sedgwick

LEAVE AND DISABILITY REGULATORY COMPLIANCE

Summary of legislative and regulatory changes

Private employer sector | June 2022

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California

San Francisco Proposition G (public health emergency leave)

Enacted June 7, 2022

Effective Oct. 1, 2022

Informational only — Sedgwick does not administer

San Francisco voters have approved Proposition G, which will create a permanent public health emergency leave (PHEL) ordinance that will become operative on Oct. 1, 2022. PHEL will be in addition to paid leave that employers offer or provide employees at the beginning of a "public health emergency" or an air quality emergency when the Bay Area Air Quality Management District issues a Spare the Air Alert. The ordinance will apply to employers with 100 or more employees worldwide except certain non-profits and to employees who work in San Francisco.

Employees can use PHEL when they are unable to work due to the following reasons:

- Recommendations or requirements of an individual or general federal, state or local health order related to the public health emergency, or the employee is caring for a family member subject to such an order.
- A healthcare provider advises an employee to isolate or quarantine, or the employee is caring for a family member who has been so advised.
- The employee is experiencing symptoms of and seeking a medical diagnosis or has received a positive medical diagnosis for a possible infectious, contagious or communicable disease associated with the public health emergency, or the employee is caring for a family member who is experiencing symptoms.
- The employee is caring for a family member whose school or place of care has been closed or whose care provider is unavailable due to the public health emergency.
- There is an air quality emergency if the employee primarily works outdoors and is a member of a vulnerable population.

On Oct. 1, 2022 and on Jan. 1 of each following year, employers must allocate PHEL for that year with the amount of PHEL not exceeding 80 hours. An employee who works a full-time, regular or fixed schedule receives an amount equal to the number of hours the employee regularly works or takes paid leave over a two-week period. An employee whose hours vary receives an amount equal to the average number of hours the employee worked or took paid leave over a two-week period during the previous calendar year.

Employers must conspicuously post the city-created notice in all languages San Francisco OLSE makes available and, where feasible, provide it to employees via electronic communication. If employers must provide similar notice under California's paid sick leave law, the Healthy Workplaces, Healthy Families Act of 2014, they must

display the amount of PHEL available on paystubs or other mandatory written notices employees receive on payday; if employers provide unlimited paid leave or paid time off, they can indicate “unlimited.” For four years, employers must keep records documenting hours worked and PHEL taken.

District of Columbia

B 714 (Universal Paid Leave Act)

Passed council on June 7, 2022

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

Under the Universal Paid Leave Act, District of Columbia employers are required to provide six workweeks of medical leave and two workweeks of prenatal leave per year. If enacted, this amendment will increase the amount of paid leave to 12 weeks of parental leave, 12 weeks of family leave and 12 weeks of medical leave for claims filed on or after Oct. 1, 2022.

District of Columbia

B 719 (Universal Paid Leave Act)

Enacted June 13, 2022

Effective June 13, 2022

The District of Columbia has amended its Universal Paid Leave Act, which provides paid leave benefits to employees taking time off for family and medical reasons. Under the Act, individuals must wait one week after a qualifying leave event occurs before receiving benefits. The waiting period does not apply to claims filed after Oct. 1, 2021, and before one year after the end of the COVID-19-related public health emergency. The amended law removes the waiting period for all claims filed on or after July 25, 2022.

District of Columbia

B 845 (Universal Paid Leave Act)

Passed Council on June 7, 2022

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

Under the Universal Paid Leave Act, District of Columbia employers are required to provide six workweeks of medical leave and two workweeks of prenatal leave per year. If enacted, this amendment will increase the amount of paid leave to 12 weeks of parental leave, 12 weeks of family leave and 12 weeks of medical leave for claims filed on or after Oct. 1, 2022.

Illinois

SB 3120 (Family Bereavement Leave Act)

Enacted June 9, 2022

Effective Jan. 1, 2023

Illinois has enacted a new law that expands the unpaid bereavement leave available to employees in Illinois. The Family Bereavement Leave Act, an amendment to the Child Bereavement Leave Act, requires employers with at least 50 employees to provide up to 10 days of unpaid leave to employees who are absent due to:

- Miscarriage.
- Unsuccessful round of intrauterine insemination or of an assisted reproductive technology procedure (e.g., artificial insemination or embryo transfer).
- Failed adoption match or an adoption that is not finalized because it is contested by another party.
- Diagnosis that negatively impacts pregnancy or fertility
- Stillbirth.

Like the federal Family and Medical Leave Act of 1993 (FMLA), employees become eligible for unpaid bereavement leave under the Family Bereavement Leave Act after 12 months of employment and at least 1,250 hours worked within the previous 12-month period. It also permits, but does not require, employers to request reasonable documentation in response to an employee's request for unpaid bereavement leave. However, the employer is prohibited from requiring the employee to specifically identify whether the leave pertains to a miscarriage, a failed adoption or any other category of event set forth in the Act, even if the employer requires the employee to provide documentation. In such a case, employers should anticipate receiving a form from the employee's healthcare practitioner, provided by the Illinois Department of Labor, which will verify the leave-inciting event without identifying the specific statutory category. Notably, the Act does not create an employee right to take unpaid leave that exceeds the leave time permitted under the FMLA. Sedgwick will update its current policies to reflect the changes when enacted, and those changes will be effective Jan. 1, 2023.

Kentucky

HB 562 (volunteer emergency responder leave)

Enacted April 8, 2022

Effective July 14, 2022

Kentucky has enacted a new law regarding employment and volunteer emergency responders. The law prohibits an employer from terminating an employee who is a volunteer firefighter, rescue squad member, emergency medical technician, peace officer or member of an emergency management agency because that employee is absent or late in order to respond to an emergency. The new law expands that to now prohibit an employer from terminating an employee who is a volunteer firefighter, rescue squad member, emergency medical technician, peace officer or member of an emergency management agency and who takes leave after being involved in a critical incident.

A critical incident means any event that has a stressful impact sufficient enough to overwhelm a volunteer emergency responder's usual coping strategies. These events may include: a peace officer-involved shooting; a fire or vehicle crash resulting in serious injury or death to an volunteer emergency responder or citizen; a volunteer emergency responder being the victim of a felonious assault; the death of a colleague or partner; the death of, or serious injury to, a person in the custody of the volunteer emergency responder; the severe injury to, or death of, a child, particularly if the volunteer emergency responder has a child of or near the same age; or an incident involving multiple deaths or injuries in a short amount of time.

Sedgwick already administers this leave; the changes in this leave do not affect the policies set to administer it.

Minnesota

Bloomington Ordinance No. 2022-31 (earned sick and safe leave)

Enacted June 6, 2022

Effective July 1, 2023

Informational only — Sedgwick does not administer

Bloomington, Minnesota, has enacted an earned sick and safe leave ordinance. The ordinance generally requires employers to provide certain employees in Bloomington with one hour of paid sick and safe time leave per 30 hours worked, up to 48 hours of paid sick and safe time per year. The ordinance covers all employees (including part-time and temporary employees) performing work within Bloomington's geographic boundaries for at least 80 hours in a year for their employer.

Beginning on the later of July 1, 2023, or an employee's date of hire, covered employees will accrue one hour of paid sick and safe time for every 30 hours worked within the geographic boundaries of Bloomington, up to a maximum of 48 hours per calendar year. All accrued but unused sick and safe time carries over from one calendar year to the next. However, the overall accrual amount for an employee will be capped at 80 hours unless the employer elects to set a higher cap.

Employees may use accrued paid sick and safe time beginning 90 calendar days after the start of their employment. Employees may use paid sick and safe time when they are scheduled to work within the geographic boundaries of the city and cannot work for any of the following reasons:

- Employee's or a family member's mental or physical illness or health condition.
- Absence due to domestic abuse, sexual assault or stalking of the employee or employee's family member.
- Closure of the employee's place of business by order of a public official.
- Employee's need to care for a family member whose school or place of care has been closed by order of a public official.
- Employee's need to care for a family member whose school or place of care has been closed due to inclement weather, loss of power, loss of heating, loss of water or other unexpected closure.

Employers must provide notice to employees regarding employee rights under the Ordinance. The notice – which must be printed in English and any other language spoken by at least 5% of employees – must be included in any employee handbook and posted in a conspicuous place at the workplace or jobsite where any employee works. The City Attorney's Office will provide a suitable notice for employer use prior to the ordinance going into effect. Employers must maintain accurate records for each employee showing: hours of leave available for sick and safe

time purposes; hours of leave used for sick and safe time purposes; and hours worked (for non-exempt employees). Records must be retained for at least three years in addition to the current calendar year and must be available for inspection by the employee or the City Attorney's Office.

New Mexico

Final Rule NMAC 11.1.6 (Healthy Workplaces Act)

Enacted June 21, 2022

Effective July 1, 2022

Informational only — Sedgwick does not administer

The New Mexico Department of Workforce Solutions (DWS) has published final regulations implementing the Healthy Workplaces Act (HWA). The HWA will allow all private-sector employees to accrue paid leave they can use for sick time, safe time or other reasons for themselves or to care for or assist a broad list of family members.

The new law requires employers to post in a conspicuous place and give employees written or electronic notice regarding their rights to paid sick leave and the employer's policy on when leave accrues upon hiring. The notice must be made in English, Spanish or any other language that is the first language spoken by at least 10% of the employer's workforce upon request and must include: a statement on employees' right to sick leave; how sick leave is accrued and calculated; terms for using sick leave accrued under HWA; prohibition against employer retaliation for employee use of sick leave; information on employees' right to file a complaint if sick leave accrual or use is denied, or if the employer retaliates; and information on enforcement of the HWA.

The HWA requires that employees accrue one hour of paid leave for every 30 hours worked. Employees who work over 40 hours in a workweek do not accrue leave at a greater rate. Leave accrues proportionally, meaning if an employee does not work 30 hours in a workweek, they will accrue *some* leave for the hours they do work: "[A] part-time employee who works 20 hours each week will accrue 0.67 hours of paid sick per week." Also, accrual need not occur when employees use paid leave like HWA leave or vacation, because HWA leave accrues only on hours actually worked. Under the HWA, rather than have employees accrue HWA leave incrementally throughout the year, "an employer may instead elect to grant employees the full sixty-four hours of earned sick leave for the upcoming year."

Under the HWA, employers must keep records documenting hours worked and HWA leave taken by employees for 48 months. The rules also require records kept to include HWA leave accrued or earned. Employers must also track hours worked by a salaried exempt employee who works fewer than 40 hours per week.

New York

AB 9513 (vaccination leave extension)

Enacted June 28, 2022

Effective June 28, 2022

Informational only — Sedgwick does not administer

In March 2021, New York enacted a law requiring employers to provide each employee with sufficient paid time off to obtain COVID-19 vaccinations. Each employee is entitled to receive up to four hours of paid time off per COVID-19 vaccine injection. The law was set to expire on Dec. 31, 2022. This amendment extends the leave provisions to Dec. 31, 2023.

Puerto Rico

PC 1244 (paid sick leave)

Enacted June 20, 2022

Effective June 20, 2022

Informational only — Sedgwick does not administer

On June 20, 2022, Gov. Pedro Pierluisi signed into law Act No. 41-2022, instituting drastic changes to labor and employment laws in Puerto Rico and extending employment rights for employees in the private sector. The new law intends to restore certain rights that had been eliminated or reduced by the 2017 Labor Transformation and Flexibility Act ("2017 Labor Reform") and, further, to create additional rights for part-timers and students.

Notably, the amendment alters the hours of work required to accrue vacation and sick leave as well as the monthly accrual rates for each. This amendment also excludes members of a construction labor union that are covered by a collective bargaining agreement from coverage. Per the amendment, pursuant to the written request of a non-exempt employee, an employer may now allow for partial or total payout of accumulated vacation leave. This is an important change as, currently, non-exempt employees can only ask to cash out the excess of 10 days of accrued leave. Work hours required to accrue vacation and sick leave are now reduced from 130 to 115 hours a month, benefits are increased back to pre-2017 levels, and new benefits are established for part-timers who work more than 20 hours per week.

Employees who work no less than 20 hours a week, but less than 115 hours per month, will accrue vacation and sick leave at a rate of half a day per month. Employees who work no less than 115 hours per month will accrue vacation leave at a rate of one and one-fourth a day per month and one day a month for sick leave. Employers with 12 or fewer employees who work no less than 20 hours a week, but less than one 115 hours per month, will accrue vacation leave at a rate of a quarter of a day and sick leave at a rate of half a day per month. Employees who work for these employers for no less than 115 hours per month will be entitled to a minimum accumulation of vacation leave at the rate of half a day per month and to sick leave accrual of one day per month.

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