

LEAVE AND DISABILITY REGULATORY COMPLIANCE

Summary of legislative and regulatory changes

Private employer sector | August 2021

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California

Los Angeles County Ordinance No. 21-3180 (vaccination leave)

Enacted Aug. 11, 2021

Effective Aug. 11, 2022

Informational only — Sedgwick does not administer

On May 18, 2021, Los Angeles County enacted an emergency ordinance requiring private employers to provide paid time off for employees to receive COVID-19 vaccinations. The law permits full-time employees who have exhausted all available leave to use up to four hours of additional paid leave per vaccine injection. The law was set to expire on Aug. 31, 2021. This [amendment](#) extends the effective date so that the law will not expire until 14 days after the expiration of the COVID-19 local emergency as declared and ratified by the board of supervisors.

California

San Anselmo Ordinance (COVID-19 supplemental sick leave)

Enacted Aug. 16, 2021

Effective Aug. 16, 2021

Informational only — Sedgwick does not administer

The town of San Anselmo has enacted the [COVID-19 Supplemental Sick Leave Ordinance](#). This ordinance requires all private employers who are within the town of San Anselmo and employ 25 or fewer employees to provide COVID-19-related sick pay to employees who work for more than two hours within the geographic boundaries of San Anselmo.

A full-time employee who works 40 or more hours per week may use up to 80 hours of supplemental paid sick leave. A part-time employee may use supplemental paid sick leave up to the employee's average number of work hours in a two-week period, calculated over the prior six months. The supplemental paid sick leave hours may have already been accumulated by employees under the now-expired Families First Coronavirus Response Act. An employer may not require an employee to use any other paid or unpaid leave, sick pay, paid time off or vacation time provided to the employee before the employee uses supplemental paid sick leave.

Under the new ordinance, employees who are unable to work or telework may use the paid sick leave for the following reasons:

- The employee has been advised by a healthcare provider to isolate or self-quarantine to prevent the spread of COVID-19.
- The employee is subject to a federal, state or local quarantine or isolation order due to COVID-19.
- The employee is experiencing COVID-19 symptoms and is seeking a medical diagnosis.
- The employee needs to care for an individual who is subject to a federal, state or local quarantine or isolation order related to COVID-19, has been advised by a healthcare provider to self-quarantine related to COVID-19, or is experiencing COVID-19 symptoms and is seeking a medical diagnosis.
- The employee needs to provide care for an individual whose senior care provider, school or childcare provider is closed or unavailable in response to a public health or other public official's recommendation.
- The employee is attending an appointment to receive a COVID-19 vaccine.
- The employee is experiencing symptoms related to a COVID-19 vaccine that prevent the employee from being able to work or telework.

Employees will be paid at their regular rate of pay during leave, subject to a cap of \$511 per day and \$5,110 total. Employees of joint employers are only entitled to the total aggregate amount of leave specified for employees of one employer.

Notice and recordkeeping requirements

The new ordinance requires employers to provide employees with a notice of their rights within seven days of adoption. Employers must also post the notice in both English and Spanish in the workplace, on any electronic platform and via email. Employers must also keep records of each employee's name, hours worked and pay rate for a three-year period.

This law expires Sept. 30, 2021.

Connecticut

SB 1202 (voting leave)

Enacted June 23, 2021

Effective June 23, 2021

Connecticut has [enacted a law](#) that contains provisions to implement the state budget as well as several new or amended laws of interest to employers. The law requires employers to give employees two hours of unpaid time off to vote in a state election or special election (in certain cases). Employees must request the time off at least two working days before the election. This provision is currently effective and sunsets on June 30, 2024. Sedgwick will not be administering this portion of the law.

The bill also contains amendments regarding the administration of the Family and Medical Leave Insurance Program. Sedgwick is administering Connecticut paid leave claims for approved private plan employers. Employees may file a complaint for violations of the program with the labor commissioner within 180 days from when the alleged violation occurred. The commissioner will then investigate the complaint and determine whether there has been a violation. If the commissioner determines there was no violation, the employee has 90 days in which to file a complaint in civil court. Alternatively, the employee may file a complaint in civil court within 180 days from when the alleged violation occurred without first filing a complaint with the commissioner. The court can award all appropriate relief, including rehiring or reinstatement, back wages and the reestablishment of employee benefits. It is important to note this clarification of the paid leave law does not provide job protection. Job protection is only provided through the existing Connecticut Family and Medical Leave Law.

District of Columbia

B 285 (paid leave amendment)

Passed Council Aug. 10, 2021

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

If enacted, this omnibus bill enacts provisions necessary to support the 2022 D.C budget. Of note to employers, [this bill](#) amends the Universal Paid Leave Act to add prenatal care as a qualifying use of leave and defines public health emergency for purposes of the Act. Further, it prohibits the offset or reduction of disability benefits due to paid family and medical benefits received for insurance carriers only.

The bill would expand the Universal Paid Leave Act to add prenatal care, still birth and miscarriage to the qualifying reasons to use the leave. The bill also defines “public health emergency” for the purposes of the Act. “Public health emergency” means the coronavirus (COVID-19) public health emergency declared pursuant to Mayor’s Order 2020-046, on March 11, 2020, and all subsequent extensions.

District of Columbia

B 345 (emergency paid leave extension)

Enacted July 24, 2021

Effective July 24, 2021

The District of Columbia has enacted the [Public Emergency Extension and Eviction and Utility Moratorium Phasing Emergency Amendment Act of 2021](#). Of interest to employers, the emergency act amends the COVID-19 provisions under the District's Family and Medical Leave Act and Accrued Sick and Safe Leave Act to extend the availability of COVID-19-related leave through Nov. 5, 2021.

This amendment expires on Oct. 22, 2021.

District of Columbia

B 346 (temporary paid leave extension)

Passed Council, to the mayor Aug. 18, 2021

Effective following approval by the mayor, a 60-day period of Congressional review, and publication in the DC Register

If enacted, [this amendment](#) would extend COVID-19 emergency leave through Nov. 5, 2021. The Public Emergency Extension and Eviction and Utility Moratorium Phasing Emergency Amendment Act of 2021 is set to expire Oct. 22, 2021. This temporary act would extend the available leave through Nov. 5, 2021.

District of Columbia

B 373 (Universal Paid Leave Act extension)

Enacted Aug. 23, 2021

Effective Aug. 23, 2021

The District of Columbia has amended its [Universal Paid Leave Act](#). The Act provides for three types of paid leave:

- Up to eight weeks of paid parental leave in a 52-workweek period, which may be taken in circumstances surrounding the birth or placement of a child.
- Up to six weeks of paid family leave in a 52-workweek period to provide care or companionship to a family member who has a diagnosis or occurrence of a serious health condition.
- Up to two weeks of paid medical leave in a 52-workweek period for an eligible individual following his or her diagnosis or occurrence of a serious health condition.

The Act provides for a one-week waiting period after a qualifying event occurs before the eligible employee may receive paid leave benefits. Under the amended law, this waiting period is removed for claims filed after Oct. 1, 2021, and up to one year after the end of the COVID-19 public health emergency. The amended law permits eligible employees to receive retroactive paid leave benefits by submitting a claim within 30 calendar days after the qualifying event. The time to file a claim may be extended due to exigent circumstances.

The amended law increases the amount of paid medical leave an individual may take following his or her diagnosis or occurrence of a serious health condition. For claims filed from Oct. 1, 2021, through Oct. 1, 2022, qualifying employees may receive up to six workweeks of qualifying medical leave. Additionally, the amended law provides two workweeks of qualifying prenatal leave during this time period. Prenatal leave is defined as paid leave that an eligible employee who is pregnant may take for prenatal medical care. Prenatal leave benefits will be prorated if less than a full week is used, just as benefits for other types of leave are prorated.

[Family and Medical Leave Act amendments](#)

Under the District of Columbia's Family and Medical Leave Act, employees are eligible for leave if they have been employed by the same employer for one year without a break in service except regular holiday, sick or personal leave, and have worked at least 1,000 hours during the 12-month period immediately preceding the request. An employee must work at least 50% of their time inside the District of Columbia.

Under the amended law, an employee is eligible for leave if they have been employed by the same employer for 12 consecutive or non-consecutive months, including paid or unpaid holiday, sick or personal leave granted by the employer in the seven years preceding the date on which the family or medical leave commences, and have worked at least 1,000 hours during the 12-month period immediately preceding the date leave begins. The

amended law clarifies that for workers seeking leave related to the COVID-19 pandemic, the eligibility requirement is that the worker be employed for 30 days before the leave request.

Illinois

HB 3582 (crime victim leave)

Enacted Aug. 20, 2021

Effective Jan. 1, 2022

The [Illinois Victims' Economic Security and Safety Act](#) (VESSA) has been amended to allow victims of violent crimes to take unpaid leave and collect voluntary leave benefits.

VESSA provides that an employee who is a victim of domestic violence, sexual violence or gender violence, or an employee who has a family or household member who is a victim of domestic violence, sexual violence or gender violence, is entitled to an unpaid leave of absence. The amendment adds grandparents, grandchildren and siblings to the definition of family or household member. Further, this amendment provides that employees who are victims of any crime of violence, or whose family member is a victim of a crime of violence, are now entitled to unpaid leave. Crimes of violence include homicide, various sex offenses, offenses that cause bodily harm, harassing and obscene communications, terrorism and armed violence. Additionally, the amended law defines "sexual violence" as sexual assault.

Eligible employees who work for an employer with at least 50 employees are entitled to 12 workweeks of leave during any 12-month period, and an employee who works for an employer with 15 to 49 employees is entitled to eight workweeks of leave during any 12-month period. Employees may take unpaid leave from work to:

- Seek medical attention for or recover from physical or psychological injuries caused by the violence.
- Obtain services from a victim services organization for the employee or the employee's family or household member.
- Obtain psychological or other counseling.
- Participate in safety planning, relocation or other actions to increase the safety or economic security of the employee or employee's family or household member.
- Seek 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 civil or criminal legal proceedings related to the violence.

Leave can be taken intermittently or on a reduced work schedule. Under the amendment, leave may also be taken consecutively. Additionally, the employer must not require the employee to substitute available paid or unpaid leave for leave provided under VESSA.

An employer may require an employee seeking to take leave to provide certification that the employee or employee's family member is a victim of violence and the leave will be used for one of the purposes enumerated in the statute. An employee may satisfy the certification requirement by providing the employer with a sworn statement along with documentation from an employee, agent or volunteer of a victim services organization, an attorney, a clergy member, a medical professional or other professional from whom assistance was sought to address the violence, a police or court record or other corroborating evidence. The amended law only requires the sworn statement from the employee and the latter documents only if the employee has possession of such documents.

Oregon

Temporary Rule OAR 839-007-0020 (sick leave)

Enacted Aug. 6, 2021

Effective Aug. 6, 2021

Informational only — Sedgwick does not administer

Oregon has [amended its emergency rule](#) that increases protection for employees exposed to extreme heat, poor air quality and associated public health emergencies at work.

The amended emergency rule adds that the following public health emergencies are permissible uses of sick leave for employees unless the employee is employed as a first responder:

- An emergency evacuation order of level 2 (SET) or level 3 (GO) issued by a public official with the authority to do so, if the affected area subject to the order includes either the location of the employer's place of business or the employee's home address.
- A determination by a public official with the authority to do so that the air quality index or heat index are at a level where continued exposure to such levels would jeopardize the health of an employee.

The amended emergency rule expires on Jan. 17, 2022.

Tennessee

HB 82/SB 754 (military leave)

Enacted May 18, 2021

Effective July 1, 2021

Tennessee has amended its [military leave](#) provisions to establish protections equivalent to the federal Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). Tennessee law provides that private employees who are active members of the Tennessee Army and National Guard, Tennessee State Guard and state civil air patrol are entitled to an unpaid leave of absence when they are engaged in performance of duty or training in the service of the state, including duties during an emergency. Eligible employees are entitled to leave without loss of the following: time, pay not specifically related to leave of absence time, and regular leave or vacation.

The amended law establishes that active members of the Tennessee state forces listed above and the civil air patrol are also entitled to equivalent protections regarding the right to reemployment afforded under USERRA to service members called to federal active service. The amended law provides that to be eligible for leave of absence protections, a covered individual must satisfy the following conditions:

- A person with a period of service of 30 days or less must report for work to their employer not later than the first full regularly scheduled work period following a period of eight hours after completing the period of service and has been safely transported to their residence, unless reporting for work within that time period is not reasonably practicable through no fault of their own, in which case they must report for work as soon as reasonably practicable.
- A person with a period of service of more than 30 days but not more than 180 days must submit an application for reemployment with the employer within 14 days after completing the period of service, unless doing so is not reasonably practicable through no fault of their own, in which case they must submit an application for reemployment as soon as reasonably practicable.
- A person with a period of service greater than 180 days must submit an application for reemployment with the employer within 90 days after completion of the period of service.

Persons in active uniformed service must, unless impossible or unreasonable under the circumstances of their call to active state duty, provide advance notice to their employer of orders calling them to active state duty.

Washington

Final Rule WAC 192-500-200 et seq. (paid family and medical leave)

Enacted Aug. 1, 2021

Effective Aug. 1, 2021

Washington has [amended its regulations](#) regarding paid family and medical leave in relation to the COVID-19 pandemic. In April 2021, the state passed a bill permitting workers who would otherwise not qualify to use the benefits of the Paid Family and Medical Leave Law on a temporary basis in response to the pandemic. The amended regulations help clarify the changes made by the bill.

The amended regulations define pandemic leave assistance as the temporary grant that permits employees who would not otherwise qualify for paid family and medical leave because they do not meet the 820-hour required threshold for eligibility due to the COVID-19 pandemic. The amendments clarify that employers and employees that utilize the pandemic leave assistance are subject to the rights and responsibilities associated with the Paid Family and Medical Leave law.

Under the law, an employer may choose to utilize the state-run benefits plan or implement a voluntary private plan for the payment of either family leave benefits or medical leave benefits, or both. Please note the amendments clarify that employers with voluntary plans need not provide pandemic leave assistance benefits to their employees, but eligible employees may apply to the state for such benefits.

The law provides grants to certain qualifying small employers to assist with the costs associated with employees that are on leave. The amended regulations provide that a small employer can apply for a pandemic leave assistance grant only once.

Under the law, an employee must attest that they did not meet the employment hours threshold due to reasons related to the COVID-19 pandemic and not because they were terminated due to misconduct or voluntarily left employment for reasons other than the COVID-19 pandemic. The amended regulations provide examples of situations where an employee must attest that the lack of qualifying hours is attributable to the COVID-19 pandemic.

Washington

SB 5384 (volunteer firefighter leave)

Enacted April 16, 2021

Effective April 16, 2021

Washington state amended its [volunteer emergency responder leave law](#). State law provides that an employer with 20 or more full-time equivalent employees in the previous year may not terminate or otherwise discipline an employee volunteer firefighter or reserve officer who misses work to respond to an emergency.

This amendment revises the definition of volunteer firefighter under the law. Under the amendment, a volunteer firefighter is a firefighter for purposes of the state firefighters' and reserve officers' relief and retirement pensions law who:

- Voluntarily performs, regardless of reimbursement, any assigned or authorized duties on behalf of or at the direction of a firefighting or emergency response unit of a city, county, fire district, regional fire protection district, port district or the state; and
- Has notified their employer of their firefighter status and intent to serve as a volunteer if already at the place of employment when called to serve; or
- If not already at the place of employment when called to serve, has been ordered to remain at their position by the commanding authority at the fire scene.

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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