

# NEW YORK

## New York Passes Paid Prenatal Leave and Lactation Time, Ends COVID-19 Leave

The recently enacted New York [budget](#) for fiscal year 2024-25 includes provisions mandating paid employee prenatal leave and lactation break time, and repealing the state's COVID-19 sick leave law. The provisions have different effective dates in 2024 and 2025.

### **Paid Prenatal Personal Leave**

The budget amends the [state sick leave law](#) by adding what is being touted as a first-in-the-nation requirement that all employers provide their employees with **20 hours of paid prenatal personal leave per 52-week period**, starting Jan. 1, 2025. The amendment does not require employees to accrue the new leave, nor does it impose a waiting period before employees may use the leave; the full 20 hours must be made available on Jan. 1, 2025.

### *Compensation for Prenatal Personal Leave*

Employees on leave must be paid their regular rate of pay or minimum wage if the applicable minimum wage is higher; however, employers are not required to pay out unused prenatal personal leave when an employee separates from employment.

### *Permitted Uses of Prenatal Personal Leave*

Prenatal personal leave may be 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. The new provisions do not require advance notification or documentation after the fact for using leave.

### *Interaction With Paid Sick Leave and FMLA Leave*

Prenatal personal leave is in addition to the annual sick leave the law already mandates, which ranges from 40-56 hours and may be paid or unpaid, depending on the employer's size and income. The amendment does not indicate that the leave runs concurrently with any federal Family and Medical Leave Act (FMLA) leave taken for prenatal care, meaning the state prenatal personal leave would be in addition to any FMLA leave taken for this purpose.

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### Important Dates

#### **June 19, 2024**

Paid lactation break time requirement takes effect.

#### **Jan. 1, 2025**

Employers must provide 20 hours of paid prenatal personal leave.

#### **July 31, 2025**

COVID-19 sick leave law expires.

***New York employers of all sizes will be required to provide 20 hours of leave for prenatal care.***

### **Paid Lactation Break Time**

The budget also [amends](#) the portion of the state labor law that requires employers to provide break time for nursing mothers. Effective **June 19, 2024**, employers will have to give employees 30 minutes of paid break time to express breast milk for their nursing child. The employees must also be allowed to use existing paid break time or meal time for lactation time in excess of 30 minutes. These requirements apply each time an employee has a reasonable need to express milk, for up to three years following a child's birth.

### **Sunset Date for COVID-19 Leave**

In another provision affecting employers, the budget [establishes July 31, 2025](#), as the expiration date for New York's [COVID-19 employee sick leave law](#). The law took effect at the beginning of the COVID-19 pandemic, on March 18, 2020, and requires leave of up to 14 days, depending on the size and income of the employer. As with the state's regular sick leave law, whether leave must be paid also depends on the size and income of the employer. The sunseting of the law comes in the wake of expired states of emergency and changed recommendations for isolation and quarantine.

### **Steps for Employers**

New York employers should make sure to comply with the new paid lactation time mandate, which begins in June. They should also prepare for the start of paid prenatal personal leave in January 2025, and watch for agency regulations or guidance for the new leave entitlement. Managers and supervisors should be trained on these requirements, and employee policies and handbooks should be brought up to date.

Employers must continue to allow COVID-19 sick leave through the end of July 2025. After that point, other leave requirements, such as the state paid sick leave law, may allow employees to take time off from work for illness, including COVID-19.