

LEAVE AND DISABILITY REGULATORY COMPLIANCE

Summary of legislative and regulatory changes

Private employer sector | Q3 2023

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California

SB 731 (remote worker return to work notice)

Passed Senate; Passed Assembly; To Governor Sept. 13, 2023

If enacted, effective Jan. 1, 2024

If enacted, this California [amendment](#) would require an employer to provide a remote worker with 30 days advance notice before requiring the remote worker to return to work in person. The required notice would inform the employee that the employee has the right to ask for continued remote work as an accommodation if the employee has a disability. This amendment would not change the employer's obligations with regard to the interactive process to determine reasonable accommodations, nor would it require additional steps where the employee is already working remotely as an accommodation for a disability.

Illinois

56 IAC 280 (final rule re: victims' economic security and safety act)

Adopted Nov. 2, 2022

Effective Nov. 18, 2022

The Illinois Department of Labor has adopted [amended regulations](#) to incorporate statutory changes to expand the scope of the Victims' Economic Security and Safety Act (VESSA) to employers who employ at least one employee. The amendment captures statutory changes that took effect Jan. 1, 2022. Those changes to the statute modified VESSA's certification requirements as well as the definition of "employer" under the law, as summarized here.

The amended regulations provide that employers are prohibited from discriminating against employees who are victims of violence and employers must provide reasonable accommodations in a timely manner to covered employees. In addition, the amended regulations provide that employees who are or have a family or household member who is a victim of domestic violence, sexual violence, gender violence or any other crime may take unpaid leave to:

- Seek medical attention to address the incident of violence.
- Obtain services from a victim services organization.
- Obtain counseling; participate in safety planning; relocation.
- Seek legal assistance.
- Prepare or participate in any legal proceeding related to the incident.
- Take other actions to ensure the health, safety or economic security of the employee or employee's family or household members.

New Hampshire

HB 358 (lactation accommodation)

Enacted Aug. 4, 2023

Effective July 1, 2025

New Hampshire has enacted a new law that requires employers to provide accommodations to working mothers who wish to express breastmilk during work hours. The law covers employees hired for profit or other form of gain. Individuals who volunteer for a public, charitable or religious facility without the expectation of pay are not covered. This law covers employers with six or more employees working in the state.

The law requires employers to provide employees sufficient space and reasonable break periods to express milk during the first year of their child's life. Under the new law, expressing milk does not include breastfeeding. The law requires employers to expressly adopt a policy to address the provision of sufficient space and reasonable break periods for nursing employees who need to express milk during working hours. Employers must make the policy available to their employees at the time of hire. A nursing employee must notify their employer at least two weeks prior to needing reasonable break periods and sufficient space for expression of milk during work hours, provided that the notice complies with the employer's policies.

The law requires every employer to provide access to reasonable, sufficient space, either temporary or permanent in nature, for the use of an employee to express milk for a nursing child for a period of one year from the date of birth of the child. The location of the space provided must be within a reasonable walk of the employee's worksite unless the employer and employee mutually agree to another location. The space provided cannot be a bathroom. It must be a clean space shielded from view and free from intrusion from coworkers and the public. If the space is not solely for the use of employees expressing milk, it must be made available to employees who need to express milk when requested to comply with these requirements. If feasible, the room must have, at a minimum, an electrical outlet and a chair.

Under the new law, employers must provide reasonable break periods to employees who need to express milk for a child for a period of one year from the date of birth of the child. For purposes of this law, the term "reasonable break period" means an unpaid break of approximately 30 minutes for every three hours of work performed by a nursing employee for the purpose of expressing milk. Employees and employers may choose to negotiate reasonable break periods to express milk that are different from the requirements under this law. In addition, this law does not preclude an employee from taking a reasonable break period contemporaneously with break or meal periods already provided to the employee by the employer. An employer cannot require an employee to make up time related to the use of unpaid reasonable break periods.

An employer may be exempted from the requirements under this law if providing reasonable break time and sufficient space for expressing milk would impose an undue hardship to the employer's operations. "Undue

hardship" refers to any action that requires significant difficulty or expense when considered in relation to factors such as the size of the business, its financial resources and the nature and structure of its operation.

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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