

NYC Council Passes Bill Granting Paid Sick Leave to Parents Vaccinating Children Against COVID-19

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On November 23, 2021, the New York City Council passed a [bill](#) requiring New York City employers to provide employees who are parents or legal guardians of a child with four hours of paid COVID-19 child vaccination time, per injection and per child (“Child Vaccination Leave”). The bill amends New York City’s Earned Sick and Safe Time Act, and is currently awaiting Mayor de Blasio’s signature. The legislation is retroactive to November 2, 2021 when the Centers for Disease Control and Prevention voted to authorize the Pfizer-BioNTech vaccine for use in children aged 5 to 11 years old.

An employee who is a parent may use Child Vaccination Leave to either: (i) accompany the child to get a COVID-19 vaccine injection; or (ii) care for their child who is experiencing temporary side effects from vaccination. To be eligible, the employee’s child must be under 18, or a child of any age who is incapable of self-care because of a mental or physical disability. Child Vaccination Leave is in addition to any existing sick leave provided to the employee, as well as any leave to which the employee is entitled under New York law for their own COVID-19 vaccinations.

Employers cannot require covered employees to work additional hours to make up for the time missed, or find a replacement to cover their shifts. However, employers may require up to seven days of “reasonable notice” of the need to use Child Vaccination Leave if such need is foreseeable. An employer can request reasonable documentation showing the child’s receipt of the COVID-19 vaccination injection within seven days of use of the leave.

Child Vaccination Leave must be paid at the employee’s regular rate of pay, without any credits or allowances. Employees who take Child Vaccination Leave must be paid by the next regular pay date after the leave is taken. Employees who have taken Child Vaccination Leave before the bill is enacted must be compensated no later than the next payday after the bill is signed by the Mayor, or may have that leave time re-credited.

Employers may be subject to penalties for failing to provide Child Vaccination Leave. For each instance of Child Vaccination Leave taken by an employee but not compensated by the employer, the employee may be awarded three times the wages that should have been paid or \$250, whichever is greater. Additionally, the employee may be entitled to \$500 for each instance when the employer

denies Child Vaccination Leave to which the employee was entitled or charges such time against the employee's paid safe or sick time accruals.

The legislation includes a 60-day phase-in period. During this period, employers must be provided with written notice of any alleged violation and a 15-day cure period before fines are imposed. The law expires on December 31, 2022, but employers must pay employees for Child Vaccination Leave taken before then, even if payment would occur after that date.

We will continue to monitor any new developments, including the bill's enactment upon Mayor de Blasio's signature.

The legal landscape continues to evolve quickly and there is a lack of clear-cut authority or bright line rules on implementation. This article is not intended to be an unequivocal, one-size-fits-all guidance, but instead represents our interpretation of where applicable law currently and generally stands. This article does not address the potential impacts of the numerous other local, state and federal orders that have been issued in response to the COVID-19 pandemic, including, without limitation, potential liability should an employee become ill, requirements regarding family leave, sick pay and other issues.

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