

New York State's New Paid Sick Leave Law Goes Into Effect September 30, 2020

By Richard I. Greenberg, Daniel J. Jacobs, Jenifer M. Bologna and Tania J. Mistretta

September 10, 2020

New York State will soon require all employers to provide sick leave to employees. The New York State Sick Leave (NYSSL) law goes into effect September 30, 2020, but employees are not entitled to use NYSSL until January 1, 2021.

Other key points of the new law include:

- The amount of NYSSL employees will be entitled to use will vary by employer size and income.
 - Employers with at least 100 employees must provide *56 hours of paid sick leave*.
 - Employers with fewer than 100 employees must provide *40 hours of paid sick leave*.
 - Employers with fewer than 5 employees and a net income in excess of \$1 million in the previous tax year must provide *40 hours of paid sick leave*.
 - Employers with fewer than 5 employees and a net income of less than \$1 million in the previous tax year must provide *40 hours of unpaid sick leave*.
- NYSSL will accrue at a rate of 1 hour of every 30 hours worked, unless an employer elects to frontload all sick time at the beginning of the year.
- Employers may set a reasonable minimum increment for use, which cannot exceed 4 hours.
- NYSSL can be used for:
 - Employee's mental or physical illness, or injury, or diagnosis, care, treatment, or preventive care for employee's mental or physical illness or injury;
 - Covered family member's mental or physical illness or injury or diagnosis, care, treatment, or preventive care for a covered family member's mental or physical illness or injury;
 - Absences related to employee's status as a victim of domestic violence, family offense, sexual offense, stalking, or human trafficking; or
 - Absences related to a covered family member's status as a victim of domestic violence, family offense, sexual offense, stalking, or human trafficking.
- The term "Family Member" is broadly defined under the NYSSL to include an employee's child (biological, adopted, or foster child, a legal ward, or a child of an employee standing in loco parentis), spouse, domestic partner, parent (biological, foster, step, adoptive, legal guardian, or person who stood in loco parentis when the employee was a minor child), sibling, grandchild, or grandparent; and the child or parent of an employee's spouse or domestic partner.
- Unused sick leave must be carried over to the following year.
- Employees may request in writing or verbally that an employer provide a summary of the amount of sick leave accrued and used by the employee, which the employer must provide within 3 business days of the request.
- Employers may not require employees to disclose any confidential information in verifying the need for NYSSL.
- Employees have a right to reinstatement and protections against retaliation for exercising rights under the NYSSL.

Meet the Authors



[Richard I. Greenberg](#)

Principal
New York Metro
New York City 212-545-4080
Email



[Daniel J. Jacobs](#)

Principal
New York Metro
New York City 212-545-4049
Email



[Jenifer M. Bologna](#)

Of Counsel
New York Metro
White Plains 914-872-6869
Email

(For more information on the NYSSL, see our article, [New York Budget Includes Changes to State Employment Laws](#).)

While the labor commissioner is empowered to adopt regulations and to issue guidance on the NYSSL, no such guidance has been issued to date.

Employers in New York City and Westchester County, both of which have their own sick leave laws, await further guidance as to how the NYSSL will interact with existing requirements. This will be particularly challenging for employers in Westchester County, where there is a separate Safe Leave Law.

While employees may not be able to use NYSSL until January 1, 2021, the law goes into effect September 30. Practically, this means that employers selecting an accrual method must be prepared to start tracking accrual, provide information upon request regarding accrual, and be prepared to carry over accrued time for employee use starting January 1, 2021.

Additionally, while nothing in the law requires employers to pay out unused sick time upon employment separation, employers should review their handbooks to ensure their pay out policies are clear on the subject.

Significantly, the NYSSL is separate and distinct from the New York State Quarantine Leave Law, which went into effect March 18, 2020. It remains unclear how these two laws will interact in 2021. However, based on the fact the New York State Quarantine Leave Law is a benefit that employers must provide in addition to standard paid sick leave, the expectation is these leave entitlements will not run concurrently.

(For more information on New York State's Quarantine Leave Law, see our article, [New York's New Quarantine Leave Law](#).)

Jackson Lewis attorneys are available to answer inquiries regarding this new law and assist employers in achieving compliance with its requirements.

©2020 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on labor and employment law since 1958, Jackson Lewis P.C.'s 950+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged, stable and diverse, and share our clients' goals to emphasize inclusivity and respect for the contribution of every employee. For more information, visit <https://www.jacksonlewis.com>.



Tania J. Mistretta

Associate
New York Metro
New York City 212-545-4070
Email