

A Robinson+Cole Legal Update

Coronavirus (COVID-19)

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New York State Paid Sick Leave Takes Effect; New York City Amends Local Law to Conform, Impose Additional Requirements

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New York State's Paid Sick Leave law took effect on September 30, 2020. The law, adopted at the start of the coronavirus pandemic in March, requires every employer with employees working in New York to provide paid or unpaid leave to those employees. The amount of leave and whether it is paid or unpaid leave depends on the size and income of the business (summarized below):

Size and Income of Employer	Amount of Annual Leave	Paid or Unpaid
0 to 4 Employees, < \$1,000,000 in annual net income	Up to 40 hours	Unpaid
0 to 4 Employees ≥ \$1,000,000 in annual net income	Up to 40 hours	Paid
5 to 99 Employees	Up to 40 hours	Paid
100 or more employees	Up to 56 hours	Paid

Employees begin to accrue leave on the later of September 30, 2020 or their date of employment. Leave accrues at the rate of one (1) hour of leave for every 30 hours of work. While leave may begin to accrue as early as September 30, 2020, employees are not eligible to take leave until January 1, 2021. Employers may grant employees the full allotment of leave at the start of the calendar year, but once granted, may not reduce the amount of leave based on the number of hours worked. Employees may carry over to the next year any accrued and unused sick leave, but an employer may limit the amount of leave taken each year (40 hours for employers of fewer than 100 employees, 56 hours for employers of 100 or more employees). Employers may grant more sick leave than the amount required by the law.

Sick leave may be used in any reasonable increment set by the employer. Employees may use sick leave for a mental or physical illness, injury or health condition of the employee or the employee's covered family member; for diagnosis, care or treatment of a mental or physical illness, injury or health condition of, or the need for, a medical diagnosis for the employee or the employee's covered family member; or for an absence due to domestic violence, a sexual offense, stalking or human trafficking, or to avail themselves or a family member of covered services as a result of such incidents (including civil or criminal proceedings and attendance at victim's services organizations).

Importantly, the new sick leave benefit appears to be in addition to the Emergency Paid Sick Leave benefits provided by the federal government beginning on April 1, 2021, under the Families First Coronavirus Response Act (FFCRA).

New York City Amends Local Law to Conform

Following New York State, effective September 30, 2020, the New York City Council amended the New York City Earned Safe and Sick Leave Act to conform to the New York State law. In doing so, however, the City Council expanded paid sick leave benefits for domestic workers and imposed additional obligations on employers with respect to their employees located in New York City.

The amended New York City law requires employers to provide employees with both the amount of sick time earned and used during the pay period, as well as the current leave balance, either in their paystubs or in a separate document. Employers must provide and post written notice of the amended law to all employees within 30 days of its effective date (i.e., by October 30, 2020) or the employee's date of hire, whichever is later. This written notice must be posted and provided to employees in English as well as the primary language of the employee.

In addition, the New York City law now provides for up to 40 hours of paid sick leave for domestic workers, regardless of the number of employees or the employer's net annual income level. This change represents a substantial increase in the amount of leave available to domestic workers, as the prior version of the local law provided only two days of paid sick leave per year. (New York State's [Domestic Workers Bill of Rights](#) provides for up to three days leave for domestic workers, although not specifically for sickness.)

While the amendments became effective in September, an employer need not allow employees to use the extended leave benefits until January 1, 2021.

Given the complex interplay between federal, New York State and New York City leave laws, employers may wish to confer with qualified legal counsel now to comply with notice obligations and harmonize leave policies.

Read more legal updates, blog posts, and speaking engagements related to this area on [Robinson+Cole's Coronavirus Response Team](#) page and feel free to contact any member of our team with questions.

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