

LEAVE AND DISABILITY REGULATORY COMPLIANCE

# Summary of legislative and regulatory changes

*Private employer sector | May 2021*

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# California

## *Los Angeles County Ordinance No. 21-2096 (vaccination leave)*

Enacted May 18, 2021

Effective May 18, 2021

Informational only — Sedgwick does not administer

Los Angeles County has enacted an [emergency ordinance](#) to require private employers to provide paid leave for employees to receive COVID-19 vaccinations. "Employer" means a person, including a corporate officer or executive, who directly or indirectly employs or exercises control over the wages, hours or working conditions of any employee. "Employer" does not include federal, state or local government agencies.

The new law provides full-time employees who have exhausted all available leave to use up to four hours of additional paid leave per injection to receive the COVID-19 vaccination. "Full-time employee" means either an employee who the employer considers to work full time or an employee who worked or was scheduled to work, on average, at least 40 hours per week for the employer in the two weeks preceding the date the employee took vaccine leave.

The law also provides part-time employees who have exhausted all available leave time to additional paid leave to receive the COVID-19 vaccine at the prorated amount of four hours per injection based on their normally scheduled work hours over the two-week period preceding the injection. As an example, if an employee worked 20 hours per week during the two-week period, the employee would be entitled to two hours of leave per injection.

An employee who uses vaccination leave will be compensated at their normal rate of pay. The total number of hours of vaccination leave is in addition to any paid sick leave that may be available under California law. Employers may ask employees to provide written verification of receipt of the COVID-19 vaccine to receive the leave.

### [Notice and posting requirement](#)

Employers must post in a conspicuous place a written notice prepared and made available electronically by the Department of Consumer and Business Affairs (DCBA) informing employees of the leave and of their rights. Employers must keep records necessary to demonstrate compliance with the law, including accurate and complete payroll records pertaining to each employee that document the name, address, occupation, dates of employment, rate or rates of pay and the amount paid for four years.

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# California

## *Malibu Ordinance No. 485U (hazard pay as paid leave)*

Enacted April 12, 2021

Effective April 12, 2021

Informational only — Sedgwick does not administer

Malibu, California has enacted a [hazard pay ordinance](#) that requires grocery and drug stores to pay workers \$5.00 per hour in hazard pay. A covered employee is a person who performs at least two hours of work per week within the City of Malibu (“City”). A covered employee is entitled to payment of minimum wage. A person doing work for an employer is presumed to be an employee. If an employer asserts that a person is not a covered employee due to an independent contractor status or the person is not required to physically appear at a store during the COVID-19 pandemic, then the employer has the burden to demonstrate that the person is not an employee.

Covered employers include grocery and drug stores located within the City. Grocery stores include retail grocery stores that sell primarily food or household goods. Drug stores are businesses that sell a variety of prescription and non-prescription medicines and miscellaneous items. Covered employers must meet the following requirements:

- Directly or indirectly employs or exercises control over the wages, hours or working conditions of any covered employee;
- Operates at least one store located in the City;
- Is either a corporate entity with publicly traded stock or employs 300 or more workers nationwide in the pay period preceding the effective date of the ordinance; and
- Employs more than 10 covered employees per store within the City in the pay period preceding the effective date of the ordinance.

### [Notice and recordkeeping requirements](#)

Employers must post in a conspicuous place at every store within the City a written notice prepared and made available electronically by the City informing employees of the ordinance and their rights under the ordinance. Each pay day, employers must provide each employee with the hourly rate of hazard pay, the amount of hazard pay, paid leave in lieu of hazard pay or voluntary hazard pay earned by the employee in the pay period, and the number of hours worked that entitles an employee to hazard pay.

Employers must keep records necessary to demonstrate compliance with the ordinance, including accurate and complete payroll records for each employee that document the employee’s name, address, occupation, dates of employment, rate of pay, amount paid each pay period, hours worked for each employee and the formula by which each employee’s wages are calculated. Employers must retain the payroll records for a period of four years.

# District of Columbia

## *Bill 140 (COVID-19 leave)*

Enacted May 4, 2021

Effective following approval by the mayor, a 30-day period of Congressional review and publication in the DC Register

Informational only — Sedgwick does not administer

On March 17, 2021, the District of Columbia enacted an emergency measure to assist District residents who may face work stoppage due to a quarantine or actual sickness by providing wage replacement. The measure also required employers to provide paid leave for COVID-19 illnesses and created a grant program for small businesses to help cover employee salaries and benefits, operating costs or loan repayments. The emergency measure is set to expire on June 15, 2021. This [temporary measure](#) extends the provisions in the emergency measure and will expire 225 days after it takes effect.

### [Family and medical leave](#)

The emergency law amends the District's family and medical leave program. It expands the definition of "employee" to include, for purposes of COVID-19 public health emergency leave, an individual employed by an employer for at least 30 days before the request for leave. The law permits employees to take family and medical leave during the COVID-19 public health emergency. The employee may use up to 16 weeks of leave during the emergency. The leave may be unpaid. Any paid leave provided by an employer that the employee elects to use for COVID-19 leave will count against the 16 workweeks of allowable leave. If an employer has a program that allows an employee to use the paid leave of another employee and the required conditions have been met, the employee may use the paid leave as family and medical leave and it will count against the 16 workweeks of leave provided. An employee may elect to use leave provided under this section before other leave to which the employee is entitled under federal or District law or an employer's policies. All employers must provide such leave.

### [Public health emergency leave under the Accrued Sick and Safe Leave Act](#)

The District previously enacted a supplement to its Accrued Sick and Safe Leave Act that expands leave available during the COVID-19 public health emergency. The emergency law clarified the interaction between this leave and other leaves available under District law, and it states that an employee may only use paid leave concurrently with or after exhausting any other paid leave to which the employee may be entitled for covered reasons under federal or District law or an employer's policies.

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## Illinois

### *HB 3582 (Victims' Economic Security and Safety Act)*

Passed House; Passed Senate May 30, 2021

If enacted, effective Jan. 1, 2022

If enacted, this law will amend the Illinois Victims' Security and Safety Act. The Act provides unpaid leave to an employee when an employee or an employee's family or household member is a victim of domestic or sexual violence. The [amendment](#) extends the leave to victims of any other crime of violence. This update, if enacted, will not impact the policies Sedgwick currently has in place for this leave right.

Currently, employers with 15-49 employees must provide a total of eight weeks of leave during any 12-month period, and employers with 50 or more employees must provide a total of 12 weeks of leave during any 12-month period. The amendments expand the coverage of the Act to employers with fewer than 15 employees. Accordingly, employers with 1-14 employees would provide a total of four weeks of leave during any 12-month period. Employees would use this leave to seek medical attention or recover from injuries caused by domestic violence, sexual violence, gender violence or any other crime of violence to the employee or the employee's family or household member; to obtain services from a victim services organization or counseling; to participate in safety planning or relocating; and to seek legal assistance.

# Massachusetts

## *HB 3702 (COVID-19 emergency paid sick leave)*

Enacted May 28, 2021

Effective May 28, 2021

Informational only — Sedgwick does not administer

On May 28, 2021, Massachusetts Governor Charlie Baker signed [legislation](#) providing every full-time employee up to 40 hours (prorated for part-time employees) of job-protected, emergency paid sick leave for certain COVID-19 reasons, including to obtain the COVID-19 vaccination or to recover from symptoms arising from the vaccination. This new paid leave entitlement extends until Sept. 30, 2021, or until the fund is exhausted. Further, this new paid leave does not change or add to the requirements under the Massachusetts Paid Family and Medical Leave program.

All Massachusetts employers, regardless of size, are required to provide emergency paid sick leave to employees who are unable to work for the following reasons:

- An employee's need to: (i) self-isolate and care for oneself because of the employee's COVID-19 diagnosis; (ii) get a medical diagnosis, care or treatment for COVID-19 symptoms; or (iii) obtain or recover from the COVID-19 vaccine;
- An employee's need to care for a family member who (i) is self-isolating due to a COVID-19 diagnosis or (ii) needs medical diagnosis, care or treatment for COVID-19 symptoms.

An employee is required to provide notice of the need for COVID-19 emergency paid sick leave as soon as practicable or foreseeable. After the first workday an employee receives COVID-19 emergency paid sick leave, an employer may require the employee to follow reasonable notice procedures in order to continue receiving COVID-19 emergency paid sick leave. An employee may use COVID-19 emergency paid sick leave on an intermittent basis and in hourly increments. An employer may not require an employee to find a replacement worker to cover the hours during which the employee is using COVID-19 emergency paid sick leave.

The Executive Office of Labor and Workforce Development (EOLWD), in consultation with the Executive Office for Administration and Finance, will release a model COVID-19 Massachusetts emergency paid sick leave notice, which employers must display at a conspicuous location within the workplace. If the employer does not maintain a physical workplace, or an employee teleworks, employers will be required to send notification via electronic communication or a conspicuous posting in the web-based platform.

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# Missouri

## *HB 432 (domestic violence leave)*

To the governor May 25, 2021

If enacted, effective Aug. 28, 2021

If enacted, Missouri will [create a law](#) providing employees with domestic violence leave. An employee who is a victim of domestic or sexual violence or a family or household member who is a victim of domestic or sexual violence whose interests are not adverse to the employee as it relates to the domestic or sexual violence may take unpaid leave from work to address such violence.

Employees would be able to take leave for the following reasons:

- Seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic or sexual violence to the employee or the employee's family or household member;
- Obtaining services from a victim services organization for the employee or the employee's family or household member;
- Obtaining psychological or other counseling for the employee or the employee's family or household member;
- Participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the employee or the employee's family or household member from future domestic or sexual violence or to ensure economic security; or
- Seeking legal assistance or remedies to ensure the health and safety of the employee or the employee's family or household member, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic or sexual violence.

Under the legislation, the employer may require the employee to provide certification to the employer that the employee or the employee's family or household member is a victim of domestic or sexual violence and that the leave is for one of the enumerated purposes. The employee must provide such certification to the employer within a reasonable period after the employer requests certification.

Employers must provide notice summarizing the requirements of the law to each person employed or newly hired. The notice may be in electronic format.

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# Oregon

## *HB 2231 (military leave for public employers)*

Enacted May 21, 2021

Effective Sept. 25, 2021

Oregon has amended [its law](#) regarding reemployment rights for service members of public entities after a period of military leave. The amended law exempts certain voluntary service in uniformed service from the five-year limit on reemployment eligibility.

Oregon's anti-discrimination law prohibits discrimination in employment on the basis of military service and requires reemployment following uniformed service leave. The law must be construed in a manner consistent with similar provisions of the federal Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). This amendment adds that the state law must also be consistent with the five-year limit on eligibility for reemployment provided for under USERRA.

Further, the amended law makes exceptions to the five-year limit on eligibility for reemployment after leave. The total period for which an employee is absent is to be excluded from the five-year limit on reemployment rights if the duty is voluntary service overseas or voluntary service within the United States during or in response to an emergency or disaster declared by local, state or federal government.

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# Oregon

## *HB 2474 (family and medical leave)*

Passed House; Passed Senate May 27, 2021

If enacted, effective Jan. 1, 2022

If enacted, [this law](#) will expand the applicability of Oregon family leave to provide leave for closures of child care centers or schools due to a public health emergency, such as that of COVID-19. An employee is entitled to take the leave to care for a child of the employee who is suffering from an illness, injury or condition that is not a serious health condition but that requires home care or who requires home care due to the closure of the child's school or child care provider as a result of a public health emergency.

All employees of a covered employer are eligible to take leave for one of the specified purposes during a public health emergency except an employee who worked for the covered employer for fewer than 30 days immediately before the date on which the family leave would commence; or an employee who worked for the covered employer for an average of fewer than 25 hours per week in the 30 days immediately before the date on which the family leave would commence.

The employer may request verification for the need for leave. A request for verification may include a request for the name of the child requiring home care, the name of the school or child care provider that is subject to closure, a statement from the employee that no other family member of the child is willing and able to care for the child, and a statement that special circumstances exist that require the employee to provide home care for the child during the day, if the child is older than 14 years of age.

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# Pennsylvania

## *HB 203 (Living Donor Protection Act)*

Enacted April 27, 2021

Effective June 27, 2021

Pennsylvania has enacted the [Living Donor Protection Act](#), which provides certain insurance and related protections for living organ and tissue donors. The new law applies to employers and employees that are covered by the federal Family and Medical Leave Act.

### [Employee leave and documentation requirements](#)

Under the law, employers must provide leave to employees for preparation and recovery for donation surgery in the same way that leave would be provided under the FMLA when the employee could not work for one of the FMLA-qualifying reasons. An employer must also provide leave when the donation is being made by the employee's spouse, child or parent. Employers may require written documentation regarding the leave.

The law defines an organ as a kidney, liver, heart, lung, pancreas, esophagus, stomach, small or large intestine or portion of the gastrointestinal tract, or another part of the human body designated by the Department of Health, as well as blood vessels recovered during the recovery of an organ that are intended for organ transplantation. A tissue is defined as a portion of the human body other than an organ, including an eye, skin, bone, bone marrow, heart valve, spermatozoon, ova, artery, vein, tendon, ligament, pituitary gland or fluid. It does not include blood or a blood derivative, unless it is donated for research or education.

The U.S. Department of Labor has taken the position through a 2018 [opinion letter](#) that organ donation surgery and recovery likely provides an otherwise healthy donor with federal FMLA leave. Because employer coverage and employee eligibility under Pennsylvania's new law tracks the federal FMLA's definition, the Living Donor Protection Act will run concurrently with the FMLA. Therefore, Sedgwick will not be creating new policies to manage this leave right.

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# Pennsylvania

## *Philadelphia Bill No. 210249 (domestic violence leave)*

Enacted May 11, 2021

Effective May 11, 2021

Philadelphia has amended its [paid sick leave and domestic violence leave ordinances](#) to include persons affected by coercive control. Under the city's domestic violence leave ordinance, employees may take a leave from work to address various issues related to domestic violence, sexual assault or stalking.

This amendment expands the definition of domestic violence to include coercive control. Coercive control is defined as a pattern of threatening, humiliating or intimidating actions used to punish or frighten an individual, including a pattern of behavior that effectively takes away the individual's liberty, freedom or sense of self, safety or bodily integrity. It includes, but is not limited to:

- Isolating the individual from support networks;
- Controlling the individual's economic and other resources, such as transportation;
- Closely monitoring the individual's activities, communications or movements;
- Repetitively degrading and demeaning the individual;
- Threatening to kill or harm the individual or the individual's children, relatives or pets or taking steps to separate the individual from the individual's children and or pets;
- Threatening to publish or publishing sexualized, false or embarrassing information, videos, photographs or other depictions of the individual;
- Damaging or taking the individual's property or possessions;
- Displaying or referring to weapons as a means to intimidate or threaten; or
- Forcing the individual to engage in unlawful activity.

Under the city's paid sick leave ordinance, employees may use paid time off for absences necessary due to domestic abuse, sexual assault or stalking. This amendment expands the definition of domestic abuse to incorporate the definition in the city's domestic violence leave ordinance, which now includes coercive control, as described above.

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# Washington

## *Final Rule WAC 192-510-050 (paid family and medical leave)*

Enacted May 7, 2021

Effective June 7, 2021

Washington has amended [its regulation](#) regarding new employer size under the state Paid Family and Medical Leave law. All employers are covered under the law, but employers with 50 or more employees must pay a portion of the paid leave benefits premium. The regulation states that new employers that have not been in business long enough to report four calendar quarters by Sept. 30, the date on which employer size is determined by the Employment Security Department, will have their size calculated after they have reported two calendar quarters. The size determination made at that time will remain in effect until the following Sept. 30. Under the amended regulation, the size determination will remain in effect for the following calendar year.

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# Washington

## *Final Rule WAC 192-700-006, 007 (paid family and medical leave)*

Enacted May 7, 2021

Effective June 7, 2021

Washington has issued [new regulations](#) regarding employment restoration under the state Paid Family and Medical Leave law. The law provides that eligible employees must be reinstated to their previous position or an equivalent position when they return from leave. To be eligible for reinstatement, an employee must have been employed by his or her current employer for 12 months or more and must have worked for the current employer for at least 1,250 hours during the 12 months immediately preceding the date that the leave begins.

The new regulations clarify that the number of hours worked for purposes of employment restoration is determined in accordance with the federal regulations regarding Family and Medical Leave Act eligibility. The new regulations also provide that hours worked for a predecessor employer are considered to be hours worked for the successor employer, in accordance with the federal regulations regarding FMLA eligibility.

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# Washington

## *SB 5097 (paid family and medical leave)*

Enacted May 10, 2021

Effective July 25, 2021

Washington has amended its [Paid Family and Medical Leave law](#) to expand the definition of family member. Under the law, “family member” means a child, grandchild, grandparent, parent, sibling or spouse of an employee. This amendment expands that definition to provide that “family member” means a child, grandchild, grandparent, parent, sibling or spouse of an employee, and also includes any individual who regularly resides in the employee’s home or someone with whom the relationship creates an expectation that the employee care for the person, and that person depends on the employee for care. The amendment further specifies that “family member” includes any individual who regularly resides in the employee’s home, except that it does not include an individual who simply resides in the same home with no expectation that the employee care for the individual.

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.

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