

New York State's Paid Sick Leave Legislation

Through the budget, the New York Legislature and Governor Andrew Cuomo have enacted legislation to provide permanent statewide paid sick leave rights beginning in January 2021. This new law is separate from New York State provisions already in effect providing emergency paid sick time in certain situations in response to the coronavirus. The following is a summary of key provisions of the permanent paid sick leave legislation.

The law also includes permanent paid sick leave provisions covering a variety of situations. These provisions will take effect on the 180th day following the law's enactment and employees will be able to begin taking sick leave under the law on January 1, 2021.

Overview of the permanent paid sick leave provisions:

- Employees will be entitled to earn sick leave at a rate of 1 hour of sick leave for every 30 hours worked.
- Employees will be entitled to use earned sick leave as follows (per year):
 - Employers with 4 or fewer employees: up to 40 hours of *unpaid* sick leave
 - *Exception:* Employers with 4 or fewer employees with net income greater than \$1 million in the last tax year: up to 40 hours of *paid* sick leave
 - Employers with 5 to 99 employees: up to 40 hours of *paid* sick leave
 - Employers with 100 or more employees: up to 56 hours of *paid* sick leave
- Employees will be able to take time off for the following purposes:
 - to recover from physical/mental illness or injury;
 - to seek medical diagnosis, treatment, or preventive care;
 - to care for a sick family member or to get seek medical diagnosis, treatment, or preventive care for a family member; or
 - to attend to certain non-medical needs that may arise when an employee or their family member is a victim of sexual or domestic violence, stalking, or human trafficking (known as “safe time”).
- Employees will begin earning sick leave when they are hired or 180 days after the enactment of the law, whichever comes later, and will be able to use their accrued sick leave starting on January 1, 2021.
- The law defines “family member” to include a range of relationships. Family is defined to include the employee’s child (of any age), spouse, domestic partner, parent, sibling, grandchild, grandparent, or the child or parent of the employee’s spouse or domestic partner.
- Employees who are entitled to paid sick leave will be paid at their usual rate of pay or the *full* state minimum wage, whichever is greater.
- *All* covered employees are protected against retaliation for using their rights under the law

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and are entitled to return to their jobs following leave.

- Employers who already provide time off that meets all the law's requirements will not be required to provide additional time off.
- The state law does *not* preempt or restrict New York City from enforcing its earned sick and safe time law, to the extent that the city law meets or exceed the requirements of the state law.
- The Department of Labor will provide further guidance and clarification through regulations.