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LEAVE AND DISABILITY REGULATORY COMPLIANCE

# Summary of legislative and regulatory changes

*Private employer sector | September 2024*

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# California

## *AB 2123 (vacation time and paid family leave benefits)*

Enacted Sep. 29, 2024

Effective Jan. 1, 2025

California law provides that as a condition of an employee's initial receipt of family temporary disability insurance benefits during any 12-month period in which the employee is eligible for those benefits, an employer may require the employee to first take up to two weeks of earned but unused vacation leave. Despite this provision, an employer must still abide by any duty of collective bargaining it has with respect to paid family and medical leave.

Under this amendment, beginning on Jan. 1, 2025, employers will no longer be able to require employees to use up to two weeks of company-provided vacation before they receive paid family leave insurance benefits from the state (or from their employer if the employer has an approved voluntary plan that applies in lieu of the state program).

# California

## *AB 2499 (protections for victims of domestic and sexual violence)*

Enacted Sep. 29, 2024

Effective Jan. 1, 2025

California has amended the Healthy Workplaces, Healthy Families Act (HWHFA) and the Fair Employment & Housing Act (FEHA) to expand certain definitions and requirements relating to sick and safe leave. Prior to the amendment, the HWHFA only allowed paid sick leave to be taken for "safe time" purposes when an employee was a victim of a specific crime. Sedgwick does not administer paid sick leave and will not be administering this portion of the law.

Under the amended law, an employee may use leave if the employee or the employee's family member is a victim, and also broadens the scope of qualifying crimes. Previously, this leave was limited to certain crimes or acts of abuse, including domestic violence, sexual assault or stalking.

Under the amendment, this leave will also be available if an employee or their family member is a victim of a "qualifying act of violence." This includes the aforementioned crimes, as well as an act, conduct or pattern of conduct where a third party (1) causes bodily injury or death to another individual; (2) exhibits, draws, brandishes or uses a firearm or other dangerous weapon, with respect to another individual; or (3) uses, or makes a reasonably perceived or actual threat to use, force against another individual to cause physical injury or death.

The amendment also expands the circumstances in which this kind of "safe time" leave is available under the HWHFA. These new qualifying circumstances include, among others, when an employee must (1) enroll children in a new school or childcare due to a qualifying act of violence; (2) provide care to a family member who is recovering from injuries caused by a qualifying act of violence; (3) seek, obtain or assist a family member to seek or obtain legal services in relation to the qualifying act of violence; (4) prepare for, participate in or attend any civil, administrative or criminal legal proceeding related to the qualifying act of violence; and (5) seek, obtain or provide childcare or care to a care-dependent adult if the childcare or care is necessary to ensure the safety of the child or dependent adult as a result of the qualifying act of violence.

Additionally, the amendment limits the amount of unpaid leave under FEHA that employers with 25 or more employees must provide to employees in certain instances. These new limitations are (1) 12 weeks total leave for victims of a qualifying act of violence, which covers all leave reasons under the law. Sedgwick's best practice will be to follow this limit. Employers may also further limit based on two additional circumstances (which will not be Sedgwick's best practice); (2) five days total leave for relocation or enrolling a child in a new school or childcare facility when a family member was the victim of a non-fatal crime; and (3) 10 days total leave when an employee's family member was the victim of a non-fatal crime.

The new law removes unpaid leave protections and antidiscrimination provisions for acts of violence, jury duty and court leave from the California Labor Code. These provisions will now be included under FEHA, meaning that the government agency responsible for enforcing these provisions will be the California Department of Civil Rights instead of the Department of Industrial Relations.

Finally, the law requires employers to inform employees in writing of their rights under the law at the time of hire, annually, upon the employee's request and at any point that an employee informs the employer that they or a family member have been the victim of an act of violence. The Department of Civil Rights will develop and publish a model notice that employers may use. Sedgwick will include this notice once it is provided by the state.

# California

## *SB 1090 (state disability insurance and paid family leave claim filing)*

Enacted Sep. 28, 2024

Effective Jan. 1, 2025

California has amended its SDI and PFL law to allow for advance filing of claims and require the Employment Development Department (EDD) to issue payment within certain timeframes. The state requires that claims must be filed no later than the 41st consecutive day following the first compensable day, with the possibility for extensions. This amendment authorizes workers to file a claim for SDI or PFL benefits up to 30 days in advance of the first compensable day for benefits. The amendment therefore allows workers to apply before anticipated leave rather than completing the process after they have begun leave.

# California

## *SB 1105 (Healthy Workplaces, Healthy Families Act amendments)*

Enacted Sep. 24, 2024

Effective Jan. 1, 2025

Informational only – Sedgwick does not administer

California has amended the Healthy Workplaces, Healthy Families Act. Under the Act, paid sick leave is available for a variety of purposes, including an employee's illness or need for preventive care. This amendment permits agricultural employees who are eligible for paid sick leave to use leave during a state or local emergency in order to avoid smoke, heat or flood conditions. Leave is only available for these purposes if the agricultural employee works outside. These smoke, heat or flood conditions exist when the governor declares a state of emergency, or a local emergency is declared under the law due to conditions that prevent agricultural employees from working.

# District of Columbia

## *B 788 (Universal Paid Leave Act amendments)*

Enacted Sep. 18, 2024

Effective Sep. 18, 2024

The District of Columbia has amended its laws related to the Universal Paid Leave program. In order to fund the Universal Paid Leave program, both employers and employees contribute to the District-run fund from which leave benefits are administered. These amendments, which enact a change previously made in the District's FY 2025 budget, modify the employer contribution provisions. The District required employers to contribute 0.62% of the wages of each of its covered employees to the District or a lower rate if employers' projected contribution rate necessary to maintain the benefit durations required by the Act was lower than 0.62%. Under the amendments, all employers must contribute 0.75% of the wages of each covered employee.

# District of Columbia

## *B 937 (emergency measure: Universal Paid Leave Act)*

Passed by Council Sep. 17, 2024

If enacted, effective immediately upon becoming a law

The District of Columbia's budget for FY 2025 makes amendments to certain employment-related laws, including the Universal Paid Leave Act.

In order to fund the Universal Paid Leave program, both employers and employees contribute to the District-run fund from which leave benefits are administered. If enacted, the amendments in this emergency measure would modify the employer contribution provisions. The District required employers to contribute 0.62% of the wages of each of its covered employees to the District or a lower rate if employers' projected contribution rate necessary to maintain the benefit durations required by the Act was lower than 0.62%. Under the amendments, all employers must contribute 0.75% of the wages of each covered employee.

The Mayor was required to provide employers notice at least 60 days before implementing any paid-leave benefit expansion or employer contribution rate change. Under the proposed amendments, the Mayor would no longer be required to provide a 60-day notice to employers in advance of contribution rate changes.

# Massachusetts

## *HB 4999 (paid sick leave amendments)*

Enacted Aug. 23, 2024

Effective Nov. 21, 2024

Informational only – Sedgwick does not administer

Massachusetts has amended its earned sick time law. Under the law, employees may take paid sick leave in order to care for their own or a family member's physical or mental illness, attend routine medical appointments or address the effects of domestic violence. The amended law expands the reasons for which an employee may use accrued leave. Under the amended law, an employee may take paid sick leave to address their own or their spouse's physical or mental health needs if either has experienced pregnancy loss or a failed assisted reproduction, adoption or surrogacy.

# New York

## *AB 3710 (National Guard leave)*

Enacted Sep. 27, 2024
Effective Sep. 27, 2024

New York has amended its laws affording employment protections to individuals called to active-duty military service. Under the law, individuals who leave a position of employment in order to perform military service are guaranteed reemployment in the same or a similar position upon their return from service, provided they meet the requirements for reemployment. Individuals in active military service for the United States or the state of New York are covered under the law.

This amendment extends these protections to members of the National Guard who are activated under a call to duty by the governor of New York or of any other state. The protections also extend to anyone in military service who is required to attend training or related armed forces schooling. While the law previously extended protections to individuals who are or become members of the organized militia of New York, the amendment extends the protections to members of the organized militia of any state.

In order to be eligible for reemployment in a non-temporary position, an individual who left the position to perform military service must fulfill the following requirements: (1) obtain a certificate of completion of military service signed by an officer of the applicable branch of the armed forces or an officer of the applicable force of the organized militia of any state; (2) still be qualified to perform the duties of the position; and (3) apply for reemployment within 90 days after they are relieved from service.

If all three conditions are satisfied, then a private employer must restore the individual to their former position or a position of like seniority, status and pay, unless the employer's circumstances have changed to make reemployment impossible or unreasonable.

If an individual temporarily left work to attend assemblies for drill, reserve duty training or annual full-time training duty, then they must apply for reemployment within ten days of completing the training. If they temporarily leave work to perform initial full-time training duty or initial active duty for training with an armed force of the United States, they must reapply within 60 days of completing such training.

Individuals restored to a position under this law must be considered by the employer to have been on a furlough or a leave of absence during their absence for military service, must be restored without a loss of seniority and must be entitled to participate in insurance or other benefits offered by the employer under existing rules applicable to employees on furlough or leaves of absence. Such individuals may not be discharged or suspended without cause for one year after they are restored to their former position.

Sedgwick already administers this leave. No technology changes are required to administer the amended law.

# Oregon

## *OAR Ch. 471 (final rule re FMLA benefits, assistant grants and confidentiality)*

Adopted July 30, 2024

Effective Aug. 1, 2024

Oregon has amended its rules related to the Paid Family and Medical Leave Insurance (PFMLI) program. The PFMLI program provides paid leave for employees in a variety of circumstances. The rules were amended to clarify several points that have been changed via statutory amendment.

Employees can receive PFMLI benefits while they are caring for or bonding with a child after its placement for foster care or adoption. To receive this leave, the employee must verify the event. The amended rules remove reference to a PFMLI Verification of Adoption or Foster Care Placement Form as an acceptable method of verification.

The amended rules clarify that for employers using equivalent plans with an effective date of Sept. 3, 2023, Oct. 1 will be used as the anniversary date in later years. Employers providing benefits through an equivalent plan must provide notice to employees of their rights under the plan, both at each employee's time of hire and every time the policy changes. The amended rules clarify that this notice must be given to all employees, not just all employees who are eligible to receive benefits. The amended rule clarifies the procedures that are used when an employer requests to waive any penalty that has been issued.



*800.625.6588*
*Sedgwick@sedgwick.com*
**SEDGWICK.COM**