

New York Employers Be Prepared: 2018 Will Usher in Changes to Family Leave Policies

01/18/17

In 2018, New York is enacting the New York Paid Family Leave Benefits Law. The paid leave law will be gradually phased in, and beginning on January 1, 2018, employees will be able to take up to 8 weeks of paid family leave. By 2021, employees will be able to take 12 weeks of paid family leave, a major change in benefits for covered employees.

Specifically, the key dates and provisions under this new law are:

- January 1, 2018 – employees can take up to 8 weeks of leave in any 52 week calendar period and receive 50% of their average weekly wage (not to exceed 50% of the state average weekly wage)
- January 1, 2019 – employees can take up to 10 weeks during any 52 week calendar period and receive 55% of their average weekly wage (not to exceed 55% of the state average weekly wage)
- January 1, 2020 – employees can take up to 10 weeks during any 52 week calendar period and receive 60% of their average weekly wage (not to exceed 60% percent of the state average weekly wage)
- January 1, 2021 – employees can take up to 12 weeks during any 52 week calendar period and receive 67% of their average weekly wage (not to exceed 67% of the state average weekly wage)

The leave may be taken by the employee:

- to participate in providing care, including physical or psychological care, for a family member of the employee made necessary by a serious health condition of the family member;
- to bond with the employee's child during the first twelve months after the child's birth, or the first twelve months after the placement of the child for adoption or foster care with the employee;
- because of any qualifying exigency as defined in the federal Family and Medical Leave Act ("FMLA"), arising out the fact that the spouse, domestic partner, child, or parent of the employee is on active duty in the U.S. Armed Forces.

To be eligible for leave under this law, an employee is required to have worked for the employer for at least 26 weeks. Additionally, if the need for family leave is foreseeable, the employee is required to provide the employer with at least 30 days' notice.

While employers do not have to fund the paid leave (the maximum employee contribution will be set by the State Superintendent of Financial Services), employers should note that employees who take leave under this law must be restored to their position or to a comparable position when their leave is over. Employers should also note that the leave runs concurrently with federal FMLA leave unless the employer expressly permits otherwise.

Attorney

- Ashley Morin