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Labor & Employment Alert

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New Hampshire establishes parental leave effective January 1, 2026

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New parental leave, granting eligible employees protected leave for childbirth, postpartum, and pediatric care, goes into effect in New Hampshire on January 1, 2026.



What's the impact?

- New Hampshire employers with 20+ employees will be required to provide up to 25 hours of unpaid leave.
- Similar to leave under FMLA, this new leave is job protected leave.

On June 27, 2025, Governor Kelly Ayotte signed HB 2, "An Act Relative to State Fees, Funds, Revenues and Expenditures," into law. This comprehensive budget bill also included new parental leave for many New Hampshire employees. Effective January 1, 2026, the amendment to RSA 275 introduces employee leave in New Hampshire, granting employees at workplaces with 20 or more employees up to 25 hours of unpaid, job protected leave annually to attend certain medical appointments related to childbirth, postpartum care, and pediatric care for their children within the first year of birth or adoption. The new law is codified at RSA 275:37-f.

This new law follows on the heels of New Hampshire's new law (RSA 275:78 through 83) guaranteeing lactation breaks for employees who need breaks within one year of giving birth. This law became effective on July 1, 2025, and requires employers with six or more employees to adopt a policy allowing for lactation breaks in the workplace.

Key provisions of the Act

ELIGIBILITY AND SCOPE

- / Applies to employers with 20 or more employees.
- / Employees are entitled to up to 25 hours of unpaid leave per year to attend:
 - Their own medical appointments for childbirth-related or postpartum care.
 - Pediatric medical appointments for their child within the first year of birth or adoption.
- / Under the subdivision's definition of "employee," the law applies to full-time and part-time employees, but not to temporary or seasonal employees.

PARENTAL LEAVE SHARING

- / If both parents are employed by the same employer, the 25-hour leave entitlement is shared between them for their child's first year.

COMPENSATION AND SUBSTITUTION OF PAID LEAVE

- / The newly required leave is unpaid; however, employers must allow employees to substitute accrued vacation or other appropriate paid leave for any portion of the leave.
 - The law is silent on whether employers may require employees to use available paid time off while taking the new leave, but the language strongly suggests that this option is at the employee's, *not the employer's*, discretion.
 - Additionally, in regards to salaried employees, employers must comply with RSA 275:43-b, which was not amended and requires that exempt employees be paid, with few exceptions, their full salary for *any pay period* in which they perform any work.

JOB PROTECTION

- / Upon return from leave, employees are entitled to reinstatement to their original job.

NOTICE AND DOCUMENTATION REQUIREMENTS

- / Employees must provide reasonable notice prior to taking leave and make reasonable efforts to schedule leave to avoid undue disruption to the employer's operations.

/ Employers *may* request reasonable documentation to confirm the leave is used for its intended purpose.

Although the law does not specify what documentation employers may request, a medical note from the employee's provider would likely be deemed reasonable.

Action steps for employers

It is crucial for employers to ensure compliance in advance of the January 1, 2026, deadline. We recommend that employers take proactive steps to review and update their leave policies to ensure full compliance with the new parental leave and lactation break requirements. Nixon Peabody's [Labor & Employment lawyers](#) are here to help. Our team provides tailored guidance and practical solutions to help employers understand their obligations under state and federal laws, implement compliant policies, and address any challenges that may arise. For support in preparing for these changes or for assistance with any aspect of parental leave compliance, please contact your Nixon Peabody attorney or:

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