



ANALYSIS

New York State Leave Protection

New York has enacted legislation that provides job-protected sick leave and, in some situations, family and disability leave for New York employees required to quarantine or isolate under a “mandatory or precautionary order” due to the COVID-19 pandemic.

New York's COVID-19 Quarantine Leave Law effectively identifies mandatory quarantine or isolation as a condition necessary to qualify for sick, disability and family leave benefits. This primer will provide guidance on how New York's leave laws affect employers of varying sizes. New York also released detailed [guidance for employers](#) and [frequently asked questions](#) for employees, as well as instructions on how to apply for benefits.

This analysis focuses on New York state law. New York City law is developing on a rapid parallel path. Issuance and interpretation of this legislation is developing on a daily basis. Employers are encouraged to discuss with counsel should they have any questions.

General Eligibility

To be eligible for job-protected sick leave, an employee must have received a “mandatory or precautionary order of quarantine or isolation.” The New York State Department of Health has confirmed that such orders are issued only to those employees whom have been exposed to COVID-19 or traveled to a high-risk area. To trigger eligibility for leave, an employee must receive an

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order of isolation or quarantine after their health care provider notifies the New York State Department of Health that the employee or a member of the employee's household is a "Patient Under Investigation" for COVID-19. Only after the Department of Health issues an order will the employee be eligible for benefits. Those orders of isolation or quarantine from only an employee's health care provider do not trigger leave benefits.

Additionally, employees are only eligible if they are not able to work remotely during the order of isolation or quarantine. This means that employees are not entitled to leave under the law if they are able to work remotely or if they are deemed asymptomatic or not yet diagnosed with a medical condition that prevents them from working remotely. Additionally, employees are not eligible for applicable paid leave benefits if they traveled (1) with notice of the pandemic and (2) not for work-related needs. However, these employees may still be eligible for non-paid benefits.

Paid Sick Leave Eligibility by Employer Size

Employers of all sizes are required to provide unpaid job protection until the order requiring quarantine or isolation is lifted. Differing amounts of paid leave are dependent upon the size of the employer. Employers cannot require the use of existing Paid Time Off benefits. These new entitlements are to be provided in conjunction with existing employer policies (e.g., policies established pursuant to the New York City Earned Safe and Sick Leave Law).

- **Employers with 1-10 Employees and Less Than \$1 Million Income:** Employers are not required to provide paid leave. Employees may be eligible to receive their weekly wages through a combination of paid family leave and disability benefits up to a maximum of \$2,884.62 per week.
- **Employers with 1-10 Employees and Greater Than \$1 Million Income:** Employers are required to provide five days of paid sick leave at employees' regular rate of pay. After five days of sick leave, employees may be eligible to receive weekly wages through a combination of paid family leave and disability benefits up to a maximum of \$2,884.62 per week.
- **Employers with 11-99 Employees:** Employers are required to provide five days of paid sick leave at employees' regular rate of pay. After five days of sick leave, employees may be eligible to receive weekly wages through a combination of paid family leave and disability benefits up to a maximum of \$2,884.62 per week.



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- **Employers with 100+ Employees and All Public Employers:** Employers are required to provide fourteen days of paid sick leave at employees' regular rate of pay. After fourteen days of paid sick leave, employees are eligible for paid family and disability leave.

Eligibility for Disability and Family Leave

After employees have exhausted sick leave entitlements, they may be eligible for additional paid leave benefits. Employees qualifying for both disability and family leave benefits may receive the benefits concurrently.

If an employee's health has been impacted by COVID-19, the employee may be eligible for paid disability benefits. The State Law extends New York state disability benefits by broadening the existing definition of "disability" to include the inability of an employee to perform regular duties of employment or duties of any other employment which his or her employer may offer as a result of mandatory or precautionary order of quarantine or isolation.

Similarly, the State Law extends New York Paid Family Leave benefits by broadening the existing definition of "family leave" to include leave taken by an employee from work when the employee is subject to a quarantine or isolation order to provide care for a minor dependent child of the employee who is subject the order.

New York State Leave Intersection with Municipal and Federal Law

To the extent that a municipal law (e.g., New York City's Earned Safe and Sick Leave Law) or federal law (e.g., Families First Coronavirus Response Act) intersects or overlaps with New York State's leave law, the more generous of the respective laws will apply.

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Georgia Pandemic Bench Guide

[Co-Authored by Shook Partner Josh Becker]

Preparing for a Pandemic: An Emergency Response Benchbook and Operational Guidebook for State Court Judges and Administrators

[National Center for State Courts]

Additional State Public Health Bench Books

[Centers for Disease Control and Prevention]

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[Americans with Disabilities Act; Rehabilitation Act]

Department of Labor

[Unemployment; Workplace safety]

Department of Labor Wage & Hour Division

[Families First Coronavirus Response Act]

Occupational Safety and Health Administration

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California Employment Development Department

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