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NYC Council Approves Bill Expanding Safe & Sick Leave Entitlements

Law and the Workplace on **October 7, 2025**

The New York City Council has approved a bill that, if ultimately enacted, would expand the city's Earned Safe and Sick Time Act ("ESSTA").

As a reminder, currently under ESSTA, employers must provide up to 40 or 56 hours of paid safe/sick leave per year, depending on employer size (though employers with 4 or fewer employees and a net income of less than $1 million in the prior tax year may provide unpaid leave). Employees can use time under ESSTA as sick time for absences for illness, preventive care, care of a family member, or certain closures during a public health emergency, and/or as "safe time" for absences related to domestic violence, sexual offenses, stalking, or human trafficking.

Additional Reasons for ESSTA Leave

The bill would add several new qualifying reasons for leave under ESSTA including:

- closure of the employee's place of business by order of a public official due to a public disaster (defined to include events such as a fire, terrorist attack, or severe weather conditions);
- to care for an employee's child whose school or childcare provider has restricted in-person operations or is closed due to a public disaster or public health emergency;
- where a public official directs people to remain indoors or avoid travel during a public disaster which prevents an employee from reporting to their work location;
- where an employee or their covered family member has been the victim of workplace violence (defined as "any act or threat of violence against an employee that occurs in a place of employment");
- absences for employees acting as caregivers to provide care to a minor child or a care recipient (defined as "a person with a disability, including a temporary disability, who (i) is the caregiver's family member or resides in the caregiver's household and (ii) relies on the caregiver for medical care or to meet the needs of daily living"); and/or

- time needed to initiate, attend, or prepare for legal proceedings related to subsistence benefits or housing, or to take steps to apply for, maintain, or restore those benefits or shelter for themselves, a family member, or a care recipient.

New Unpaid Leave Entitlement

Notably, the bill would also require employers of all sizes to provide employees with an additional 32 hours of unpaid sick and safe time beyond the paid (or unpaid) leave already available to them under ESSTA. This unpaid leave allotment could be used for any of the covered reasons under ESSTA and would be immediately available to employees upon hire and at the start of each calendar year. Unused unpaid time would not carry over into the following year. If an employee requests leave for an ESSTA-covered reason, the employer would first provide the paid (or unpaid) leave available under existing ESSTA requirements, with the new unpaid allotment applying only after that leave is exhausted, unless the employee specifically requests otherwise.

Formal Adoption of Paid Prenatal Leave Under ESSTA

The bill would formalize the entitlement under ESSTA to provide 20 hours of paid prenatal leave during any 52-week calendar period, aligning with the statewide paid prenatal leave requirement that took effect on January 1, 2025. Paid prenatal leave is time off that employees can use for healthcare during or related to their pregnancy, including fertility treatment and end-of-pregnancy care. As a reminder, effective July 2, 2025, NYC employers must ensure that they have a written paid prenatal leave policy that meets certain minimum requirements (as is currently required by ESSTA with respect to sick and safe leave).

Modification of Collective Bargaining Provisions Under ESSTA

Presently under ESSTA, the provisions of the law do not apply to any employee covered by a valid collective bargaining agreement that expressly waives the law's provisions and where such agreement provides for "a comparable benefit . . . in the form of paid days off," which can be in the form of leave, compensation, other employees benefits, or a combination thereof. Under the bill, the provisions of ESSTA could be waived where a CBA provides for "superior or comparable benefits" in the form of paid or unpaid time off. However, unpaid time off would not be considered a comparable benefit for purposes of paid sick and safe time or paid prenatal leave.

Changes to the Temporary Schedule Change Act

The bill also seeks to align ESSTA with the NYC Temporary Schedule Change Act ("TSCA"). The TSCA, which took effect in 2018, requires employers to grant up to two temporary schedule changes per year if the request is related to a qualifying "personal event," such as caregiving for a minor child or care recipient, attending a legal proceeding for subsistence benefits, or any circumstance that qualified as a covered reason under ESSTA.

Under the bill, with caregiving for a minor child/care recipient and attending subsistence benefit proceedings being incorporated as new qualifying events under ESSTA, this temporary schedule change requirement would be eliminated. Employees would still retain the right to request a temporary change for a personal event, and be protected from retaliation based on doing so. However, employers would not be required to grant such requests, though they would be required to respond to the request as soon as practicable and may propose an alternative adjustment that the employee may accept or decline.

Next Steps

The bill has been sent to Mayor Eric Adams for consideration and, if enacted, would take effect 120 days after signing. We will continue to track this new law and report on further developments.

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