

LABOR AND EMPLOYMENT LAW

INFORMATION MEMO

APRIL 22, 2024

New York State Budget Bill's Impact on the Workplace: New York Enacts Paid Prenatal Leave and Paid Breast Milk Expression Time, While Keeping Paid COVID-19 Sick Leave on the Books through Mid-2025

After much anticipation, New York State lawmakers came to a final agreement on a budget bill, which contains several key changes employers should take note of. Three employment law provisions of Gov. Hochul's executive budget proposal, which we reported on in January, survived in altered form. Others did not make it into the final approved budget bill.

Paid Prenatal Leave

New York becomes the first state to mandate paid prenatal leave, with a budget amendment requiring employers to provide pregnant employees with 20 hours of paid prenatal leave during any 52-week calendar period. This mandate is an amendment to Labor Law § 196-b and is in addition to the state's existing mandatory paid sick leave. The 20-hour allotment is a decrease from the Governor's original proposal, which would have required 40 hours of leave. The leave can be used for "physical examinations, medical procedures, monitoring and testing, and discussions with a health care provider related to the pregnancy," and can be taken in hourly increments. The paid prenatal leave requirement will take effect on Jan. 1, 2025, and only applies to private sector employers.

Paid Breaks for Breast Milk Expression

Gov. Hochul also proposed adding paid break time to the State's existing requirement to provide nursing mothers with unpaid break time to express breast milk. The original proposal of 20 minutes of paid break time was increased during budget negotiations. The final law amends Labor Law § 206-c and requires all private and public sector employers to provide 30 minutes of paid break time and allow employees to use other paid break or meal time for time in excess of 30 minutes "each time such employee has reasonable need to express breast milk." Given the "each time" language, it is conceivable an employee would be entitled to multiple paid breaks during a work day for this purpose. The paid breast milk expression mandate begins on June 19, 2024.

Paid COVID-19 Sick Leave

One of the more closely watched budget items for employers was the proposed end of Paid COVID-19 Sick Leave. Many employers have been hoping for the leave mandate to expire, viewing it as irrelevant, confusing and duplicative of existing sick leave mandates in light of the end of the public health emergency. As we recently reported, the law's application is questionable given recent changes to CDC Guidance.

The budget bill repeals the Paid COVID-19 Sick Leave requirement—but not for another fourteen months. While Governor Hochul originally proposed ending the law on July 31, 2024, the final bill adds an extra year. Paid COVID-19 Sick Leave continues to be the law of New York State until July 31, 2025.

Proposals That Failed to Make the Cut: Short-Term Disability Benefit Increases & Clarifications on the Availability of Liquidated Damages for Frequency of Pay Violations

Two proposals we reported on in January did not make it into the final bill. Despite the Governor and both houses including an increase in the benefit amount for short-term disability insurance in their legislative proposals, the topic was removed from the bill during negotiations. Therefore, the state-mandated disability benefit will remain \$170 per week for the foreseeable future.

The Governor's proposal to clarify Labor Law § 198, related to the requirement that manual workers be paid on a weekly basis and the damages available in the event of a violation, also failed to survive the legislative process. The bill would have made clear that if an employee is paid at least semi-monthly, they would not be entitled to 100% liquidated damages, settling a split among New York courts. Without a legislative clarification, the issue of liquidated damages for manual workers who employers fail to pay on a weekly basis will continue to be litigated until the State's Court of Appeals settles the split in authority among courts, or until lawmakers take further action.

If you have any questions about the information presented in this memo, please contact [Kristen Smith](#), any attorney in Bond's [labor and employment practice](#) or the Bond attorney with whom you are regularly in contact.

