

LEAVE AND DISABILITY REGULATORY COMPLIANCE

Summary of legislative and regulatory changes

Private employer sector | April 2022

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Alabama

SB 31 (Adoption Promotion Act)

Enacted April 19, 2022

Effective July 1, 2022

Alabama has enacted the [Adoption Promotion Act](#) to provide unpaid leave for birth and adoptive parents. Employers that are subject to the federal Family and Medical Leave Act are covered under the law. Likewise, employees that are eligible for leave under the federal Family and Medical Leave Act are eligible for leave under the law.

Covered employers must provide 12 weeks of leave to eligible employees for the birth and care of the employee's child or for the care of an adopted child placed with the employee. The leave must be taken within one year of the birth or placement of the child. The leave will run concurrently with any other leave provided under federal law. The law provides that the leave may be taken intermittently only if the employer and employee agree. Employers are not required to provide additional leave to an eligible employee once the employee has exhausted the leave to which the employee is entitled under federal law. That is, an employee is entitled to unpaid leave equal to what they have available under federal FMLA at the time of their leave.

If an employee requests leave to care for an adopted child who is ill or has a disability, the law requires the employer to consider the request as it would consider a comparable request due to complications that arise from the birth of an employee's child. Again, this law does not create an additional right to leave beyond what is available under federal FMLA. Sedgwick will be creating a policy to manage this leave.

The law does not require that the leave be paid. However, if an employer provides paid leave to an employee for the birth and care of a child born to the employee, it must also provide either an equivalent paid leave or two weeks of paid leave, whichever is less, to an employee on leave for the care of a child placed with the employee for adoption. If two employees are eligible for these paid leave benefits due to the placement of the same child for adoption, the employer need only provide paid benefits to one of the two employees. If an employer already provides paid leave equal to or greater than required to under this law, then an employer does not need to do anything additional to comply with these requirements.

District of Columbia

Final Rule 7 DCMR 35 (Universal Paid Family Leave Extension)

Enacted Feb. 11, 2022

Effective Feb. 11, 2022

The District of Columbia has amended regulations related to the [Universal Paid Family Leave Act](#) (the Act). The Act was originally passed in 2017 and now provides employees with eight weeks of paid leave after the birth or adoption of a child, six weeks of paid leave for the employee's or a family's member's qualifying medical condition and two weeks of paid prenatal leave. The amended rules incorporate the Universal Paid Family Leave Act Amendment.

Employees are eligible for paid leave benefits if they experience a qualifying event and cannot perform their regular work because of that event. The amendment specifies that the employee must also have worked during at least one of the past five completed quarters immediately preceding the qualifying event or if the claim is submitted between Oct. 1, 2021 and July 25, 2022, the individual has earned income as a covered employee during at least one of the past 10 completed quarters immediately preceding the qualifying event.

Employees may submit a claim for qualifying family leave, medical leave, parental leave or prenatal leave. Leave benefits payable before the date the claim was filed are allowed under the following conditions: the requested leave dates fall no more than 30 days before the date the individual filed a claim for benefits and the claim was filed no more than 30 days after occurrence of the qualifying event.

The amendment provides that for paid prenatal leave, the employee must provide proof of pregnancy, certified by a healthcare provider that includes the following: contact information for the healthcare provider, including the name, address, telephone number and email address of the healthcare provider; medical license information for the healthcare provider; the date the healthcare provider first confirmed the patient's pregnancy or the first date on which treatment was provided for the pregnancy, whichever came first; and the healthcare provider's estimate of the expected due date of the applicant's baby.

The amendment defines prenatal medical care to mean any of the following: routine and specialty appointments, exams and treatments that are associated with a pregnancy; prenatal check-up appointments; diagnostic appointments intended to provide medical information about the health or well-being of the embryo or fetus carried by the eligible individual, such as amniocentesis, ultrasounds or blood tests; treatment for pregnancy complications, including any treatment associated with a high-risk pregnancy; bedrest that is required or prescribed by a healthcare provider; physical therapy necessary to treat symptoms of, or to relieve physical discomfort associated with, pregnancy; or other medical care that medical documentation submitted by the claimant demonstrates is associated with a pregnancy.

Illinois

SB 257 (Victims' Economic Security and Safety Act)

Passed Senate; Passed House; to Governor April 27, 2022

If enacted, effective immediately after becoming a law

Illinois law provides victims of domestic, sexual and gender violence with leave to deal with the effects of that violence, including 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. If enacted, [the amendment](#) will expand that to allow leave to prepare or participate in military legal proceedings.

The amendment prohibits employers from discriminating against employees that attend, participate in, prepare for or request leave to attend a court-martialed or nonjudicial punishment proceeding under the Uniform Code of Military Justice relating to any incident of domestic, sexual, gender or criminal violence against that employee or their family member.

Illinois

SB 3120 (Family Bereavement Leave Act)

Passed Senate; Passed House; To Governor April 28, 2022

If enacted, effective Jan. 1, 2023

The Illinois Child Bereavement Leave Act provides up to two weeks of unpaid bereavement leave to attend a funeral, make arrangements necessitated by the death or grieve for the death of a child. If enacted, the amendment will expand the leave to create the [Family Bereavement Leave Act](#). The Act will entitle employees to use a maximum of two weeks of unpaid bereavement leave to attend the funeral of a covered family member, make arrangements necessitated by the death of a covered family member, grieve that death of a covered family member, or be absent from work due to a miscarriage, an unsuccessful round of assisted reproductive technology procedure, a failed adoption match, a failed surrogacy agreement, a diagnosis negatively impacting pregnancy or fertility, or a stillbirth. “Covered family member” means an employee’s child, stepchild, spouse, domestic partner, sibling, parent, parent-in-law, grandparents, grandchild or stepparent. In the event of the death of more than one covered family member in a 12-month period, an employee is entitled to up to a total of six weeks of bereavement leave during the 12-month period. This Act does not create a right for an employee to take unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to the unpaid leave time permitted by federal FMLA.

The law permits an employer to require reasonable documentation regarding the need of the leave. For the purposes of pregnancy or adoption-related loss, reasonable documentation may include a form filled out by a healthcare practitioner who has treated the employee or the employee’s spouse or domestic partner, or surrogate, or documentation from the adoption or surrogacy organization. However, an employer may not require that the employee identify which category of event the leave pertains to as a condition of exercising rights under this Act.

Maine

LD 1823 (earned paid leave amendment)

Enacted April 7, 2022

Effective July 19, 2022

Informational only – Sedgwick does not administer

Maine's paid leave law requires employers with more than 10 employees to provide employees with one hour of paid time off for every 40 hours worked. The law provides that Maine Department of Labor has exclusive authority to enforce the paid leave law. This [amendment](#) adds the condition that nothing prohibits the parties to a collective bargaining agreement from agreeing to also address any violation of the paid leave law through the dispute resolution process set forth in that collective bargaining agreement.

Maryland

SB 275 (Family and Medical Leave Insurance Program)

Enacted April 9, 2022

Effective June 1, 2022

Maryland has enacted a [Family and Medical Leave Insurance Program](#) to provide paid benefits to employees on leave for a variety of reasons. The law requires all covered employees to contribute to the program, as well as covered employers with 15 or more employees. Maryland already requires employers to provide unpaid leave under its Flexible Leave Act and Parental Leave Act. All employers that employ at least one individual in the state are covered under the new law. While all such employers are covered under the law, only employers with 15 or more employees must make contributions to the program's fund. The law defines a covered employee as an employee that has worked at least 680 hours in the 12-month period immediately before the date that leave begins. The law permits self-employed individuals to opt-in to the state program.

Under the law, a covered employee may receive temporary benefits when on leave to care for a child during the first year after its birth or placement through foster care, kinship care or adoption; to care for a family member with a serious health condition; for employee's own serious health condition which makes them unable to work; to care for a service member who is the employee's next of kin; or because the employee has a qualifying exigency arising out of a family member's deployment as a service member.

Covered employees may receive up to 12 weeks of benefits during each 12-month period. The 12-month period begins on the first day of the calendar week in which the employee applies for benefits. However, an employee can receive an additional 12 weeks of benefits during the same 12-month period if the employee received benefits due to caring for a child during the first year after its birth or placement, and then becomes eligible for benefits due to their own serious health condition or the employee received benefits due to their own serious health condition and then becomes eligible for benefits due to caring for a child during the first year after its birth or placement.

Employers must give a written notice of rights and duties under the law to each employee at the time of hire and once per year thereafter. Additionally, if an employee requests leave under the law, or if an employer knows that an employee's reason for leave may qualify for benefits under the law, the employer must notify the employee of their eligibility for benefits under the law within five business days. The new law details the information that must be included in the notice.

Oregon

Final Rule OAR 471-070-0415 (Paid Family and Medical Leave Insurance)

Enacted Feb. 1, 2022

Effective Jan. 31, 2022

Benefits begin Sept. 3, 2023

Oregon has issued new rules related to the administration of its [Paid Family and Medical Leave Insurance program](#), recently rebranded as [Paid Leave Oregon](#). Under the program, eligible employees may take paid family, medical or safe leave for a variety of purposes. The new rules provide additional information about the law.

An employee's weekly benefit amount is determined based on their wages. The new rules clarify that the term "wages" does not include certain meal, travel or other expense reimbursements provided by the employer; a pension received from a former employer; compensation, reimbursement, fees, lodging, meals or other amounts paid to an employee for jury service; lump sums or other special payments made as compensation for a work-related accident; gifts an employee receives from a third party during the course of employment, not including tips and gratuities; or employee benefits paid through a cafeteria plan.

In contrast, the rules provide that the following are considered wages: bonuses, fees and prizes, if paid to the employee as a compensation, reward or added remuneration for services; wages paid by an employer during a period of disability; commissions or guaranteed wages; compensatory pay; dismissal or separation allowances; holiday pay; paid time off; sick pay; stand-by pay; tips or gratuities; vacation pay; payments made in any medium other than cash (except for agricultural labor and domestic service), subject to certain exceptions; and dividends paid to a corporate officer or shareholder, if they are reasonable compensation for services performed.

Tennessee

HB 2733 (Veterans Day leave)

Enacted April 20, 2022

Effective April 20, 2022

Informational only – Sedgwick does not administer

Tennessee [enacted a new law](#) requiring all employers to allow their veteran employees to take November 11, Veterans Day, as a day off from work under certain circumstances. Independent contractors are not considered employees. Veterans include former members of the U.S. armed forces or former or current members of a reserve or Tennessee national guard unit that have been called into active service.

Leave is unpaid, but an employer may choose to make it a paid day off. Veterans wishing to have the holiday off work must provide written notice at least one month in advance and proof of veteran status, such as DD Form 214 or other comparable discharge document from the armed forces.

The absence, alone or in combination with other veteran employee absences, cannot impact public health or safety or cause the employer significant economic or operational disruption as determined by Tennessee Labor and Workforce Development Department rules.

Washington

Final Rule WAC 192-500-185 (Paid Family and Medical Leave)

Enacted April 26, 2022

Effective June 9, 2022

Washington has amended the rules related to the administration of its [Paid Family and Medical Leave](#) law. The law requires a waiting period before the employee can use the leave. A "waiting period" is the first seven consecutive calendar days beginning with the Sunday of the first week an eligible employee starts taking paid family or medical leave. The amended rules specify that a waiting period does not reduce the maximum duration of an employee's available leave. Further, the waiting period does not apply to medical leave taken upon the birth of a child.

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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