

STATE OF NEW YORK

515

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sens. PERSAUD, JACKSON -- read twice and ordered printed,
and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to flexible working arrangements for parents and legal guardians when day care centers and schools are closed during a state or local disaster emergency

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The labor law is amended by adding a new section 202-m to
2 read as follows:

3 § 202-m. Flexible working arrangements for parents and legal guardians
4 during a state or local disaster emergency. 1. Definitions. For the
5 purposes of this section:

6 (a) "School-aged child" shall mean a child or children enrolled in 3-k
7 or pre-kindergarten through twelfth grade.

8 (b) "Day care-aged child" shall mean a child enrolled in a day care
9 center.

10 (c) "Parent" shall mean a biological, foster, or adoptive parent, a
11 legal guardian, or other person who stands in loco parentis to a school-
12 aged child or children.

13 (d) "Employer" shall mean all employers within the state.

14 (e) "Flexible working arrangement" shall mean short-term, intermedi-
15 ate, or long-term changes in the employee's regular working arrange-
16 ments, including but not limited to, changes in the number of days or
17 hours worked, changes in the time the employee arrives at or departs
18 from work, remote work, or job-sharing. "Flexible working arrangement"
19 shall not include vacation, routine scheduling of shifts, or another
20 form of employee leave.

21 (f) "Inconsistent with business operations" shall mean a determination
22 by the employer based on the following considerations: (i) the burden on
23 an employer of undue additional costs; (ii) a legitimate or practical

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 detrimental effect on aggregate employee morale unrelated to discrimi-
2 nation or other unlawful employment practices; (iii) a legitimate or
3 practical detrimental effect on the ability of an employer to meet
4 consumer demand; (iv) a significant inability to reorganize work among
5 existing staff; (v) a legitimate or practical inability to recruit addi-
6 tional staff; (vi) a significant detrimental impact on business quality
7 or business performance; (vii) an insufficiency of work during the peri-
8 ods the employee proposes to work; (viii) planned structural changes to
9 the business; and (ix) any other reasons as specified by the commission-
10 er.

11 2. Presumption of entitlement for parents and legal guardians to work
12 remotely when day care centers and schools are closed due to a state or
13 local disaster emergency. (a) Notwithstanding any other provision of
14 law to the contrary, an employee shall be entitled to work remotely
15 where the essential functions of the employee's position can be
16 performed remotely and (i) the employee is the parent of a school-aged
17 child or day care-aged child or children; (ii) the school or day care
18 center attended by such school-aged child or day care-aged child or
19 children has been closed pursuant to an order of a public official due
20 to a state or local disaster emergency, regardless of whether there will
21 be virtual or remote instruction or instruction has been suspended; and
22 (iii) the purpose of working remotely is to be able to supervise or
23 otherwise provide care for such school-aged child or day care-aged child
24 or children.

25 (b) There shall be a rebuttable presumption that an employee can
26 perform work remotely if such employee has already performed work
27 remotely for two consecutive pay periods, or two weeks, whichever is
28 less time, in the current or immediately preceding calendar year. The
29 presumption may be rebutted by evidence showing that the employee cannot
30 perform essential duties remotely.

31 (c) Where a significant portion, but not all, of the essential func-
32 tions of the position in which the employee is employed can be performed
33 remotely, employers shall consider whether a similar arrangement or a
34 partial remote work arrangement may be granted in a manner that is not
35 inconsistent with its business operations or legal or contractual obli-
36 gations.

37 3. Right of parents and legal guardians to request flexible working
38 arrangements when day care centers or schools are closed due to a state
39 or local disaster emergency. (a) Notwithstanding any other provision of
40 law to the contrary, an employee may request a flexible working arrange-
41 ment that meets the needs of both the employer and employee where: (i)
42 the employee is a parent of a school-aged or day care-aged child or
43 children; (ii) the school or day care center attended by such school-
44 aged child or day care-aged child or children has been closed pursuant
45 to an order of a public official due to a state or local disaster emer-
46 gency, regardless of whether there will be virtual or remote instruction
47 or instruction has been suspended; and (iii) the purpose of the flexible
48 working arrangement is to be able to supervise or otherwise provide care
49 for such school-aged child or day care-aged child or children.

50 (b) Nothing in this subdivision shall be construed to require an
51 employer to accept the flexible work arrangement requested by the
52 employee.

53 (c) The employer shall respond to the request for a flexible working
54 arrangement from the employee, and shall consider the employee's request
55 for a flexible working arrangement and whether the request or a similar

1 arrangement could be granted in a manner that is not inconsistent with
2 its business operations or its legal or contractual obligations.

3 4. (a) Nothing in this section shall be construed to prohibit an
4 employer from requiring an employee to request a remote work arrangement
5 or flexible working arrangement sufficiently in advance of when such
6 remote work or flexible working arrangement would commence. An employer
7 may establish reasonable standards to determine the time, place, and
8 manner in which the employee shall request a remote work or flexible
9 working arrangement pursuant to this section.

10 (b) An employer shall respond to the request for a remote work or
11 flexible working arrangement pursuant to this section in a reasonably
12 timely manner, but in no case shall such decision be provided later than
13 fourteen days from receipt of a request. If such request was submitted
14 in writing, the employer shall state any complete or partial denial of
15 the request in writing, citing the reason as to denying such request.

16 5. Nothing in this section shall be deemed to diminish the rights,
17 privileges, or remedies of any employee under any collective bargaining
18 agreement.

19 6. Nothing in this section shall be deemed to affect any legal rights
20 an employer or employee may have under applicable law to create, termi-
21 nate, or modify a remote work or flexible working arrangement.

22 7. No employer or their agent, or the officer or agent of any corpo-
23 ration, partnership, or limited liability company, or any other person,
24 shall discharge, threaten, penalize, or in any other manner discriminate
25 or retaliate against any employee because such employee has exercised
26 their rights afforded under this section.

27 8. (a) The commissioner may bring an action against an employer for
28 failure to adhere to the provisions of this section, including injunc-
29 tive relief to enjoin future conduct.

30 (b) Any employer who violates the provisions of this section shall
31 forfeit to the people of the state a sum of five hundred dollars for
32 each violation, to be recovered by the commissioner in any legal action
33 taken pursuant to this subdivision.

34 9. The commissioner shall promulgate rules and regulations for the
35 implementation of this section.

36 § 2. Nothing in this act shall be construed to prevent a locality from
37 enacting and enforcing local laws or ordinances which meet or exceed the
38 standards or requirements set forth in this act.

39 § 3. This act shall take effect on the thirtieth day after it shall
40 have become a law; provided, however, that effective immediately employ-
41 ees may begin the process of requesting remote work or flexible working
42 arrangements pursuant to this act.