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EMPLOYMENT LAW ALERT REGARDING THE

PAID PRENATAL LEAVE

New York State Issues Guidance for 2025's Paid Prenatal Leave Law

Effective January 1, 2025, employers in New York State will be mandated to comply with the Paid Prenatal Leave Law. This law will give covered employees, which includes pregnant employees as well as employees receiving fertility and in-vitro services, the ability to take paid leave for any pregnancy-related medical appointment.

The goal of Paid Prenatal Leave is to ensure covered employees receive health care needed to address all pregnancy related care, to create healthy outcomes without jeopardizing their employment or finances. This is the first policy of its kind in the United States.

Paid Prenatal Leave was included in New York State's 2025 budget, as amendment to New York State's existing Paid Sick Leave Law (Section 196-b of New York Labor Law). The budget was signed by Governor Kathy Hochul on April 10, 2024.

With the January 1, 2025 implementation date fast approaching, New York State recently released formal guidance on specific requirements and enforcement of the Paid Prenatal Leave Law.

The following are answers to pertinent questions employers should address, to prepare for the Paid Prenatal Leave Law, which goes into effect on January 1, 2025.

Who is covered under the New York State Paid Prenatal Leave Law?

All covered private sector employees are entitled to Paid Prenatal Leave, including those that work part-time or are overtime exempt.

An employee does not need to work a minimum number of hours to accrue Paid Prenatal Leave. All covered employees working for a private sector employer, including newly hired employees, are automatically entitled to 20 hours of Paid Prenatal Leave, each year.

Who is not covered under the New York State Paid Prenatal Leave Law?

Only those covered employees receiving the prenatal health care are eligible to use Paid Prenatal Leave. A spouse, partner, or other support person attending prenatal appointments with a covered employee are not entitled to Paid Prenatal Leave.

How many hours must employers provide under the New York State Paid Prenatal Leave Law?

All private-sector employers in New York State are required to provide their covered employees with 20 hours of Paid Prenatal Leave each year.

What are employers required to pay employees who use Paid Prenatal Leave?

Employees eligible to use Paid Prenatal Leave are to be paid at their regular rate of pay, or at the appropriate minimum wage for their occupation, whichever is greater.

What type of appointments can be used by employees for Paid Prenatal Leave?

Employees are entitled to take Paid Prenatal leave for prenatal health care appointments during or related to their pregnancy, including:

- physical examinations;
- medical procedures;
- monitoring;
- testing;
- discussion with a health care provider needed to ensure healthy pregnancy;
- end of pregnancy care;
- fertility treatment; and
- in vitro fertilization.

What type of procedures should employers have in place for employees that want to request time off under Paid Prenatal Leave?

The New York State Department of Labor encourages employers to communicate to their employees what notification or request procedures they should follow when requesting time off. Employees should request or notify their employer that they are using Paid Prenatal Leave in the same manner they would request or notify their employer of other types of time off at their workplace.

Can an employer ask for documentation to verify an employee is requesting Paid Prenatal Leave for a valid reason?

An employer cannot ask an employee for personal or confidential information about their health or the nature of their prenatal visit, as a condition of using Paid Prenatal Leave. An employer also cannot request that an employee submit medical records to use Paid Prenatal Leave.

Can an employer be subject to a lawsuit due to the New York State Paid Prenatal Leave Law?

It is against the law for employers to retaliate or discriminate against employees for requesting and using Paid Prenatal Leave. Examples of what qualifies as retaliation includes:

- Reducing the number of hours of sick leave, vacation leave, or other leave an employee is entitled to because an employee uses Paid Prenatal Leave.
- Changing an employee's work location or hours after an employee requests to use Paid Prenatal Leave.
- Firing or demoting an employee after they request to use Paid Prenatal Leave.

How can I learn more about the New York State Paid Prenatal Leave Law?

If you have additional questions regarding Paid Prenatal Leave, please contact a member of Lipsitz Green Scime Cambria's Business and Corporate practice group. Guidance issued by New York State can be found by [clicking here](#).