



# NYC Expands Safe and Sick Leave Requirements: What Employers Need to Know

Insights

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The New York City Council just passed legislation to further expand the city's Earned Safe and Sick Time Act. The amendments, approved on September 25, will soon broaden the reasons employees can use sick leave, introduce a new 32-hour bank of unpaid leave, and eliminate obligations under the Temporary Schedule Change Act in light of the expanded sick leave requirements. Below, we summarize the current requirements, highlight the key changes, and outline steps employers should take to prepare.

## What's the Current Law?

Under the New York City Earned Safe and Sick Time Act (ESSTA), employers with 99 or fewer employees must provide employees with up to 40 hours of safe/sick leave per year, while larger employers with 100 or more employees must provide up to 56 hours. Leave accrues at a minimum rate of one hour for every 30 hours worked. Except for employers with four or fewer employees and a net income under \$1 million in the previous year, safe/sick leave must be paid.

Employees may use safe/sick leave for:

- their own illness or medical care;
- caring for a family member with an illness or who needs medical care;
- a workplace closure due to a public health emergency,
- care of a child whose school or childcare provider is closed due to a public health emergency; or
- seeking legal and social services, or taking other safety measures, if the employee or a family member is the victim of certain offenses (e.g., family offense, sexual offense, stalking, human trafficking).

Since 2018, the Temporary Schedule Change Act (TSCA) allows employees to request up to two temporary schedule changes per year for "personal events." This can include caregiving for a minor child or care recipient, attending legal proceedings related to subsistence benefits for the employee or their family member or care recipient, or any reason permitted under the ESSTA. Employees must grant these requests up to twice per year or provide unpaid leave.

## What's Changing?

## **What's Changing:**

If signed into law by the Mayor, the amended law will provide employees with additional safe/sick leave rights, while shifting the primary requirements under the TSCA to be encompassed under the ESSTA.

### **1. Expanded Permitted Uses of Safe/Sick Leave**

Employees will be able to use safe/sick leave for additional reasons, including:

- Workplace, school or childcare provider closures due to a public disaster (fire, explosion, terrorist attack, severe weather conditions or other declared public emergencies);
- Compliance with public official directives to remain indoors or avoid travel due to a public disaster;
- Seeking legal or social services, or taking other safety measures, if the employee or their family member is a victim of workplace violence;
- Providing care to a minor child or care recipient; or
- Attending or preparing for legal proceedings related to subsistence benefits or housing, or taking actions necessary to apply for, maintain, or restore such benefits.

### **2. New 32-Hour Bank of Unpaid Leave**

Employers will need to provide a separate bank of at least 32 hours of unpaid leave, available immediately upon hire and replenished at the start of each calendar year. Employees will be able to use this leave immediately for any reason permitted under the ESSTA. Unused unpaid leave does not carry over to the next year.

### **3. 20 Hours of Paid Prenatal Leave**

Employees will be entitled to 20 hours of paid prenatal leave during any 52-week calendar period, consistent with the New York State Law effective January 1, 2025. This leave may be used during pregnancy for medical appointments, procedures, tests, and related healthcare discussions.

### **4. Elimination of Most TSCA Requirements**

The requirement to provide employees with up to two temporary schedule changes per year under the TSCA will be eliminated. Instead, the personal events previously covered by the TSCA will now be included as permissible reasons for safe/sick leave, as noted above. Employees may still request a temporary schedule change, but employers will no longer be required to grant them. However, employees will remain protected from retaliation for making such requests.

## **What's Next?**

The bill now awaits Mayor Adams' signature. If signed, the law will take effect 120 days later.

## What Should You Do?

In anticipation of the likely changes to the ESSTA and TSCA, you should consider the following steps:

- Review and update safe/sick time policies to reflect the new requirements.
- Take the necessary administrative steps to implement the new 32-hour unpaid leave bank.
- Train your HR personnel and any other employees involved in administering safe/sick leave to ensure they fully understand the changes.
- Finally, monitor for an updated notice of employee rights from the City, which will likely need to be distributed to your workforce.

## Conclusion

We will continue to monitor developments on employee leave issues, so make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information directly to your inbox. If you have questions, contact your Fisher Phillips attorney, the author of this Insight, any attorney in our [Employee Leaves and Accommodations Practice Group](#), or any attorney in our [New York City office](#).

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