

LEAVE AND DISABILITY REGULATORY COMPLIANCE

Summary of legislative and regulatory changes

Private employer sector | August 2022

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California

AB 1041 (leave for designated persons)

Passed House; Passed Senate; To Governor Aug. 31, 2022

If enacted, effective Jan. 1, 2023

California law provides employees with unpaid and paid leave for a variety of family care and/or medical needs, depending on the circumstances. The California Family Rights Act (CFRA) requires an employer to provide covered employees with unpaid leave for family care and medical leave. Under CFRA, the leave may be used to care for their child, parent, grandparent, grandchild, sibling, spouse or domestic partner. California law also requires employers to provide paid sick leave to care for themselves or their child, parent, spouse, registered domestic partner, grandparent, grandchild or sibling. If enacted, [this amendment](#) will expand those leaves to care for a designated person. “Designated person” means any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave. An employer may limit an employee to one designated person per 12-month period for family care and medical leave.

California

SB 951 (family temporary disability insurance)

Passed Senate; Passed House; To Governor Aug. 30, 2022

If enacted, effective Jan. 1, 2023

Under California law, the family temporary disability insurance program provides up to eight weeks of wage replacement benefits to workers who take time off work to care for a seriously ill child, spouse, parent, grandparent, grandchild, sibling or domestic partner, to bond with a minor child within one year of the birth or placement of the child in connection with foster care or adoption, or to participate in a qualifying exigency related to the covered active duty or call to covered active duty of the individual's spouse, domestic partner, child or parent in the Armed Forces of the United States. If enacted, [this amendment](#) will increase the weekly benefit amount an employee may receive under the family temporary disability insurance program.

Connecticut

Final Rule CAR 31-51qq-1 (Family and Medical Leave Act)

Enacted Aug. 3, 2022

Effective Aug. 3, 2022

In 2019, Connecticut enacted the Paid Family and Medical Leave Act, which entitles eligible Connecticut employees to paid family leave. The Paid Family and Medical Leave Act amended the previously existing Connecticut Family and Medical Leave Act (CT FMLA), and through a new law, the Connecticut Paid Leave Act (CT PLA) established the CT Paid Leave Authority to provide income-replacement benefits for eligible employees who take leave under the CT FMLA. The Connecticut Department of Labor (“CT DOL”) has issued its [final CT FMLA regulations](#), which make several amendments to previously existing regulations. The new provisions relate to the job-protected leave aspect of the Paid Family and Medical Leave Act.

The new regulations and amended CT FMLA apply to employers with one or more employee. The amended regulations change the total amount of leave an eligible employee may take from 16 weeks in a 24-month period under the previous CT FMLA to 12 weeks during any 12-month period. To be eligible for leave, an employee needs to be employed by a Connecticut employer for at least three consecutive months (defined as 13 weeks) immediately preceding the date the employee’s CT FMLA leave will commence. Previously, an employee was required to be employed for a period of 12 months.

The new regulation provides additional leave in the event of incapacity during pregnancy. Eligible employees are entitled to take up to two additional workweeks of leave during the applicable 12-month period if the employee has a serious health condition while the employee is pregnant and that serious health condition results in a period of incapacity. These two additional weeks are available only during the employee’s pregnancy, and are in addition to the 12 weeks to which employees are otherwise entitled. The regulations provide that, if an eligible pregnant employee requires more than two weeks of leave for a serious health condition during the pregnancy, the amount of available leave for other qualifying reasons would be reduced accordingly.

Previously, employers were obligated to notify eligible employees of their leave rights, and the regulations maintain this duty. The regulations add a requirement that employers must notify an employee of their eligibility to take CT FMLA leave no later than five business days after receiving a request to take such leave or learning that the employee is taking leave for a qualifying reason. The eligibility notice must state whether the employee is eligible for CT FMLA leave and, if the employee is not eligible, provide at least one reason. Within five business days of the employer having enough information to determine whether the leave is for an CT FMLA-qualifying reason, the employer must provide employees with a designation notice. If the employer requires that paid leave be substituted for unpaid leave, or that paid leave taken under an existing leave plan be counted as CT FMLA leave, the employer must inform the employee of this requirement when FMLA leave is designated.

New Jersey

Final Rule NJAC 13:8 (Family Leave Act notices)

Enacted Aug. 1, 2022

Effective Aug. 1, 2022

The New Jersey Division of Civil Rights has adopted [new and amended regulations](#) requiring employers to display and distribute posters created by the Division. All employers, labor organizations and employment agencies covered under New Jersey's Law Against Discrimination (NJLAD) must display both the NJLAD notice of rights and the New Jersey Family Leave Act (NJFLA) notice of rights.

Employers must provide each employee with a written copy of the NJLAD notice of rights and the NJFLA notice of rights annually, by Dec. 31 of each year, and also to an individual employee upon the employee's first request for a copy of the notice. Employers covered under the NJFLA must post and annually distribute the NJFLA poster whether or not they have eligible employees. Distribution methods that satisfy the notice requirement for employers include but are not limited to: paycheck insert; brochure or similar informational packet provided to new hires; attachment to an employee manual or policy handbook; flyer distributed at an employee meeting; by email; and on the company's internet or intranet site, provided that all employees have access, and the employer customarily posts notices to affected employees or other affected individuals on the site.

Posters in the workplace must be printed on paper no smaller than legal size paper (8½ by 11 inches) and have text that is fully legible and large enough to be easily read.

Oregon

Final Rule OAR Chapter 471 (Paid Leave Oregon)

Enacted August 22, 2022

Effective August 22, 2022

Oregon has amended its rules related to its family and medical leave insurance program, [Paid Leave Oregon](#). The law establishes a state plan to administer leave, but also allows an employer to apply to the director of the employment department for approval of an employer-offered benefit plan that provides family and medical leave insurance benefits to their employees. The employer's plan must offer employees benefits that are equal to or greater than the benefits and duration of leave that an employee would receive under the state-established plan.

In addition to various administrative requirements, the rules require an employer to provide its decisions on employee benefit claims in writing to the requesting employee. The written decisions must include details about the amount of approved leave and benefits as well as information about how the employee can contact the state to request a determination of their average weekly wage and how to appeal a denial.

Employers must provide a written notice in the language typically used to communicate with the employees about their rights under equivalent plan at the time of each employee's hiring and when a policy or procedure changes. The notice must also be posted in an accessible area in the employer's workplaces and delivered to remote employees.

Employers using an equivalent plan must file various reports with the state containing information about employee wages, taxes, benefits and other financial information.

Plans must be submitted by May 31, 2023 in order for the approval process to occur before benefits must be paid to employees, Sept. 3, 2023. Earlier deadlines apply to employers that wish to be exempt from paying the required quarterly contributions to the state program. If an employer wishes to be exempt from paying these contributions, their plan must be submitted by Nov. 30, 2022.

Sedgwick continues to prepare for the implementation of this new paid leave and job protection benefit. Benefits begin Sept. 3, 2023.

Washington

Final Rule WAC 192-520-010 (paid family and medical leave)

Enacted Aug. 8, 2022

Effective Sept. 9, 2022

Washington law requires employers to provide paid family and medical leave. Under the law, employers subject to a collective bargaining agreement in existence on Oct. 19, 2017, are not subject to the leave requirements until the existing agreement is renegotiated or expires. The [amendment](#) sets an expiration date for this provision for Dec. 31, 2023, so that employees whose employment is governed by a collective bargaining agreement will subsequently be entitled to this paid family and medical leave.

Washington

Final Rule WAC 192-610-025 (paid family and medical leave)

Enacted Aug. 8, 2022

Effective Sept. 8, 2022

Washington has [amended its rules](#) regarding paid family and medical leave benefits. Under the law, employers must provide benefits for the death of a child and the postnatal period after childbirth. In March 2022, Washington amended its paid family and medical leave statute to permit an employee to take paid family leave following the stillbirth or postnatal death of the employee's child. This final rule conforms the administrative regulations implementing paid family and medical leave to the amendments to the statute. Thus, under the final rule, an employee may use paid leave benefits only during the seven calendar days following the death of the employee's child if the death occurs either during the first 12 months after the child's birth or during the first 12 months after placement of the child with the employee. The same amount of leave is provided for the death of an employee's child where the employee would have qualified for medical leave under the law for the birth of the child.

The final rule also provides that only employees giving birth are eligible for medical leave taken for the postnatal period related to recovery from childbirth. Leave taken will be subject to maximum family or medical leave duration and will be considered medical leave except when medical leave is fully or partially exhausted prior to the birth of the child or an employee chooses to use family leave, if available, for the postnatal period. An employee who gives birth and is not or will not be eligible for family leave to bond with a child may only use medical leave for the postnatal period.

Employees are required to provide certain documentation when taking leave. The regulations require employees to provide a copy of the child's birth certificate or certification of birth from a healthcare provider. The amended rule provides that employees will be required to provide the latter documents or documentation sufficient to verify or substantiate the child's birth or death.

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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