

## Understanding New York State's Paid Prenatal Leave Mandate



By [Jessica A. Buffamonti](#) , [Amy Habib Rittling](#)

January 10, 2025 | **CLIENT ALERTS**

Effective January 1, 2025, New York State employers must provide paid “prenatal personal leave” to their employees as a part of the state’s mandatory paid sick leave program. New York is the first state to mandate Paid Prenatal Leave.

While Paid Prenatal Leave is part of the State’s Paid Sick Leave law, it is available *in addition to* what employees are eligible to receive under the statutory sick leave benefits available to New York employees.

Paid Prenatal Leave is defined as, “leave taken for the health care services received by an employee during their pregnancy or related to such pregnancy, including physical examinations, medical procedures, monitoring and testing, and discussions with a health care provider related to the pregnancy.” According to guidance issued by New York State, Paid Prenatal Leave includes leave for fertility treatment or care appointments. However, the leave cannot be used for postpartum or post-natal medical care.

Regardless of size, employers are required to provide employees with up to 20 hours of Paid Prenatal Leave during any 52-week period for healthcare services relating to their pregnancies. The first time an employee uses Paid Prenatal Leave begins the 52-week period for that employee. The amendment does not prohibit or prevent an employer from providing prenatal leave, paid or unpaid, in excess of the 20-hour requirement. Paid Prenatal Leave can be used for any qualifying reason in increments as little as one hour at a time. Employers may not: (a) require the disclosure of confidential information relating to a mental or physical illness, injury, condition, sexual offense, etc., as a condition of providing Paid Prenatal Leave; or (b) penalize, discriminate, or retaliate against an employee for requesting or taking such leave.

Paid Prenatal Leave is similar to New York Paid Sick Leave in several ways. Paid Prenatal Leave must be paid at 100% of the employee's regular rate of pay or the minimum wage, whichever is greater. Employers are not required to pay employees for unused leave upon separation from employment. Upon return to work following any Paid Prenatal Leave taken pursuant to this section, an employee shall be restored to the position of employment held by such employee prior to taking Paid Prenatal Leave with the same pay and other terms and conditions of employment.

There are also critical differences between Paid Prenatal Leave and Paid Sick Leave. In addition to being able to use the leave in as little as one hour increments, employers are required to provide 20 hours of Paid Prenatal Leave regardless of the size of the employer. Employees can use Paid Prenatal Leave immediately upon hire as there is no accrual. While it is a best practice to record the usage of Paid Prenatal Leave, there is no requirement that it be maintained on employees' payroll records.

New York employers will need to be careful in the implementation and management of their statutory leave policies given the various nuances and overlap of each.

If you have any questions about Paid Prenatal Leave or any other state and federal leave laws, please contact a member of our [Employment Practice Team](#).