

LABOR AND EMPLOYMENT LAW

INFORMATION MEMO

OCTOBER 29, 2025

Major Updates to the New York City Earned Safe and Sick Time Act (ESSTA) for 2026

On September 25, 2025, the New York City Council passed significant amendments to the New York City Earned Safe and Sick Time Act (ESSTA or the Act) and delivered the bill to New York City Mayor Eric Adams on that same date. Because Adams did not veto the bill within the 30-day window, it automatically became law and will go into effect in 120 days, on or around February 22, 2026.

The amendments make significant changes to the existing ESSTA, as well as the New York City Temporary Schedule Change Act (TSCA). A brief summary of some of the key changes include: recognition of additional, new qualifying reasons for use of ESSTA sick/safe leave related to child care, caregiving, workplace violence, subsistence benefits or housing and public disasters, as well as a new obligation for employers to provide additional unpaid sick time and changes related to the alignment of the TSCA with the ESSTA.

By way of brief background, the ESSTA requires covered employers to provide sick/safe leave to employees. The amount and nature of the sick/safe leave that must be provided depends on employer size. Employers with 100 or more employees must provide up to 56 hours of paid sick/safe leave each year; employers with five to 99 employees or employers with four or fewer employees and a net income of \$1 million or more must provide up to 40 hours of paid sick/safe leave each year; and employers with four or fewer employees and a net income of less than \$1 million must provide up to 40 hours of unpaid sick/safe leave each year. Employees must accrue sick/safe leave at a rate of at least 1 hour for every 30 hours worked, but an employer may choose to front-load the sick/safe leave each year.

Recently, the ESSTA was also amended to require employers of any size or net income to provide a separate bank of 20 hours of paid prenatal leave in a 52-week period.

Under the sick/safe leave provisions of the ESSTA, employees may currently use accrued sick/safe leave for the employee's own care, treatment or medical care, or to care for a qualifying family member (including treatment or medical care of the family member), for the closure of the employer's place of business or the employee's need to care for a child whose child care provider has closed due to a public health emergency, as well as to seek assistance (including legal or social services) or take other measures related to domestic violence, sexual offenses, stalking or human trafficking when the employee or the employee's family member is a victim of domestic violence, unwanted sexual contact, stalking or human trafficking.

Expanded uses: In addition to the current list of qualifying reasons for use of sick/safe leave under the ESSTA briefly summarized above, the amendments allow employees to take available sick/safe leave under ESSTA for additional recognized reasons including:

- **Public Disaster** – Employees may use ESSTA leave for a public disaster, defined as a “fire, explosion, terrorist attack, severe weather conditions or other catastrophe that is declared a public emergency or disaster by the president of the United States, the governor of the State of New York, or the mayor of the City of New York.” This also includes direction by a public official to remain indoors or avoid travel during a public disaster that prevents an employee from reporting to their work location.
- **Caregiving Responsibilities** – Employees may use ESSTA leave to provide care to a minor child or care recipient when the employee is a caregiver for the minor child or care recipient.
- **Subsistence Benefits/Housing** – Employees may use ESSTA leave to initiate, attend or prepare for a legal proceeding or hearing related to subsistence benefits or housing to which the employee or the employee’s family member or care recipient is a party. Leave may also be taken by the employee to take actions necessary to apply for, maintain or restore subsistence benefits or shelter for the employee or their family member or care recipient.
- **Workplace Violence** – Employees may use ESSTA leave for certain reasons, including but not limited to seeking legal or social services, meeting with a district attorney or filing a complaint with law enforcement, related to when the employee or the employee’s family member has been the victim of workplace violence. This change specifically adds workplace violence to the “safe leave” provisions of the ESSTA.

New Additional Unpaid Sick Time: The amendments also require employers to provide all employees with an additional thirty-two (32) hours of unpaid sick/safe leave upon hire and on the first day of each benefit year. This leave must be front-loaded, meaning that the full amount must be made immediately available for use and can be used for any qualifying ESSTA purpose. This unpaid ESSTA time does not need to be carried over to the following benefit year.

TSCA: The law effectively realigns the requirements of the TSCA with the ESSTA. Currently, the TSCA entitles employees to request up to two temporary schedule changes each year for qualifying “personal events.” Personal events include the need to care for a minor child or care recipient, the need to attend a legal proceeding or hearing related to public benefits or the employee (or the employee’s family member, minor child or care recipient), or any other reason recognized under the ESSTA. Employers must either grant these temporary schedule change requests or provide the requesting employee with unpaid leave.

The qualifying reasons previously recognized for temporary schedule change requests under the TSCA have been incorporated as protected, qualifying reasons under the ESSTA as explained in greater detail above. Significantly, under these changes, employers will no longer be required to grant an employee’s temporary schedule change request as previously required by the TSCA. However, employers must respond to an employee’s request as soon as practicable. Employers may propose an alternative temporary change, but employees are not required to accept such proposed alternatives. Notably, employees may still request such changes and are protected from retaliation for doing so under the TSCA.

What’s Next

Employers should review their existing sick leave and Temporary Schedule Change Act policies and revise them to reflect the significant changes in the ESSTA by the effective date. As a reminder, the ESSTA requires employers to maintain a written policy with specific minimum information related to ESSTA leave.

Employers should also ensure that accruals for paid and unpaid ESSTA leave are tracked and reported on a pay statement or other written documentation provided to the employee each pay period.

In further preparation for compliance, employers should consider providing training to supervisors, managers or human resources professionals that are responsible for attendance enforcement within their organizations. This will mitigate the risk of non-compliance, including retaliation claims, due to any misunderstandings of employees' rights and protections under the ESSTA and the TSCA.

It is likely that the New York City Department of Consumer and Worker Protection, the agency responsible for enforcement of the ESSTA, will issue updated guidance and other materials, including a new "Workers' Bill of Rights" notice and the "You Have a Right to Temporary Changes to Your Work Schedule" notice, reflecting these changes. Employers should monitor for the updated guidance and notice.

Employers are encouraged to work with legal counsel to understand their new obligations and tailor policies and practices to fit their goals and objectives while maintaining compliance with the new amendments.

If you have any questions or would like additional information, please contact [Stephanie Hoppe Fedorka](#), [Rachel Kreutzer](#) or the Bond attorney with whom you are regularly in contact.

