

LEAVE AND DISABILITY REGULATORY COMPLIANCE

# Summary of legislative and regulatory changes

*Private employer sector | September 2021*

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# California

## *AB 1033 (California Family Rights Act)*

Enacted Sept. 28, 2021

Effective Jan. 1, 2022

California has amended the [California Family Rights Act](#) (CFRA) to include coverage for an employee's parent-in-law and clarify certain administrative procedures regarding mediation. Under the CFRA, an employee may take leave to care for a parent who has a serious health condition, among other reasons. The law defines parent to mean a biological, foster or adoptive parent, a stepparent, legal guardian or other person who stood in loco parentis to the employee when they were a child. The amended law adds parent-in-law to the definition of parent.

The law requires the Department of Fair Employment and Housing to create a pilot mediation program to be used by employers with between five and 19 employees. The amendments clarify the administrative procedures to be used in the program. Under the mediation program, before an employee that alleges violations of the CFRA can obtain a right to sue letter from the Department, either the employee or the employer may request mediation. The employee may bring a civil action only if mediation is not initiated by the Department within the specified time frame, the mediation is complete, or the mediation is unsuccessful.

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# California

## *AB 1578 (California Family Rights Act)*

Enacted Sept. 30, 2021

Effective Jan. 1, 2022

California has amended the [California Family Rights Act](#) (CFRA) to include coverage for an employee's parent-in-law and clarify certain administrative procedures regarding mediation. Under the CFRA, an employee may take leave to care for a parent who has a serious health condition, among other reasons.

The law currently defines parent to mean a biological, foster or adoptive parent, a stepparent, legal guardian or other person who stood in loco parentis to the employee when they were a child. The amended law adds parent-in-law to this definition.

# California

## *Fairfax Ordinance (COVID-19 Supplemental Sick Leave)*

Enacted Sept. 1, 2021

Effective Sept. 1, 2021

Informational only — Sedgwick does not administer

The Town of Fairfax has enacted the [COVID-19 Supplemental Sick Leave Ordinance](#). It requires covered employers within the town to provide COVID-19-related paid sick leave. This ordinance covers all private employers within the Town of Fairfax who employ 25 or fewer employees. It covers employees who work for an employer for more than two hours within the geographic boundaries of Fairfax. The ordinance expires Sept. 30, 2021, or upon expiration of the applicable tax credits, whichever is later.

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. This ordinance, in essence, reinstates the time to use accrued benefits to the extent employees have not already exhausted their COVID-19 paid sick leave accruals during the pandemic. Employers are only required to provide the supplemental paid sick leave hours on a one-time basis. An employer may credit the total COVID-19 paid sick leave hours already furnished to an employee under other state or federal COVID-19 paid sick leave legislation against the requirements under this ordinance.

Under the new ordinance, employees who are unable to work or telework may use the paid sick leave if the employee:

- Has been advised by a healthcare provider to isolate or self-quarantine to prevent the spread of COVID-19.
- Is subject to a federal, state or local quarantine or isolation order due to COVID-19.
- Is experiencing COVID-19 symptoms and is seeking a medical diagnosis.
- Needs to care for an individual who is subject to a federal, state or local quarantine or isolation order related to COVID-19, or 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.
- Needs to provide care for an individual whose senior care provider or whose school or childcare provider is closed or unavailable in response to a public health or other public official's recommendation.

- Is attending an appointment to receive a COVID-19 vaccine.
- Is experiencing symptoms related to a COVID-19 vaccine that prevent the employee from working or telework.

#### Notice and recordkeeping

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.

# District of Columbia

## *B 285 (paid leave extension)*

Enacted Sept. 28, 2021

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

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, defines public health emergency for purposes of the Act, and prohibits the offset or reduction of disability benefits paid by insurance carriers due to paid family and medical benefits received.

The bill expands the Universal Paid Leave Act to add prenatal care, still birth and miscarriage to the qualifying reasons to receive paid benefits. The bill also defines “public health emergency,” which is defined to mean the Coronavirus (COVID-19) public health emergency declared pursuant to the mayor’s order.

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## District of Columbia

### *B 346 (emergency paid leave extension)*

Enacted Sept. 1, 2021

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

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



# Massachusetts

## *HB 4127 (emergency paid leave extension)*

Enacted Sept. 29, 2021

Effective Oct. 1, 2021

Informational only — Sedgwick does not administer

On May 28, 2021, Massachusetts enacted an emergency paid sick leave law, providing every full-time employee up to 40 hours of job-protected, emergency paid sick leave for specified COVID-19-related reasons. The law also created a \$75 million COVID-19 emergency paid sick leave fund to reimburse eligible employers for providing their employees with this additional emergency paid sick leave. The paid leave entitlement was set to expire Sept. 30, 2021, or when the fund was exhausted. [This amendment](#) extends the effective period of the leave entitlement to April 1, 2022, or whenever the fund is exhausted.

Prior to the amendment, the law permitted employees to use the leave to obtain a diagnosis, care or treatment for COVID-19 symptoms. The amendment expands the permissible reasons for using leave to include obtaining the COVID-19 vaccination and any recovery related to the immunization.

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# Oregon

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

Enacted Aug. 6, 2021

Effective Aug. 6, 2022

Informational only — Sedgwick does not administer

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

The amendment clarifies that an employee may use paid sick leave for the following reasons:

- An emergency evacuation order of level 2 or level 3 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; or
- 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. However, if an employee is employed as a first responder, the employee cannot use sick leave for those reasons. The regulations expire on Jan. 17, 2022.

# Pennsylvania

## *Allegheny County Ordinance 11988-21 (paid sick leave)*

Enacted Sept. 15, 2021

Effective Sept. 15, 2021

Informational only — Sedgwick does not administer

Allegheny County, Pennsylvania [passed an ordinance](#) establishing the right to accrue and use paid sick leave for employees in the private sector. The ordinance codifies regulations developed by the Allegheny County Health Department concerning accrual and use of paid sick leave. Covered employers include all private, non-government employers of at least one person. However, only employees of employers with 26 or more employees accrue paid sick time. Further, the law specifies that independent contractors are not covered employees.

Beginning on the 90<sup>th</sup> calendar day following the start of employment, employees of employers with 26 or more employees must accrue a minimum of one hour of paid sick time for every 35 hours worked in Allegheny County. Employees may not accrue more than 40 hours of paid sick time in a calendar year unless the employer designates a higher amount. Employers with an equivalent paid leave policy do not have to provide additional paid leave under this ordinance.

Under the ordinance, paid sick time may be used for:

- Mental or physical illness, injury or health condition, medical diagnosis, care or treatment of a mental or physical illness, injury or health condition, preventive medical care.
- Care of a family member with a mental or physical illness, injury or health condition, care of a family member who needs medical diagnosis, care or treatment of a mental or physical illness, injury or health condition, family member preventive medical care.
- Closure of the employee's place of business by order of a public official due to a public health emergency, employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency, or care for a family member due to quarantine by health authorities or a healthcare provider.

### Notice and recordkeeping

Employers must provide written notice of the ordinance. The department or agency designated by the Allegheny County manager to effectuate the ordinance will make materials in order to provide the notice available on the county website. Willful violations of the notice requirements are subject to a fine of up to \$100 for each offense. Employers must retain records documenting hours worked by employees and paid sick time taken by employees for a period of two years. Employers must allow the access to the records, with appropriate notice and at a mutually agreeable time to monitor compliance.

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# Washington

## *Final Rule RCW 50A.05.060 (paid family and medical leave)*

Enacted Aug. 30, 2021

Effective Sept. 30, 2021

Washington has amended its rules regarding [paid family and medical leave benefits](#). Under the law, an applicant may backdate a claim for good cause or the convenience of the Employment Security Department. The amended rule clarifies that good cause means factors that are beyond the applicant's control that reasonably prevented them from applying for benefits at the time they needed the paid leave. An employee must prove that good cause exists and provide information and documentation that shows why they did not apply for benefits at the time of the qualifying event.

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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