

Publications

New York Mandates Paid Lactation Time and Paid Prenatal Leave

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CLIENT ALERT | 5.1.2024

On April 20, 2024, New York lawmakers finalized their \$237 billion budget for fiscal year 2024-2025. The budget introduces several expansions impacting employers in New York State, including paid breaks for lactation time and paid prenatal leave for pregnant employees. These expansions were first introduced in January of 2024 as part of Governor Kathy Hochul's broader initiatives to improve maternal and infant mortality rates in New York.

Paid Lactation Breaks

In addition to expansive protections set forth in the U.S. Department of Labor's **PUMP for Nursing Mother's Act**, New York employers will soon be required to implement paid break times for nursing mothers to express breast milk during the workday. Currently, New York state law requires employers to allow their employees reasonable **unpaid** break time for pumping. Starting June 19, 2024, however, New York law will require employers to provide 30 minutes of **paid** break time and to permit employees to use other paid rest or meal breaks for time in excess of 30 minutes "**each time** such employee has reasonable need to express breast milk." While there is no guidance surrounding the "each time" language, it will likely be interpreted to allow employees multiple paid breaks during a workday.

Paid Prenatal Leave

New York will now become the first state to establish paid prenatal leave for private sector employers. Employers must provide employees with up to 20 hours of paid prenatal leave per calendar year. Employees will be eligible to utilize this leave during their pregnancy or for related reasons including medical procedures, appointments, tests, monitoring examinations, discussions with healthcare providers, and other medical demands.

Importantly, the leave will be available as a separate bank of paid leave, independent from the existing 40 or 56 hours of paid sick leave (depending on employer size) mandated by state law and may be used in hourly increments. The paid prenatal leave is paid at the greater of

the employees' regular rate of pay or the applicable minimum wage. Employers are prohibited from taking adverse action against an employee who has requested or used paid prenatal leave. The mandate will go into effect on **January 1, 2025**.

Takeaways

Employers with a presence in New York should review their current policies and procedures surrounding paid break times for nursing employees and paid prenatal leave. Contact your Vorys attorneys with questions about the impact of New York's new mandates.