



## **New York's Paid Prenatal Leave Law Takes Effect on January 1, 2025**

As we mentioned in a [prior alert](#), New York Labor Law § 196-b has been amended to require all private sector employers, regardless of size, to provide employees with paid prenatal leave beginning on January 1, 2025. New York is the first state in the nation to require paid leave of this kind.

The Department of Labor recently released an [employer guidance document](#) and [FAQs](#) which provide further details on employers' obligations under the new Paid Prenatal Leave Law. All private employers, including not-for-profit organizations, in New York should familiarize themselves with this new benefit, update their policies and train management and Human Resources personnel to ensure the smooth implementation of the law.

### ***Covered Employees and Reasons for Prenatal Leave***

Covered employees are entitled to twenty hours of paid prenatal leave per year, which may be used in increments as small as one hour, for prenatal appointments during or related to pregnancy. These appointments include: (1) physical examinations; (2) medical procedures; (3) monitoring; (4) testing; (5) discussions with a healthcare provider to ensure a healthy pregnancy; (6) end of pregnancy care; and (7) fertility treatment.

Prenatal leave is available to all full-time and part-time private sector employees regardless of whether they are exempt or non-exempt from overtime. Leave may be used by the employee receiving healthcare but not the recipient's spouse, partner or other support person.

### ***Handling Requests for Leave and Coordination with Other Types of Leave***

Employers must permit employees to request paid prenatal leave in the same manner that employees request to use other types of leave.

In considering a request, employers are not permitted to ask for an employee's confidential information or medical records. The employer must grant an employee's request for paid prenatal leave until the employee's annual leave allotment is exhausted.

Paid prenatal leave is in addition to, rather than in place of, any other forms of leave available to the employee. The employee may choose to use paid prenatal leave, paid sick leave or any other available leave for prenatal appointments, but employers cannot require the employee to use one type of leave rather than another.

### ***Tracking Leave Usage and Calculating the Rate of Pay***

An employee becomes entitled to the full allotment of twenty hours of annual paid prenatal leave immediately at the time of hire; there is no need for an employee to work a particular length of time to accrue paid prenatal leave hours.

The window for usage of an employee's annual paid prenatal leave allotment begins on the first date the employee uses leave and ends fifty-two weeks later. After the expiration of fifty-two weeks, the employee's paid prenatal leave bank is replenished and twenty additional hours become available.

Unused paid prenatal leave need not be rolled over from one annual leave period to the next, and employees are not entitled to be paid for unused prenatal leave upon separation from employment.

The employer must provide paid prenatal leave at the employee's ordinary rate of pay, or the minimum wage for the employee's position, whichever is greater. If the employee earns the tipped minimum wage, they must be paid the applicable full minimum wage for each hour of paid prenatal leave.

### ***Discrimination and Retaliation Prohibited***

Employers are prohibited from discriminating or retaliating against employees who request or use paid prenatal leave.

### ***Action Items for Employers***

In advance of January 1st, employers should take steps to prepare for the Paid Prenatal Leave Law's implementation.

Training of supervisors and Human Resources personnel should be top of mind, particularly because of the law's restrictions on the type of information that may be requested from employees seeking leave and the need to track prenatal leave usage without reducing employees' sick and other leave banks.

Employers should also update their handbooks to explain the prenatal leave benefit and the method employees should use to request leave.

As always, Ruskin Moscou Faltischek, P.C. is prepared to assist employers in complying with changes in the law. If you have any questions regarding how these issues impact your workplace, or would like to discuss any employment related matters, please contact us.

**Jessica M. Baquet, Esq.**  
**516.663.6506**  
**[jbaquet@rmfpc.com](mailto:jbaquet@rmfpc.com)**