all employers provide 20 hours of paid prenatal leave per 52-week period under amendments to its sick leave law. Paid prenatal leave must be provided in addition to the 40-56 hours of paid or unpaid (depending on employer size) sick leave the law already requires. Employees do not have to satisfy accrual or waiting period requirements before using paid prenatal leave.

### New York City ESSTA

Under the ESSTA, as under the state sick leave law, New York City employers must provide up to 40-56 hours of sick leave. As with the state sick leave law, an employer's size determines how much leave must be provided and whether that leave is paid.

Effective July 2, 2025, New York City employers must additionally comply with the amended ESSTA rules, which incorporate the state law requirement that employers provide 20 hours of paid prenatal leave during any 52-week calendar period in addition to the regular sick leave required under the ESSTA.

The rules adopt the state law definition of prenatal leave, which is leave taken for health care services received by an employee during their pregnancy or related to the pregnancy, including physical examinations, medical procedures, monitoring and testing, and discussions with a health care provider related to the pregnancy.

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### Highlights

- New York City has revised its ESSTA rules, effective July 2, 2025.
- The rules now incorporate the state sick leave law's paid prenatal leave mandate.
- The revised rules differ from the state law on several topics, including written employer policies, notice, documentation and penalties.

***The city rules incorporate the state paid prenatal leave requirement and, in some ways, go beyond the state law.***

## Differences Between ESSTA Rules and State Prenatal Leave Requirements

While New York City employers were already bound by the state paid prenatal leave requirement, the new ESSTA prenatal leave rules differ in some respects from the state requirements as they appear in the state paid leave statute and official state guidance about the law. These differences include the following:

- **Written policies:** The state paid leave statute does not require employers to keep written paid prenatal leave policies. By contrast, the revised ESSTA rules mandate that employers must maintain written paid prenatal leave policies with their paid sick leave policies and the policies must include information specified in the rules. The written policy must be distributed to employees personally at the start of employment, within 14 days of the effective date of any changes to the policy and at the employee's request;
- **Employees' notice obligations:** The frequently asked questions (FAQs) for the state prenatal leave requirement say employees should use their employers' existing notification and request procedures to request the leave. The FAQs encourage employees to give employers advanced notice of leave requests and encourage employers to communicate how to request leave to their employees.

The amended ESSTA rules go further, applying the existing employee notice rules for ESSTA leave to prenatal leave. For example, the rules stipulate that employers may require "reasonable notice of leave," but only if the requirement and notification method are set forth in their written policy. In addition, the rules state that while employers may require notice as soon as practicable for unforeseeable prenatal leave, they must provide written procedures for providing that notice. Moreover, employers may not require more than seven days' notice of foreseeable leave;

- **Documentation of leave:** The state paid sick leave statute prohibits employers from requiring employees to disclose confidential health information as a condition of taking prenatal leave. Beyond that prohibition, the statute does not address the issue. The state paid prenatal leave FAQs expand on the topic, stating that employees are not required to submit medical documents to their employer and that employers may not ask for details about employees' prenatal appointments.

While the ESSTA rules provide that employers may not require disclosure of details in a way that is inconsistent with the state sick leave statute, the rules do allow employers to require the same documentation of prenatal leave as the rules allow for general sick leave. This means that under ESSTA, employers may require reasonable written documentation that leave of more than three consecutive days was used for an authorized purpose, with documentation signed by a licensed health care provider counting as reasonable documentation. The only details that may be required, however, are the dates the employee needed to use the leave.

Employers should note that imposing a documentation requirement for prenatal leave subjects them to additional mandates under the rules, such as including details about the requirement in their written policies, allowing the employee at least seven days to provide the documentation and others.

Employers should tread carefully when requesting documentation in support of prenatal leave to ensure they do not violate the state statute or the ESSTA rules;

- **Balance notice:** The state sick leave statute does not specify any recordkeeping requirements specifically for paid prenatal leave.

The amended ESSTA rules, however, require employers to inform employees of the amount of prenatal leave used for any pay period during which the leave was used, along with the balance of prenatal leave available. The notice must be made either on the pay statement or other written documentation, and it may be made electronically; and

- **Penalties:** The state sick leave law does not contain specific penalties for violations of the paid prenatal leave provisions, although employers do face penalties under the law for violations of the general sick leave statute.

The revised ESSTA rules address penalties for prenatal leave violations at length, including that complaints of violations may be filed with and investigated by the Department of Consumer and Worker Protection and that violations may result in an award of any underpayment of wages (plus interest) and an equal amount in liquidated damages unless the underpayment was made in good faith.

In addition, victims of prohibited retaliation may be awarded all appropriate relief, which can include injunctive relief, up to \$20,000 in liquidated damages, reinstatement, lost compensation and front pay. Civil penalties for prohibited retaliation are between \$1,000 and \$10,000, while penalties for underpayment of wages are \$500 per violation.

### Employer Next Steps

New York City employers should review their written policies and procedures to ensure they comply with the revised rules on paid prenatal leave by July 2, and they should update their written employee notice with the new version available from the department. They should also ensure their payroll systems are set up to provide the balance notices required by the new rules.