

NEW YORK BUDGET BILL: COVID LEAVE ENDING, OTHER LEAVES COMING?

INSIGHT

New York's proposed budget bill points toward significant changes in employee leave rights in the coming year.

REPEAL OF NY COVID PAID SICK LEAVE LAW

New York – the last state in the country still requiring all employers to extend COVID-specific sick leave pay for employees – could end the practice in July under a proposal included in Governor Kathy Hochul's budget plan.

The Governor's [Budget Briefing Book](#)^[1] notes proposed legislation in budget would "sunset[] the law which required employers to provide sick leave and other benefits for employees subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19 law because its applicability to new employers is unclear and quarantine requirements have changed." If passed, New York's COVID Sick Leave Law would be repealed as of July 31, 2024.

Enacted at the very start of the pandemic in March 2020, the [COVID Sick Leave Law](#) requires five or 14 paid sick days (dependent on employer size) during an employee's COVID isolation. Employees working for employers with less than 100 employees can subsequently take enhanced Paid Family Leave ("PFL") benefits if their isolation period extends beyond their allotted COVID sick days.

The law has gone through several "variants" of functional expansion and contraction since its inception, as authorities grappled with changing recommendations while the pandemic's new normal ran its course. Under most recent guidance, typical COVID isolation periods last five days.

Unlike employers' other sick leave obligations, the COVID Sick Leave Law requires paid days exclusively for COVID-related issues. If the law is repealed, employers' COVID-19 leave obligations would fall more in line with other illnesses, such as influenza or seasonal colds. Private-sector businesses are still required to provide paid leave for such conditions under New York's *other* ["Paid Sick Leave Law,"](#) which requires up to 40 or 56 hours of paid leave per year for basic illnesses and medical visits.

Another COVID-era requirement, the COVID Vaccination Leave Law that required four hours of paid leave for employees to get COVID vaccinations, expired on December 31, 2023.

While the law's possible repeal marks a welcome and overdue change, employers should carefully review employee leave obligations on a case-by-case basis. More serious COVID diagnoses — and of course, other illnesses — could still trigger obligations under a patchwork of protected leave and medical accommodation laws, such as the federal Family & Medical Leave Act ("FMLA"), the Americans with Disabilities Act ("ADA"), and the N.Y. Human Rights Law ("HRL").

PRENATAL LEAVE, BREAST MILK EXPRESSION AND SHORT-TERM DISABILITY PAY

Other provisions in the proposed budget, however, will bring new leave obligations, if passed.

Prenatal Leave

An amendment to the state’s Paid Family Leave law would provide for 40 hours of paid leave for expectant mothers to attend prenatal care appointments. The proposal would be in addition to employees’ other leave rights under PFL, which grants employees up to 12 weeks of paid leave in a year to bond with a new child, care for a family member with a serious health condition, or attend to exigencies caused by a family member’s deployment to active military service.

Paid Breaks for Breast Milk Expression

Relatedly, the budget bill also includes a proposed amendment guaranteeing paid breaks during the workday for employees to express breast milk. Many employers will remember that New York recently [addressed workplace breast milk expression in an amendment that took effect in June 2023](#). The budget bill proposal builds on the amendment by proposing mandatory 20-minute *paid* breaks when employees need to express breast milk.

Updates to Short-Term Disability Payments

Rounding out the most important leave-related updates, the budget bill updates the benefit amount available to employees on statutory Short Term Disability Leave. If passed, the proposal would be the first update to benefit levels since 1989. Summarized, the proposal would increase benefit levels as follows:

	2025	2026	2027	2028	2029
First 12 Weeks	Max of \$400 per week , up to a cap of 50% of the employee's average weekly wage	Max of \$630 per week , up to a cap of 50% of the employee's average weekly wage	Up to a cap of 50% of the employee's average weekly wage, subject further to a cap of 50% of the <i>statewide</i> average weekly wage	Up to a cap of 60% of the employee's average weekly wage, subject further to a cap of 60% of the <i>statewide</i> average weekly wage	Up to a cap of 67% of the employee's average weekly wage, subject further to a cap of 67% of the <i>statewide</i> average weekly wage
Weeks 12 through 26	Max of \$280 per week, up to a cap of 50% of the employee's average weekly wage	Max of \$280 per week, up to a cap of 60% of the employee's average weekly wage	Max of \$280 per week, up to a cap of 67% of the employee's average weekly wage		

NEXT STEPS

Harris Beach’s Labor and Employment attorneys are closely following these and related issues. Another notable proposal in the budget would curtail penalties associated with inadvertent “untimely” pay for manual workers, [discussed in our previous alert](#).

Should you have questions about navigating these updates and changes, please feel free to reach out to attorney [Daniel J. Moore](#) at (585) 419-8626 and dmoore@harrisbeach.com; attorney [Ibrahim Tariq](#) at (585) 419-8556 and itariq@harrisbeach.com; or the Harris Beach attorney with whom you most frequently work.

This alert is not a substitute for advice of counsel on specific legal issues.

Harris Beach has offices throughout New York state, including Albany, Buffalo, Ithaca, Long Island, New York City, Rochester, Saratoga Springs, Syracuse and White Plains, as well as Washington D.C., New Haven, Connecticut and Newark, New Jersey.

[1] The Budget Briefing Book addresses the topics discussed in this Alert at the following pages:

- Sunset of COVID-19 Paid Sick Leave Law: Page 89
- Prenatal Leave: Page 65
- Breast Milk Expression: Page 89
- Short-Term Disability Benefit Payments: Page 64

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