Sills Cummis & Gross P.C.

Client Alert Employment and Labor

The New Year Introduces New Laws to New York Employers

New York State and New York City enacted a host of new and amended employment laws between the end of 2025 and the beginning of 2026. The common thread among these laws is that each new law substantially expands the protections and rights of employees. As such, it is recommended that New York employers revise their policies and practices to stay compliant.

Effective February 22, 2026: Updates to NYC ESSTA

Recent amendments to the New York City Earned Safe and Sick Time Act ("NYC ESSTA") have expanded the law in several significant respects. Prior to February 22, 2026, NYC ESSTA required that employers provide employees with one hour of paid sick leave for every 30 hours worked, up to 40 hours of paid time per year for employers with 99 or fewer employees, and up to 56 hours of paid time for employers with 100 or more employees, to be used for "sick" and "safe" related reasons as set forth in NYC ESSTA. Under the NYC ESSTA amendment, effective February 22, 2026, New York City employers now must provide employees with an additional thirty-two (32) hours of *unpaid* safe and sick time on the first day of each calendar year (the calendar year may be designated by the employer). Employees are entitled to use the leave immediately after the time of hire, with the leave renewing at the beginning of each calendar year. Employers are not required to permit employees to carry over unused hours from one calendar year to the next.

This new bucket of 32 hours of unpaid leave has a direct impact on NYC's Temporary Scheduling Law (the "Scheduling Law"), which has been in effect since July 2018. The Scheduling Law previously allowed employees to request two (2) temporary schedule changes a year for personal events as outlined under the law, and obligated employers to honor such request, except in certain specified circumstances. Now, pursuant to the Amendment, while employees may still request the scheduling change, employers are no longer required to provide such changes. Employers may also require employees to use their leave in these circumstances, whether paid or unpaid. However, employers still must respond to the employee's request as soon as practicable and may propose an alternative temporary change if the employee's request is not acceptable.

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The Amendment also expands the list of permissible reasons for employees to use safe and sick leave. In addition to the existing bases for leave, employees may now use safe leave to care for a minor child or care recipient, to prepare for legal proceedings for benefits, and/or to seek care after experiencing workplace violence. Further, employees may use sick leave to care for a child whose school or childcare provider is closed due to a public disaster. New York City additionally implemented another bucket of up to 20 hours of "paid prenatal personal leave" to align with New York State law which in January 2025 provided leave for prenatal care.

The New York City Department of Consumer and Worker Protection ("DCWP") has issued proposed rules on the NYC ESSTA amendments. DCWP is currently accepting comments on the proposed rules intended to clarify the law's requirements, and a public hearing is scheduled for March 2, 2026.

Effective April 18, 2026: Prohibition on Requesting or Using Consumer Credit Reports in Hiring Decisions

Effective April 18, 2026, an Amendment to the New York State general business law will prohibit employers from requesting a prospective employee's credit history report during the hiring process. The amendment also prohibits discrimination against an employee in hiring, compensation, or terms of employment, based on the employee's consumer credit history.

On February 13, 2026, the Amendment was further revised to include the definition of "employer" which "means any individual, partnership, corporation, or association engaged in a business who has employees including the state and its political subdivisions." This further amendment also clarified those positions for which requesting a credit report is permitted, including positions that: require a credit report by a state or federal agency; are peace officers or police officers; require a background investigation by a state agency; require a person to be bonded under state and federal law; require security clearance; are non-clerical personnel with regular access to trade secrets; allow for signatory authority over third-party funds and assets of agreements valued at $10,000.00 or more; and can modify digital security systems to prevent unauthorized use of databases.

For those positions that do not fall under the exceptions, requesting an employee's credit history reporting is considered an unlawful discriminatory practice, and an employer may be liable for actual damages sustained by the prospective employee, costs, and attorneys' fees.

Effective December 19, 2026: The "Trapped at Work Act"

On December 19, 2025, Governor Hochul signed into law the "Trapped at Work Act". The law voids and nullifies "employment promissory notes" or agreements between employees and their employer that require "workers" to repay employers a sum of

money (e.g., the cost of training) should the worker leave a job before a designated date. The Act specifies that certain reimbursement agreements are permissible, such as repayment of advances unrelated to training, repayment for purchasing property, sabbatical agreements for education personnel, and reimbursement requirements outlined in collective bargaining agreements.

On February 13, 2026, Governor Hochul signed an Amendment to the recently enacted "Trapped at Work" Act. The Amendment made notable changes to the Act, with the effective date now ***December 19, 2026***.

The Amendment narrows the applicability of the law from "workers" to "employees," thereby excluding independent contractors from coverage under the Act. The Amendment also provides that employers may still seek repayment from employees for the cost of a degree or certification that is not position-specific (defined as a "transferrable credential") if certain conditions set forth in the Amendment are met. Additionally, employers may also seek repayment for any financial bonuses, like sign on bonuses, relocation assistance, or other non-educational incentive payments or benefits, if those payments are not "tied to specific job performance." "Job performance," however, is not defined in the Amendment. Additionally, these repayments are not recoverable by the employer if an employee was terminated for "any reason other than misconduct or the duties or requirements of the job were misrepresented to the employee." Once in effect, it will be important for employers to understand the scope of prohibited reimbursement agreements and to align related documents accordingly.

Violations of the Act will result in a fine between $1,000.00 and $5,000.00, per violation, with each note treated as a separate violation. Workers can also bring action against their employers for non-compliance through the Department of Labor, to recover either the greater of their damages, or $5,000.00, as well as injunctive relief, and attorney's fees.

On the Horizon: NYC Pay Data Reports

On December 4, 2025, the New York City Council overrode Mayor Eric Adam's veto of a bill that requires covered employers with 200 or more employees to collect and report data on their pay practices to New York City.

The first step is for the City to create a "designated agency" by December 4, 2026, which shall conduct a "pay equity study" of the private workforce. The designated agency will be tasked with creating a standard form for all impacted employers to submit these reports within the first year it is created. No later than one year after the standardized form is published by the agency, City employers will be required to submit a pay report to the designated agency on an annual basis via the form, which will include employee data such as gender, wages, and total hours worked.

While it will be some time until covered City employers will be required to submit pay reports, this important development is on the horizon.

Effective Immediately: Enactment of the Reasonable Accommodations Anti-Retaliation Act

Effective December 5, 2025, Governor Hochul signed into law the Reasonable Accommodation Anti-Retaliation Act. Requesting a reasonable accommodation has been protected under the New York State and New York City Human Rights Law. However, prior to the enactment of this law, there was no explicit protection against retaliation for making the request. This Act provides clarity to the existing state laws and strengthens protections for employees.

Takeaways

These recent developments to New York State and City laws exemplify that our ever-evolving employment landscape continues to protect and expand employee rights. Outlined above is a high-level overview of the legal updates. Please consult with a Sills Cummis employment attorney with any questions and/or to update employer policies and practices.

Contact Us

Sills Cummis' Employment and Labor Practice Group is available to help. Please reach out to:

Laura E. Bellini, Esq.
Associate | Client Alert Issue Author
lbellini@sillscummis.com
(973) 643-6692

Patricia M. Prezioso, Esq.
Practice Group Chair | Client Alert Issue Editor
pprezioso@sillscummis.com
(973) 643-5041

Jill Turner Lever, Esq.
Of Counsel | Client Alert Issue Editor
jlever@sillscummis.com
(973) 643-5691

James M. Lemonedes, Esq.
Member of the Firm
jlemonedes@sillscummis.com
(973) 643-5888

Eric Su, Esq.
Member of the Firm
esu@sillscummis.com
(212) 500-1587

Jordan E. Pace, Esq.
Of Counsel
jpace@sillscummis.com
(973) 643-4295

Michael A. Baselice, Esq.
Associate
mbaselice@sillscummis.com
(973) 643-8269

Paul Salvatoriello, Esq.
Associate
psalvatoriello@sillscummis.com
(973) 643-6990