

LEAVE AND DISABILITY REGULATORY COMPLIANCE

# Summary of legislative and regulatory changes

*Private employer sector | March 2021*

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# Arizona HB 2297

## *HB 2297 (military leave)*

Passed House; Passed Senate March 29, 2021

If enacted, effective 90 days after adjournment

Arizona law provides members of the military with certain job protections, including leave for military and disaster training. [This amendment](#) modified the amount of leave available for training purposes. The military leave period is based on the average total of regularly scheduled hours in a workweek. If enacted, the amended law will entitle employees with up to three times the average of regularly scheduled work hours in a weekly work period each year and up to six times the average of regularly scheduled work hours in a weekly work period in any two consecutive years.

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# California

## *SB 95 (supplemental paid sick leave)*

Enacted March 19, 2021

Effective March 29, 2021

Informational only — Sedgwick does not administer

California [passed a law](#) extending the state's COVID-19 paid sick leave law, which expired on Dec. 31, 2020. The updated law applies to all employers with 26 or more employees; previously, the paid sick leave law only covered employers with at least 500 U.S. employees. The new law covers all employees who are unable to work or telework for an employer due to one of the COVID-19-related reasons detailed below.

### Length of leave and permissible uses for the leave

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

- Employee is subject to a quarantine or isolation period related to COVID-19 as defined by federal, state or local orders or guidelines.
- Employee is advised by a healthcare provider to self-quarantine due to concerns related to COVID-19.
- Employee is attending an appointment to receive a COVID-19 vaccine.
- Employee is experiencing symptoms related to a COVID-19 vaccine that prevent the employee from being able to work or telework.
- Employee is experiencing COVID-19 symptoms and seeking a medical diagnosis.
- Employee is caring for a family member who is subject to a quarantine or isolation order or guideline, or who has been advised to self-quarantine by a healthcare provider due to concerns related to COVID-19.
- Employee is caring for a child whose school or place of care is closed or otherwise unavailable *on the premises* for reasons related to COVID-19.

### Notice and posting requirements

The state labor department will make a model poster publicly available, which employers must conspicuously display in their workplaces. If employees do not frequent a workplace, employers can distribute the poster electronically. Employers must continue to provide information concerning supplemental paid sick leave on paystubs or other written notices employees receive on payday. The paystub requirement is not enforceable until the next full pay period following the date that the law takes effect (March 29, 2021).

The new law expressly requires that supplemental paid sick leave and pre-COVID-19 statutory paid sick leave be displayed separately. Additionally, for part-time, variable hour employees (i.e., part-time employees who don't have a regularly set schedule), the law says employers may meet their paystub obligations by performing an initial calculation of supplemental paid sick leave available and indicating "(variable)" next to that calculation, which employers will need to update when employees request to use supplemental paid sick leave. A final supplemental

paid sick leave-related paystub requirement concerns true-up payments for leave employees used before the law took effect; specifically, the retroactive payment must be on the paystub for the pay period during which payment is made.

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# California

## *Daly City Ordinance No. 1445 (vaccination leave)*

Enacted March 9, 2021

Effective March 9, 2021

Informational only — Sedgwick does not administer

Daly City, California, has enacted [an ordinance](#) requiring covered employers to pay employees up to four hours of leave time to allow employees to attend vaccination appointments. The law also requires employers of grocery stores and drug stores to pay \$5.00 per hour of hazard pay in addition to a covered employee's base pay for 120 days after the effective date of the ordinance.

### Covered employers and employees

A covered employer is any person who owns or operates a grocery store or drug store and employs covered employees within Daly City. The covered employer must employ 500 or more employees nationwide, regardless of where the employees are employed, or be a franchisee associated with a franchisor that employs more than 500 employees in the aggregate, nationwide. A grocery store is defined as having at least 10,000 square feet and primarily sells household foodstuffs. A grocery store may also include a retail store that devotes 10% or more to the sale of household foodstuffs. A drug store is defined as a retail or wholesale store over 10,000 square feet that sells primarily a general range of drugs, pharmaceuticals, cosmetics and food products.

A covered employee is a person who performs at least two hours of work in a calendar week for a covered employer within Daly City. A covered employee is paid by the hour and qualifies as an employee entitled to minimum wage under California minimum wage law. A covered employee does not include managers, supervisors or confidential employees.

### Notice and posting requirements

Employers must provide covered workers with a written notice of rights established by the ordinance. The notice of rights must be in a form and manner sufficient to inform workers of their rights to premium pay, the right to be protected from retaliation for exercising the rights protected by the ordinance, and the right to bring civil action for a violation of the ordinance. Additionally, covered employers must post a notice informing the employees of their rights under the ordinance in a conspicuous place where any covered employee works. Covered employers shall provide each covered employee the owner or manager's name, address, telephone number and whether the employer is part of a chain, integrated enterprise or a franchise. If the covered employer's information changes at any time, the covered employer must provide the updated information in writing within 10 days of the change.

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## California

### *Sacramento Ordinance No. 2021-008 (supplemental paid sick leave)*

Enacted March 16, 2021

Effective March 16, 2021

Informational only — Sedgwick does not administer

The City of Sacramento has extended the effective period of the [Sacramento Worker Protection, Health and Safety Act](#). The ordinance requires employers of 500 or more employees to provide emergency paid sick leave for reasons related to COVID-19, adopt specified health and safety protocols, and provide a right of recall to laid-off workers. The ordinance was set to expire on March 31, 2021, but will now remain in effect through June 30, 2021.



# California

## *Santa Monica Ordinance No. 2664 (hazard pay as paid leave)*

Enacted March 9, 2021

Effective March 9, 2021

Informational only — Sedgwick does not administer

The City of Santa Monica has [enacted a hazard pay ordinance](#) to ensure employers compensate grocery, drug and large retail store workers for the risks of working during the COVID-19 pandemic. The ordinance covers employees who are entitled to minimum wage under state law and work at least two hours during a week for an employer.

An employer is a person who:

- Employs or exercises control over the working conditions of an employee.
- Operates at least one store.
- Is either a corporate entity of stock traded on a public stock exchange or employs 300 or more workers nationwide.
- Employs more than 10 employees per store.

Stores, as defined by the ordinance, are:

- Retail grocery stores that sell food or household goods.
- Retail drug stores that sell prescription and non-prescription medicines and miscellaneous items.
- Retail stores over 85,000 square feet that dedicate 10% or more of the sales floor to groceries or drug retail.

### [Hero pay requirements](#)

Under the ordinance, covered employers must provide workers with hero pay of an additional \$5.00 per hour on top of their base wage for any time the employee is physically present and performing work in the store.

Employees may choose, in writing, to receive paid leave instead of hero pay to be used in the same way the employer allows other paid leaves to be used.

### [Posting and notice requirements](#)

Employers must post notice of the right to hero pay at every store in the unincorporated areas of the county.

Additionally, employers must provide the following information on employee pay statements:

- Hourly rate of hero pay or voluntary hazard pay.
- Amount of hero pay, paid leave in lieu of hero pay or voluntary hazard pay earned in that pay period.
- Number of hours worked for which the employee is entitled to hero pay or voluntary hazard pay in that pay period.

Employers must keep the records necessary to demonstrate compliance with the ordinance for four years, including payroll records for each employee containing the name, address, occupation, dates of employment, rates of pay, amount paid each pay period, hours worked and the formula by which employee wages are calculated. Employers must allow the Department of Consumer and Business Affairs to inspect the records during an investigation.

# District of Columbia

## *B 139 (family leave and disability benefits during epidemic)*

Enacted March 17, 2021

Effective March 17, 2021

On Aug. 19, 2020, the District of Columbia enacted B 869, the Coronavirus Support Second Congressional Review Emergency Amendment Act of 2020. A temporary law reenacted portions of B 757, the Coronavirus Support Emergency Amendment Act of 2020, regarding paid leave and unemployment insurance. Another temporary law extended the effective dates of the Act. The District has now [enacted emergency legislation](#) to extend the effective dates to June 15, 2021.

### 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 if the employee:

- Cannot work due to a recommendation from a healthcare provider that the employee isolate or quarantine, including because the employee or an individual with whom the employee shares a household is at high risk for serious illness from COVID-19;
- Needs to care for a family member or an individual with whom the employee shares a household who is under a government or healthcare provider's order to quarantine or isolate; or
- Needs to care for a child whose school or place of care is closed or whose childcare provider is unavailable to the employee.

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 using other leave to which the employee is entitled under federal or District law or an employer's policies. All employers must provide such leave. With respect to requiring certification to support the need to take leave, the emergency law permits employers to require "reasonable" certification.

### [Paid public health emergency leave under the Accrued Sick and Safe Leave Act](#) Informational only — Sedgwick does not administer

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 clarifies the interaction between this leave and other leaves available under District law, and 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.

# District of Columbia

## *B 59 (Workplace Safety During the COVID-19 Pandemic Temporary Act)*

Enacted March 22, 2021

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

On Feb. 26, 2021, the District of Columbia enacted an emergency measure that requires an employer to adopt and implement workplace health and safety policies in response to COVID-19. This [temporary measure](#) extends the effective period of those provisions.

The law prohibits employers from retaliating against employees for engaging in a protected activity under the law. No employer may take an adverse employment action against an employee because the employee:

- Tested positive for COVID-19, provided that the employee did not physically report to the workplace within two weeks after receiving a positive test result or during the timeframe recommended for quarantine by current health department or CDC guidance;
- Had close contact with someone who has a confirmed case of COVID-19 or was exposed to someone experiencing COVID-19 symptoms;
- Needs to quarantine in accordance with CDC or health department guidance;
- Is sick with COVID-19 symptoms and is waiting for a COVID-19 test result; or
- Is caring for someone who is sick with COVID-19 symptoms or who is quarantined in accordance with CDC or health department guidance.

This temporary measure extends the emergency measure and will expire 225 days after it takes effect.

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## Iowa

### *HB 200 (military leave)*

Enacted March 08, 2021

Effective July 1, 2021

Iowa [passed a law](#) providing employment protections to members of the United States Coast Guard. Under state law, employers must allow employees a leave of absence for periods of state active duty, national guard duty, federal active duty or civil air patrol duty — and cannot discriminate against an employee for their membership in those services. Upon completion of the duty or service, the employer shall restore the person to the position held prior to the leave of absence or employ the person in a position of like seniority, status and pay. The employee must provide evidence of satisfactory completion of their military duties and demonstrate that they remain qualified to perform the duties of their job position.

# Kentucky

## *HB 210 (adoptive parent leave)*

Enacted March 23, 2021

Effective June 30, 2021

Kentucky has [enacted a law](#) requiring employers to provide the same leave and benefits to adoptive parents as provided to birth parents. Under state law, when employers receive a written adoption leave request from an employee, the employer must grant reasonable personal leave not to exceed six weeks. This amendment provides that if the employer has an established policy providing time off for birth parents that is greater than six weeks, then that period of leave time must be the minimum period of leave available to adoptive parents. Further, if an employer provides paid leave or any other benefits to employees who are birth parents following the birth of a child, those same benefits must be provided to adoptive parents following the adoption of a child.

Additionally, the law has been amended to allow employees to use leave for the adoption of a child under the age of 10, rather than under age 7.

The amendment does not apply to an adoption by fictive kin (kinship based on social agreements), stepparent, stepsibling, blood relative (including relative of half-blood, first cousin, aunt, uncle, nephew, niece or any person of a preceding generation) or a foster parent who adopts a foster child already in their care.

## Maryland

### *HB 56/SB 473 (bereavement leave)*

Passed House; Passed Senate March 29, 2021

If enacted, effective Oct. 1, 2021

Informational only — Sedgwick does not administer

If enacted, Maryland will amend the [leave with pay](#) law to permit leave to be used for bereavement. Bereavement leave would be defined as leave an employee can use on the death of a member of the employee's immediate family, including any adopted, biological, foster child, stepchild or legal ward. "Leave with pay" means paid time away from work that is earned and available to an employee. This includes sick leave, vacation time, paid time off and compensatory time.



# Massachusetts

## *HB 90 (COVID-19 paid sick leave)*

To Governor March 25, 2021

If enacted, effective 10 days after becoming a law

Informational only — Sedgwick does not administer

If enacted, Massachusetts will create [COVID-19 emergency paid sick leave](#). The leave will be available to employers with 500 or more employees. Employers must provide employees with sick leave based on the number of hours they average. An employee who works 40 hours or more per week will be provided 40 hours of COVID-19 emergency paid sick leave. An employee who works less than 40 hours a week, but maintains a regular schedule with consistent hours per week, will be provided COVID-19 emergency paid sick leave that is equal to the number of hours that such employee works per week, on average over a 14-day period of such regular schedule. For an employee whose schedule and weekly hours worked vary from week to week, such employee shall be provided COVID-19 emergency paid sick leave that is equal to the average number of hours that the employee was scheduled to work per week over the six-month period immediately preceding the date on which such employee takes the COVID-19 emergency paid sick leave, including hours for which such employee took leave of any type.

COVID-19 emergency paid sick leave shall be available to an employee until monies in the COVID-19 Emergency Paid Sick Leave Fund are no longer available; notification from the executive office for administration and finance to employers that it reasonably anticipates funds will no longer be available for reimbursement; or September 30, 2021, whichever is first.

### [Notice and posting](#)

Employers shall provide a copy to their employees and post this notice in a conspicuous location accessible to employees in every establishment where employees with rights under this section work; provided, however, that in cases where the employer does not maintain a physical workplace or an employee teleworks or performs work through a web-based platform, notification shall be sent via electronic communication or a conspicuous posting in the web-based platform.

# New Mexico

## *HB 20 (Healthy Workplaces Act)*

Passed House; Passed Senate March 20, 2021

If enacted, effective July 1, 2021

Informational only — Sedgwick does not administer

If enacted, New Mexico will create the [Healthy Workplaces Act](#) to provide employees with earned paid sick leave. Employees will be entitled to one hour of sick leave earned for every 30 hours worked. Employees may use the leave for the employee's mental or physical illness, to treat or diagnose a condition or for preventative care. Employees may also use the leave for care of family members.

### Notice and posting

Employers must provide written notice to an employee at the commencement of employment as to the following:

- The employee's right to earned sick leave.
- The manner in which sick leave is accrued and calculated.
- The terms of the use of earned sick leave as guaranteed by the Healthy Workplaces Act.
- The terms of the use of earned sick leave as guaranteed by the Healthy Workplaces Act;.
- The employee's right to file a complaint the employee's right to file a complaint.
- All means of enforcing violations of the Healthy Workplaces Act.

The notice must be in English, Spanish or any language that is the first language spoken by at least 10% of the employer's workforce, as requested by the employee.

Employers must display a poster that contains the required information in a conspicuous and accessible place in each establishment where employees are employed. The poster displayed should be in English, Spanish and any language that is the first language spoken by at least 10% of the employer's workforce.

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## New York

### *AB 3354 (vaccination leave)*

Enacted March 12, 2021

Effective March 12, 2021

Informational only — Sedgwick does not administer

New York has [enacted a law](#) requiring employers to provide each employee with sufficient paid time off to obtain the COVID-19 vaccine. Each employee is entitled to receive up to four hours of time off per COVID-19 vaccine injection. The leave is paid at the employee's regular rate of pay and must not be charged against any other leave to which the employee may be entitled, including paid sick leave under the state's paid sick leave law or leave provided pursuant to a collective bargaining agreement.

An employer may provide a greater number of hours of leave pursuant to a collectively bargained agreement, or as otherwise authorized by the employer, to be vaccinated for COVID-19. In addition, the leave guaranteed under the new law may be waived by a collective bargaining agreement provided that the waiver is valid and explicitly references this law.

The new law will expire on Dec. 31, 2022.

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## North Dakota

### *HB 1398 (paid family leave preemption)*

Enacted March 18, 2021

Effective August 1, 2021

North Dakota has [enacted a new law](#) to prohibit political subdivisions from adopting or enforcing an ordinance that mandates employers to provide paid family leave that exceeds the requirements of federal or state laws and rules. An “employer” is defined as a person who does business in the state of North Dakota and does not include a public employer. “Paid family leave” is defined as employment benefits that allow an employee to take time off work to care for an ill family member or to bond with a new child entering the family.

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# Oregon

## *Final Rule OAR 839-009-0210, 839-009-0250 (Oregon Family Leave Act)*

Enacted March 15, 2021

Effective March 18, 2021

Oregon has permanently amended the rules implementing the [Oregon Family Leave Act](#) (OFLA). While initially enacted in Sept. 2020, and set to expire in March 2021, the rules are now permanent.

OFLA generally provides eligible employees with up to 12 weeks of leave within any one-year period to use for specified qualifying purposes. Under the law, an employee may use leave to care for the employee's child whose school or place of care has been closed because of a statewide public health emergency declared by a public health official.

The amended rules define several terms involved in implementing the child care provision. A child care provider is defined as a place of care or person who cares for a child. This includes individuals paid to provide child care, such as a nanny, au pair, babysitter or individual who provides child care at no cost or without a license regularly, such as a grandparent. A place of care is defined as a physical location where child care is provided, such as a day care facility, preschool, before- or after-school care program, school, home, summer camp, summer enrichment program and respite care program. The amended rules define closure as a closure that is ongoing, intermittent or recurring that restricts physical access to the child's school or child care provider.

The OFLA sets forth various situations where employers may request verification for an employee's need for leave. The amended rules state that an employer may not request medical verification for the use of OFLA leave in connection with a school or child care provider closing. However, an employer may request other verification of the need for leave due to the closure of the child's school or child care provider, such as:

- The child's name;
- The closed school or child care provider's name;
- An employee statement that no other family member is willing and able to provide child care; or
- A statement that special circumstances exist that require the employee to provide care during daylight hours, if the child is older than 14.

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# Pennsylvania

## *Philadelphia Bill No. 210122 (public health emergency leave)*

Enacted March 29, 2021

Effective March 29, 2021

Informational only — Sedgwick does not administer

Philadelphia has amended its [public health emergency leave ordinance](#) to account for the expiration of the federal Families First Coronavirus Response Act (FFCRA). The leave is to care for a family member of the employee due to the exposure of COVID-19 or because the employee is exhibiting symptoms that may jeopardize the health of others, regardless of whether the employee had been diagnosed with COVID-19. Further, the leave may also be used to care for a child if the school or place of care has been closed and child care is unavailable due to precautions taken in accordance with the public health emergency response. Additionally, leave may be used on an employee's need to obtain the COVID-19 vaccination or the employee's need to recover from any effects related to the vaccination.

### Notice and posting

Employers must provide a notice of rights to employees. Employers must post and supply each employee with the notice in English and in any language that is the first language spoken by at least five percent of the workforce. The notice must include the following information:

- Employees are entitled to sick time.
- Amount of sick time.
- Terms of sick time.
- Retaliation is prohibited.

Additionally, the information must be provided in any employee handbooks that are distributed to employees. Electronic communication or a conspicuous web-based posting must be made for employees who do not maintain a physical workplace or are currently teleworking. All employers must provide employees with a notice of rights within 15 days after the ordinance becomes law.

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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