

LEAVE AND DISABILITY REGULATORY COMPLIANCE

Summary of legislative and regulatory changes

Private employer sector | May 2020

TABLE OF CONTENTS

California..... 3
 Long Beach Ordinance No. 20-0429 (COVID-19 supplemental paid sick leave)..... 3
 Oakland ordinance (COVID-19 emergency paid sick leave) 4
District of Columbia 5
 Bill 734 (COVID-19 temporary sick leave)..... 5
Illinois..... 6
 Chicago Ordinance No. O2020-2343 (protected time off due to COVID-19) 6
Maryland..... 7
 HB 880 (Healthy Working Families Act Amendment) 7

California: Long Beach

Ordinance No. 20-0429 (COVID-19 supplemental paid sick leave)

Enacted May 19, 2020

Effective March 19, 2020

Informational only – Sedgwick does not administer

Long Beach, California has enacted an ordinance requiring [supplemental paid sick leave for COVID-19](#) purposes. The ordinance, which takes effect immediately, does not specify an expiration date. Instead, the city manager must report to the city council and mayor every 90 days, and the city council will determine whether and when the law will no longer apply.

[Covered employers and employees](#)

The ordinance applies to employers with 500 or more employees nationally, excluding those wholly or partly required to provide paid sick leave benefits under the federal Emergency Paid Sick Leave Act. Employees who are health care providers and emergency responders are not covered under the ordinance.

[Amount of leave](#)

Employers must provide 80 leave hours to full-time employees. For part-time employees, employers must provide an amount equal to the number of hours an employee works on average over a two-week period. The ordinance contains a calculation employers must use to determine how many daily hours of leave employees can take, which is the daily average during the six-month period (or period of employment) preceding May 19.

[Requesting, verifying and documenting absences](#)

Employers can require employees to follow reasonable notice procedures to use leave, but only for foreseeable absences. Although employers can require employees to identify the basis for requesting leave, they cannot require a doctor's note or other documentation to substantiate an absence.

To the extent possible, the ordinance states that employers and employees should comply with federal Family and Medical Leave Act (FMLA) procedures for requesting and providing leave. However, employers cannot fire employees if they are unable to provide documentation during a covered absence.

A failure to provide paid sick leave will be akin to a failure to pay wages. The state labor department will enforce the rules and investigate alleged violations. Additionally, a private right of action is available.

California: Oakland

Oakland ordinance (emergency sick leave)

Enacted May 12, 2020

Effective May 12, 2020

Informational only – Sedgwick does not administer

On May 12, 2020, Oakland joined the list of California localities that have enacted a law requiring [supplemental paid sick leave for COVID-19](#) for COVID-19 purposes. The requirements take effect immediately and will remain through December 31, 2020, unless the city extends the law's end date.

[Covered employers, employees and family members](#)

The law covers all private employers, including employers covered by the federal Families First Coronavirus Response Act (FFCRA). Additionally, the ordinance allows employers of health care provider and/or emergency responder employees — both defined under the FFCRA regulations — to elect to exempt themselves from the Oakland ordinance if they keep information describing employee classifications exempted and not exempted, as well as information related to location(s) of the exempted employees and from which provisions of the law the employees are exempted.

[Amount of leave](#)

The ordinance requires employers to provide 80 hours of COVID-19 EPSL to employees who worked at least 40 hours per week in Oakland from February 3, 2020 through March 4, 2020, or at any point thereafter, or who the employer classifies as full time. Additionally, the law requires that the 14 days be the 14 days with the highest number of hours worked in Oakland. FFCRA-covered employers may, however, offset their Oakland leave obligation by FFCRA sick leave hours they provide.

[Notice, posting and recordkeeping](#)

Within three days after the city publishes and makes available the mandatory notice, an employer must provide the notice in a manner calculated to reach all employees, including but not limited to, via electronic communication or a conspicuous posting at the workplace or in a web-based or app-based platform. Employers must provide notice in all languages spoken by more than 10% of employees.

District of Columbia

Bill 734 (COVID-19 temporary paid sick leave)

Enacted May 29, 2020

Effective following approval by the mayor, a 30-day period of congressional review and publication in the D.C. Register

Informational only – Sedgwick does not administer

If enacted, this bill will provide a supplemental temporary amendment to provide for [sick leave](#) and unemployment insurance in response to COVID-19. During the COVID-19 emergency, any employer with between 50 and 499 employees, other than health care providers, must provide paid leave to an employee for an absence from work due to COVID-19. The law will require employers to provide up to 80 hours of paid time off for full-time employees.

The law will not require an employer to provide more than 80 hours of paid leave. If an employee uses all of the declared emergency paid leave available and subsequently informs the employer of the employee's continued need to be absent from work, the employer shall inform the employee of any paid or unpaid leave to which the employee may be entitled pursuant to federal law, other District law or the employer's own policies.

Illinois: Chicago

Ordinance No. O2020-2343 (COVID-19 protected time off)

Enacted May 20, 2020

Effective May 20, 2020

Informational only – Sedgwick does not administer

The city has adopted this [emergency rule](#) to clarify that a schedule change is “because” of COVID-19 only when the pandemic causes a material change to an employer’s operating hours, operating plan or the goods or services provided. This emergency rule also provides that the current COVID-19 outbreak qualifies as a “pandemic” under the ordinance.

In addition to requiring an employer to provide advance notice of an employee’s work schedule, the employer must also pay additional wages if posted schedules are changed within a certain time period. If a covered employee’s schedule changes less than 10 days prior to the start date of the new schedule, the employer must provide the employee with one additional hour of pay for each changed shift as “predictability pay.” The predictability pay requirement applies when the schedule change adds extra hours, changes the date or time of the scheduled work with no loss of hours or cancels or subtracts hours from an on-call shift with less than 24 hours’ notice. The ordinance exempts employers from paying predictability pay when there is a work schedule change because of “war, civil unrest, strikes, threats to public safety or pandemics.”

Maryland

HB 880 (Healthy Working Families Act)

Enacted May 8, 2020

Effective October 1, 2020

Informational only – Sedgwick does not administer

Maryland has amended its [paid sick leave law](#). The law provides earned sick and safe leave to eligible employees working in the state. Under the law, employees may use the leave in connection with certain family members, namely the employee's:

- child, including biological child, adopted child, foster child or a stepchild of the employee; child for whom the employee has legal or physical custody or guardianship; child for whom the employee stands in loco parentis, regardless of the child's age;
- grandchild, including biological grandchild, adopted grandchild, foster grandchild or step-grandchild of the employee;
- grandparent, including biological grandparent, adopted grandparent, foster grandparent or step-grandparent of the employee;
- parent, including biological parent, adoptive parent, foster parent or stepparent of the employee or employee's spouse; legal guardian of the employee; individual who acted as a parent or stood in loco parentis to the employee or employee's spouse when the employee or spouse was a minor;
- sibling, including biological sibling, adopted sibling, foster sibling or stepsibling of the employee; and
- spouse.

The amended law adds the ward of the employee or of the employee's spouse to the definition of family members.

The Information contained within this document is intended to provide summary level information on proposed or enacted laws related to family and medical leave. It is not intended to provide guidance on the application of these legal requirements or as an update to your Company's attendance and/or leave policies. We recommend you consult with Legal Counsel to determine what changes, if any, should be applied to Company Policy.

800.625.6588

Sedgwick@sedgwick.com

SEDGWICK.COM

© 2020 Sedgwick