

Expanded Sick and Safe Time Benefits on the Horizon for NYC Employees

3 min read

Feb 17, 2026

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Employees who work in New York City enjoy some of the most expansive sick and safe leave benefits in the nation. On **February 22, 2026**, those benefits will become even better for workers.

NYC's Earned Sick and Safe Time Act ("ESSTA")

Since 2018, New York City employees have been able to earn either 40 or 56 hours of time off (for employers with more than 100 people) for qualifying sick and safe leave, subject to the size of the employer.

Under NYC's Earned Sick and Safe Time Act (the "ESSTA"), employees earn at least one hour of sick/safe leave ("SSL") for every 30 hours they work. Unless the employee works for a company with four or fewer employees and has gross revenue of less than \$1 million per year, SSL earned under the ESSTA is paid at the employee's regular rate of pay.

What's Changed?

The New York City Council amended the ESSTA, and beginning February 22, 2026, in addition to the 40 or 56 hours of paid SSL, every worker will also receive 32 hours of unpaid SSL on the first day of employment for use in the year of hire and 32 hours at the start of each subsequent calendar year. Once implemented, employees may utilize up to 72 hours (or 88 hours for larger employers) of SSL each calendar year.

The ESSTA amendment does not modify the minimum 30:1 accrual rate for paid SSL or the employer's right to set a minimum of up to 4 hours per use of SSL, but it does relieve employers of their obligation to approve temporary schedule changes under NYC's Temporary Schedule Change Law.

Once the amendment goes into effect on **February 22, 2026**, employers may, within 14 days after receipt of a written request for a temporary schedule change, accept it, deny it, or propose alternative schedule changes, provided the employee is not required to accept the alternatively proposed change.

Employer and employees may collectively bargain an “opt-out” of the ESSTA, but only if the benefits and protections under their collective bargaining agreement meet or exceed the protections of the ESSTA.

Expanded Scope of Qualifying Safe and Sick Leave

The amendments to the ESSTA significantly broaden the circumstances under which employees may use accrued safe and sick leave.

Employees may now use safe leave to:

- Address issues related to discrimination or workplace violence;
- Meet with legal service providers to obtain information or advice;
- Prepare for or participate in related criminal or civil proceedings;
- Attend legal proceedings or hearings relating to the application for, maintenance of, or restoration of housing or subsistence benefits for themselves, a family member, or a care recipient.

In addition, employees who are caregivers to minor children or other care recipients may now use SSL for these expanded safe leave purposes on behalf of those individuals.

Qualifying sick leave now includes situations in which the employee’s workplace is either closed or subject to restrictions on in-person operations by order of a public official as a result of a public disaster. This includes any directives by a public official to remain indoors or avoid travel during a public disaster where such orders prevent the employee from reporting to their workplace.

Parental Leave Formally Incorporated into ESSTA

The ESSTA amendment formally adopts New York State’s prenatal leave benefits and protections. Both New York State and City laws now provide for up to 20 hours of paid prenatal leave for doctor appointments, medical procedures, and other prenatal care.

The 20 hours of prenatal care (which may be used in increments of one hour or more) are in addition to other SSL earned or granted under the ESSTA. Once prenatal leave is exhausted, other SSL earned or granted may be used for further prenatal care.

Takeaways for Employers and Human Resources Professionals

The ESSTA amendments impose new requirements and highlight compliance considerations for New York City employers, including the following:

- Employees are entitled to use all earned paid SSL before using unpaid SSL, unless the employee affirmatively requests to use unpaid SSL first;

- Employers are required under the ESSTA to track and report both paid SSL and unpaid SSL balances to ensure employees are informed of available leave;
- Human Resource professionals and supervisors who receive leave requests must be coached on how to handle requests for SSL, as well as the expanded qualifying uses of SSL;
- Employees should be notified of their expanded rights and protections; and
- Payroll and timekeeping systems should be reviewed to ensure compliance with the ESSTA's enhanced record-keeping requirements.

We are Here to Help

When in doubt about how to apply the ESSTA and its amendments, employers are cautioned to remember that the law is designed to benefit employees and will be interpreted in that manner.

If you are unsure how to prepare your company for these amendments to take effect, or if you have concerns that your company is not currently in compliance with the ESSTA, [please contact Hinshaw's Labor & Employment team as soon as possible.](#)

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