



The following information discusses the obligations of private employers in the state of New York and City of New York to provide their employees with leave. For each statutory or regulatory form of leave, the discussion includes the rights and obligations of employees and employers under each statute as well as the statutory requirement of each form of leave. This document is up to date as of the date at the bottom of this document.

1. Blood Donation Leave: N.Y. Lab. Law § 202-j

Covered Employers – The law covers employers with 20 or more employees working in at least one site.

Eligible Employees – The law applies to employees who work an average of 20 or more hours per week.

Valid Leave Reasons – Pursuant to the statute, eligible employees may take leave to donate blood.

Leave Time for Each Employee – An employer must either:

- Grant an employee three hours of leave in any 12-month period to donate blood off of the employer's premises.
- Allow employees to donate blood during work hours at least twice each year at a convenient time and place set by the employer, which includes at a blood drive at the employee's place of employment.

Notice – Employers may require employees to give notice of their intent to take blood donation leave:

- Three days in advance if the leave is for off-premises blood donation.
- Two days in advance if the leave is for blood donation at a convenient time and place set by the employer.

The employer may require longer notice, up to 10 working days, as necessary to fill the position if:

- The employee taking blood donation leave is in a job:
 - o essential to the operation of the employer; or
 - o necessary to comply with legal requirements.

In the case of an emergency where the employee needs to donate blood for his own surgery or the surgery of a family member, employers must provide reasonable accommodations for a shorter notice period.

Certification – If an employee donates blood off-premises, the employer may require the employee to provide proof of blood donation.

Employee Rights – Leave for blood donation off of the employer's premises need not be paid. If the employee donates blood during work hours on the employer's premises, the time is compensable. Employers cannot retaliate against employees for requesting or obtaining leave in order to donate blood.

Employer Notice Obligations – Employers must notify employees in writing of their right to take blood donation leave. Such notice must be made in a manner to ensure that all employees see it, such as by posting it in a prominent location where employees congregate, including it in an employee handbook or including it with an employee's paycheck. If an employer provides the notice directly to an employee, the notice must be distributed by January 15 annually.

2. Bone Marrow Donation Leave: N.Y. Lab. Law § 202-a

Covered Employers – The law covers employers with 20 or more employees working in at least one site.

Eligible Employees – The law applies to employees who work an average of 20 or more hours per week.

Valid Leave Reasons – Employees may take leave in order to donate bone marrow as well as to recover from the procedure and for resulting medical care. Employers may require medical documentation detailing the purpose and length of the requested bone marrow donation leave.

The employee's physician will determine the amount of leave required by the employee. However, the leave need not exceed 24 work hours unless additional leave is agreed to by the employer. There is no limitation on how frequently an employee may take such leave.

Notice – This law does not require employees to give notice of their need to take bone marrow donation leave. However, the New York State Department of labor (NYSDOL) has advised that employees should provide at least 24 hours’ notice to an employer of a scheduled bone marrow donation and, in the case of an unscheduled bone marrow donation, as soon as possible upon receiving the request for donation.

Certification – Employers are permitted to require physician verification of the purpose and length of each bone marrow donation leave requested by an employee.

Employee Rights – Leave to donate bone marrow may be unpaid. Employers cannot retaliate against employees for requesting or obtaining leave in order to donate blood.

Employer Notice Obligations – The law does not require that an employer inform employees of their right to bone marrow donation leave. However, employers should provide notice of the leave entitlement as employers are required to provide notice to their employees, in writing, of the employer’s policies on personal leave.

3. Breastfeeding Break Time: N.Y. Lab. Law § 206-c

Covered Employers – All employers are covered by the law, regardless of size.

Eligible Employees – All employees who are nursing mothers are eligible for this leave for up to three years after childbirth.

Valid Leave Reasons – Eligible employees can take breaks from work to express breast milk for their nursing child for up to three years after childbirth.

Leave Time for Each Employee – Employers must provide employees with enough break time to express breast milk. Per guidelines issued by the NYSDOL, this is approximately 20 minutes. However, each break must be at least 30 minutes if the location where employees can express breast milk is not close to the employee’s assigned work location.

The number of breaks that the employer must provide varies by each employee’s individual needs. However, employers should give breaks to eligible employees at least once every three hours.

Notice – Although employees who would like to take breastfeeding break time must give notice to their employer, there are no specific timing requirements to provide an employer with such notice. However, the NY DOL recommends that the employee provide the employer with such notice prior to returning to work after childbirth.

Certification – No certification is required.

Employee Rights – Although the law requires employers to provide eligible employees with unpaid break time, employees can choose to use paid break time or meal time instead. Employers must permit the employee to work before or after her scheduled shift to make up the amount of unpaid time taken to express milk so long as the additional time falls within the employer’s regular work hours. The employer must provide the employee with a private room or location in close proximity to the employee’s work area to express milk in privacy. Employers cannot discriminate against employees who express milk in the workplace and cannot retaliate against employees for requesting time to express milk.

Employer Notice Obligations – Employers must provide written notice of the right to take time to express breast milk. Employers may provide such notice by either providing individual notice to employees returning to work after childbirth or by providing a general notice to all employees by posting it in a central location or including it in an employee handbook.

4. Crime Victims Leave: N.Y. Penal Law § 215.14

Covered Employers – All employers are covered by the law, regardless of size.

Eligible Employees – All employees who are victims of a crime or who are subpoenaed as a witness in a criminal proceeding are eligible for certain leave. Victims include:

- The aggrieved party.
- The aggrieved party’s next of kin, if the aggrieved party died because of the crime.
- The victim’s representative (for example, an attorney, guardian or parent of a minor).
- Good Samaritans.
- Any person applying for or seeking to enforce an order of protection under the criminal procedure law or the family court act.

Valid Leave Reasons – Eligible employees are eligible for leave to:

- Appear as witnesses.
- Consult with the district attorney.
- Exercise other rights under the law.

Leave Time for Each Employee – The law does not specify the minimum or maximum amount of leave than an employee can take.

Notice – Employees who are crime victims or subpoenaed as a witness at a criminal proceeding must provide at least one day of notice to their employer before taking the leave.

Certification – An employer may request proof that the employee attended or testified at a criminal proceeding.

Employee Rights – Employers may not discharge or penalize employees for exercising their right to take such leave.

Employer Notice Obligations – The law does not require that an employer inform employees of their right to crime victims leave. However, employers should provide notice of the leave entitlement as employers are required to provide notice to their employees, in writing, of the employer's policies on personal leave.

5. Jury Duty Leave: N.Y. Jud. Law § 519

Covered Employers – All employers are covered by the law, regardless of size.

Eligible Employees – So long as the employee provides the required notice to their employer, all employees are entitled to the leave.

Valid Leave Reasons – Employees may take leave to serve on a jury.

Leave Time for Each Employee – The law does not specify the minimum or maximum amount of jury duty leave. However, employees must be granted the leave required for them to satisfy their required jury service.

Notice – Employees must notify employers of their service before jury duty begins.

Certification – Employers may require proof of the employee's jury service and obligation.

Employee Rights – Employees serving jury duty who properly notify their employer of their jury service cannot be discharged or penalized due to their absence from work for jury service. Employers with more than 10 employees may not withhold the first \$40 of the employee's wages for the first three days of jury service.

Employer Notice Obligations – The law does not require that an employer inform employees of their right to jury duty leave. However, employers should provide notice of the leave entitlement as employers are required to provide notice to their employees, in writing, of the employer's policies on personal leave.

6. Military Service Leave: N.Y. Mil. Law § 317

Covered Employers – All employers are covered by the law, regardless of size.

Eligible Employees – All non-temporary employees are entitled to reemployment following military service, depending upon the circumstances.

Valid Leave Reasons – Employees are entitled to leave in order to fulfill their obligations to the armed forces, national guard and military reserves. This includes

participation in drills and other equivalent training, reserve training, instruction, annual full time training duty, active duty for training or other annual training.

Leave Time for Each Employee – The law does not place a limitation on the amount of leave that an employee may take.

Notice – The law does not require an employee to provide the employer with notice before taking leave for military service. However, an employee seeking reemployment must apply for reemployment within 90 days of being relieved from service. In certain circumstances, employees must apply for reemployment within 10 or 60 days of being relieved from service.

Certification – In order to obtain reemployment, the employee must provide a certificate of completion of military service executed by an officer of the applicable force of the organized militia. The employee must also still be qualified to perform the duties of their position and timely apply for reemployment.

Employee Rights – Employees must be reemployed, unless they were temporary employees, if, upon completion of military service the employee: (1) receives a certificate of completion of military service duly executed by an officer of the applicable force of the armed forces of the United States or by an officer of the applicable force of the organized militia; (2) is still qualified for the duties of the position; and (3) applies for reinstatement within the appropriate time frame. However, the employer need not reemploy the employee if the employer's circumstances have so changed that it would be impossible or unreasonable to reinstate the employee. Upon reemployment, the employee must be: (1) restored to their previous position or a position of similar seniority, status and pay; (2) restored to employment without any loss of seniority; (3) entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such person entered the military service; and (4) protected from discharge, other than for cause, for one year after reemployment.

Employer Notice Obligations – The law does not require that an employer inform employees of their right to military service leave. However, employers should provide notice of the leave entitlement as employers are required to provide notice to their employees, in writing, of the employer's policies on personal leave.

7. Military Spouse Leave: N.Y. Lab. Law § 202-i

Covered Employers – The law covers employers with 20 or more employees at least one site.

Eligible Employees – An employee is eligible for such leave if they work, on average, 20 hours or more per week. The employee must also be the spouse of a member of the armed forces of the United States, the National Guard or military reserves who has been deployed during a period of military conflict to a combat theater or combat zone.

Valid Leave Reasons – An employee is entitled to this leave when their military spouse is on leave from military service.

Leave Time for Each Employee – Eligible employees are entitled take up to 10 days of unpaid leave.

Notice – Employees are not required to provide employers with advance notice of their need for such leave.

Certification – Employees are not required to provide any certification of their need for such leave.

Employee Rights – Employers cannot retaliate against employees for requesting or taking leave under the law.

Employer Notice Obligations – The law does not require that an employer inform employees of their right to military spouse leave.

However, employers should provide notice of the leave entitlement as employers are required to provide notice to their employees, in writing, of the employer's policies on personal leave.

8. Voting Leave: N.Y. Elec. Law § 3-110

Covered Employers – All employers are covered by the law, regardless of size.

Eligible Employees – Employees are eligible for the leave if they are registered voters and do not have sufficient time outside of their working hours to vote in any election.

Valid Leave Reasons – Employees may take time off from work to vote if they do not have four consecutive hours between the opening of polls and the beginning of work or between the end of work and the closing of polls. Polls in New York are usually open between 6:00 am and 9:00 pm.

Leave Time for Each Employee – Employees are entitled to take off as much time as necessary, at the beginning or end of their shift, when adding it to the time outside their working hours that will enable them to vote. The employer and employee may mutually agree that the employee may take time off to vote during the employee's shift.

Notice – An employee needing time off to vote must provide notice to the employer between 10 and two working days before the election.

Certification – No certification is required.

Employee Rights – Employees must be paid for up to two hours of voting leave. Additionally, employers cannot subject an employee to penalty or reduce an employee's wages for requesting or taking voting leave.

Employer Notice Obligations – Employers must post conspicuous notice of employees' rights to voting leave at least 10 working days prior to every election. Such notice must be in a location where it can be seen as employees come or go to their place of work.

9. Volunteer Emergency Responder Leave: N.Y. Lab. Law § 202-1

Covered Employers – All employers are covered by the law, regardless of size. However, an employer is not required to grant such leave if the employee's absence would impose an undue hardship on the conduct of the employer's business.

Eligible Employees – Employees are eligible for such leave if an employee is performing their duties as a volunteer firefighter or an enrolled member of a volunteer ambulance service who is engaged in such duties in relation to a declared state of emergency.

Valid Leave Reasons – An employee may take such leave in the event that a state of emergency is declared in order to serve as volunteer firefighters or volunteer ambulance personnel.

Leave Time for Each Employee – The law does not provide a minimum or maximum amount of time that an employee may take. However, such leave may only be taken during a declared state of emergency.

Notice – An employee must provide the employer with written notice from the head of the employee's volunteer fire department or volunteer ambulance service notifying the employer of the employee's status as a volunteer firefighter or member of a volunteer ambulance service.

Certification – An employer may, upon the employee's return to work, request a notarized statement from the head of the employee's volunteer fire department or volunteer ambulance service certifying the period of time that the employee responded to an emergency.

Employee Rights – Employees may elect to apply any paid leave to which they are entitled to their time away from work serving as an emergency responder.

Employer Notice Obligations – The law does not require that an employer inform employees of their right to volunteer emergency responder leave. However, employers should provide notice of the leave entitlement as employers are required to provide notice to their employees, in writing, of the employer's policies on personal leave.

In addition to the laws specifically mandating that employers provide leave to their employees, several other New York State laws may, depending upon the circumstances, require an employer to provide employees with leave.

1. Adoptive Parents Leave: N.Y. Lab. Law § 201-c

Employers are required to provide employees who adopt a child the same leave benefits provided to employees for the birth of the child, if the adopted child is either younger than school age or a hard-to-place or handicapped child under the age of 18.

Employers are prohibited from retaliating against employees for exercising their rights under the law.

2. Bereavement Leave: N.Y. Civ. Rights Law § 79-n

Employers who provide employees with funeral or bereavement leave for the death of an employee's spouse or the child, parent or other relative of a spouse must provide the same leave to an employee for the employee's committed same-sex partner or the child, parent or other relative of the committed partner.

3. New York State Human Rights Law: N.Y. Exec. Law § 296

Employers covered by the New York State Human Rights Law (NYSHRL), those employing at least four employees, may have to allow employees with a disability to take leave as a reasonable accommodation.

4. New York Workers' Compensation and Disability Benefits Law: N.Y. Workers' Comp. Law §§ 1 to 355

Covered employers must provide workers' compensation for on-the-job injuries and illnesses and disability benefits coverage for off-the-job injuries and illnesses to employees.

Additionally, several New York City laws provide for, or may require, additional leave entitlements.

1. New York City Earned Sick Time Act: N.Y.C. Admin. Code §§ 20-911 to 20-925

Employers must provide paid sick time if they employ five or more employees. Employers with less than five employees are not required to compensate employees for sick time, but must otherwise comply with the law.

Employees are eligible for paid sick leave if they are employed by the employer within New York City for more than 80 hours in a calendar year.

Employees may use sick leave under the law for: (1) their mental or physical illness, injury or health condition

or need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition or need for preventative medical care; (2) care of a family member who needs medical diagnosis, care or treatment of a mental or physical illness, injury or health condition or who needs preventative medical care; or (3) closure of such employee's business by order of a public official due to a public health emergency or such employee's need to care for a child whose school or childcare provider has been closed by order of a public official due to a public health emergency.

Covered employees begin accruing sick time on their first day of employment. However, they cannot use accrued sick time until 120 days after the commencement of their employment.

Employees accrue one hour of paid sick time for every 30 hours worked. The maximum number of sick leave hours that an employee can accrue is 40, inclusive of all hours carried over from the previous year.

Employers may require employees to provide reasonable notice of the need to use sick leave. If the need for leave is foreseeable, an employer can require up to seven days advance notice. However, if the need to use sick leave is unforeseeable, the employee need only provide notice to the employer as soon as practicable.

If an employee is absent for more than three consecutive days, the employer may require documentation that the sick leave was used for a permissible purpose.

Employers must provide employees with written notice of their right to paid sick leave. The notice must be in English and the employee's primary language, if the city has posted a model notice in that language. The notice must inform the employee of their right to earn sick leave and their right to be free from retaliation when they request and use sick leave.

2. New York City Human Rights Law: N.Y.C. Admin. Code § 8-107

Similar to the NYSHRL, employers covered by the New York City Human Rights Law may have to allow employees with a disability to take leave as an accommodation. Further, employers with four or more employees are required to allow leave as an accommodation to pregnant employees.



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