

LEAVE AND DISABILITY REGULATORY COMPLIANCE

Summary of legislative and regulatory changes

Private employer sector | June 2021

TABLE OF CONTENTS

California..... 3

 Marin County Ordinance (COVID-19 supplemental sick leave)..... 3

 Sonoma County Ordinance (COVID-19 emergency sick leave) 5

District of Columbia 6

 B 257 (Coronavirus Support Temporary Amendment Act) 6

Illinois..... 7

 Chicago Ordinance No. O2021-2182 (paid sick leave) 7

Maine 9

 LD 61 (family and medical leave) 9

Maryland..... 10

 HB 56/SB 473 (Flexible Leave Act Amendment)..... 10

 HB 581 (Essential Workers Protection Act)..... 11

Nevada..... 13

 AB 190 (kin care) 13

 SB 209 (COVID-19 and paid leave) 14

New Hampshire 15

 HB 2 (Granite State Paid Family Leave Plan) 15

Oregon 16

 HB 2474 (Family Leave Act amendment) 16

 HB 3398 (paid family and medical leave) 17



The information contained in this publication is prepared for Sedgwick by Jeff Nowak and his colleagues at Littler Mendelson, P.C. The summaries contained in this publication are for informational purposes only, not for the purpose of establishing an attorney-client relationship. Use of and access to this publication does not create an attorney-client relationship between Littler Mendelson, P.C. and the user.

California

Marin County Ordinance (COVID-19 supplemental sick leave)

Enacted June 8, 2021

Effective June 8, 2021

Informational only — Sedgwick does not administer

The Board of Supervisors of Marin County has enacted the [COVID-19 Supplemental Sick Leave Ordinance](#). It permits employees to use paid leave to obtain a COVID-19 vaccination, among other things. Employees will be paid at their regular rate of pay during leave, subject to a cap of \$511 per day and \$5,110 total. The new ordinance covers employers in unincorporated areas of the county that employ 25 or fewer employees. It covers employees who have worked for an employer for more than two hours in unincorporated Marin County.

Full-time employees may use up to 80 hours of leave. Part-time employees may use leave in an amount no greater than their average number of working hours in a two-week period, as calculated over the last six months. If an employer has already provided COVID-19-related paid sick leave to employees under the federal Families First Coronavirus Response Act or Cal/OSHA regulations, it may credit the total leave hours already given against the leave required under the new ordinance. An employer's obligation to provide leave is satisfied if an employee had at least 80 hours of accrued paid sick leave benefits or 160 hours of combined paid time off benefits as of June 8, 2021.

Under the new ordinance, 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.
- Employee is advised by a healthcare provider to isolate or self-quarantine to prevent the spread of COVID-19.
- Employee is experiencing COVID-19 symptoms and seeking a medical diagnosis.
- Employee is caring for an individual who is subject to a quarantine or isolation order or who has been advised to self-quarantine by a healthcare provider due to concerns related to COVID-19, or is experiencing COVID-19 symptoms and is seeking a medical diagnosis.
- Employee is providing care for an individual whose senior care provider, school or childcare provider is closed in response to a public health or other public official's recommendation.
- 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 working or telework.

Individuals covered under this ordinance include an employee's immediate family member, a person who resides in the employee's home or similar people.

Notice and recordkeeping requirements

The new ordinance requires employers to provide employees with a notice of their rights and to post a notice in both English and Spanish in the workplace, any electronic platform and via email. Employers must also keep records for three years of each employee's name, hours worked and pay rate.

California

Sonoma County Emergency Sick Leave Extension (COVID-19 emergency sick leave)

Enacted June 8, 2021

Effective June 8, 2021

Informational only — Sedgwick does not administer

Malibu, Sonoma County, California, has extended and amended its [Emergency Paid Sick Leave Ordinance No. 6320](#). The ordinance applies to all employers in the county's unincorporated areas. The ordinance was set to expire on June 30, 2021, but is now extended to Sept. 30, 2021.

Employers must provide supplemental paid sick leave to an employee who submits a written request (including by email and text) if the employee cannot work or telework because the employee:

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

The amendment provides that employers must also provide supplemental paid sick leave because the employee has an appointment to receive a COVID-19 vaccine or is ill after receiving a COVID-19 vaccine and cannot work or telework.

District of Columbia

Bill 257 (Coronavirus Support Temporary Amendment Act)

Enacted June 7, 2021

Effective June 7, 2021

Informational only — Sedgwick does not administer

On March 17, 2021, the District of Columbia enacted an emergency measure to assist District residents who may face work stoppage due to a quarantine or actual sickness by providing wage replacement. The measure also required employers to provide paid leave for COVID-19 illnesses and created a grant program for small businesses to help cover employee salaries and benefits, operating costs or loan repayments. The emergency measure is set to expire on June 15, 2021.

This new [emergency measure](#) extends the provisions in the previous emergency measure and will expire 90 days after it takes effect.

Illinois

Chicago Ordinance O2021-2182 (paid sick leave)

Enacted June 25, 2021

Effective Aug. 1, 2021

Informational only — Sedgwick does not administer

On June 25, 2021, the Chicago City Council passed [Ordinance No. O2021-2182](#) (the “Ordinance”), as part of Mayor Lightfoot’s *Chi Biz Strong* Initiative. The Ordinance, which takes effect Aug. 1, 2021, creates new wage theft protection and expands the covered reasons for use of paid sick leave.

The Ordinance also modifies and expands the covered reasons for use of Chicago paid sick leave:

Current covered reason for use	Covered reasons for use effective Aug. 1, 2021
The employee is ill or injured, or for the purpose of receiving medical care, treatment, diagnosis, or preventive medical care.	The employee is ill or injured, or for the purpose of receiving professional care, including preventive care, diagnosis, or treatment for medical, mental or behavioral issues, including substance abuse disorders.
A covered family member is ill or injured, or to care for a family member receiving medical care, treatment, diagnosis, or preventive medical care.	A covered family member is ill or injured, or ordered to quarantine, or to care for a family member receiving professional care, including preventive care, diagnosis, or treatment for medical, mental or behavioral issues, including substance abuse disorders.
The employee, or a covered family member, is the victim of domestic violence or a sex offense.	The employee, or a covered family member, is the victim of domestic violence or a sex offense (stalking, aggravated stalking, cyber stalking).
The employee’s place of business is closed by order of a public official due to a public health emergency.	(No change)
The employee needs 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.	The employee needs to care for a family member whose school, class or place of care has been closed.
(New reason)	An employee obeys an order issued by the mayor, the governor of Illinois, the Chicago Department of Public Health or a treating healthcare provider, requiring the

	employee to stay at home to minimize the transmission of a communicable disease; to remain at home while experiencing symptoms or sick with a communicable disease; to obey a quarantine order issued to the employee; or to obey an isolation order issued to the employee.
Federal Family and Medical Leave Act eligible purposes.	(No change)

Currently, the Chicago Paid Sick Leave Ordinance contains a workplace posting requirement. The Ordinance indicates that such posting must also address the employee’s ability to seek redress for wage theft.

Notice and recordkeeping requirements

As a reminder, employers also have an individual notice obligation under the Chicago Paid Sick Leave Ordinance to be satisfied within the next month. Employers must provide a copy of the city-created notice to employees with a paycheck issued within 30 days of July 1.

Maine

LD 61 (family and medical leave)

Enacted June 14, 2021

Effective Sept. 15, 2021

Maine has [amended its laws](#) regarding eligibility for family and medical leave. Under the law, an employee may take leave under the state's Family and Medical Leave Act due to the serious health condition of the employee's child, domestic partner's child, parent, domestic partner, sibling or spouse. The amended law expands this eligibility for leave to include the serious health condition of an employee's grandchild or domestic partner's grandchild.

Maryland

HB 56/SB 473 (Flexible Leave Act Amendment)

Enacted May 30, 2021

Effective Oct. 1, 2021

Informational only — Sedgwick does not administer

Maryland has amended its [Flexible Leave Act](#) (FLA) to provide eligible employees with paid leave for bereavement purposes. Under the FLA, employees may use their earned paid leave for the illness of an immediate family member. The FLA covers employers of 15 or more employees that provide paid leave to their workers, whether under a collective bargaining agreement or their own policy. Leave with pay includes sick leave, vacation, paid time off and compensatory time. It does not include benefits provided under employee welfare benefit plans subject to federal laws, insurance benefits, workers' compensation, unemployment compensation, disability or other similar benefits. The amended law covers employees that are primarily employed within Maryland.

Under the amended law, employees may use their paid leave for bereavement purposes. Bereavement leave permits an employee to use leave for the death of a member of the employee's immediate family. The FLA defines an immediate family member to include a child, spouse or parent. For purposes of leave to care for an ill family member, the law defines a child to include a child who is under age 18 or incapable of self-care due to a physical or mental disability. For purposes of bereavement leave, however, there is no restriction on the age of the child.

Maryland

HB 581 (Essential Workers' Protection Act)

Enacted May 30, 2021

Effective May 30, 2021

Informational only — Sedgwick does not administer

Maryland has enacted the [Essential Workers' Protection Act](#) to require employers to take certain actions in furtherance of essential workers' occupational safety and health during the COVID-19-related state of emergency. The Act imposes worker safety measures and public health emergency leave requirements on employers of essential workers. For purposes of this law, an "essential worker" is an individual who performs work during the emergency that must be completed at the worksite and whom the employer deems essential to its operations.

The new law also requires employers to provide paid public health emergency leave in addition to any other available leave. Note, however, that employers will not be required to provide this new paid leave if the state and/or federal government have not provided funding for it.

The additional leave, if it takes effect, must be in any amount specified by a federal requirement. If there is no federal requirement, the leave must be provided in the following amounts:

- Full-time essential workers who regularly work 40 or more hours per week: 112 hours.
- Part-time essential workers who regularly work less than 40 hours per week: An amount of hours equivalent to the average hours worked during a typical four-week working period.

Employees may use the leave to:

- Recover from COVID-19, to isolate when the employee has been diagnosed with the disease, or is experiencing symptoms and is awaiting a diagnosis to confirm the diagnosis.
- Seek or obtain a medical diagnosis, preventive care, or treatment because the essential worker is diagnosed with COVID-19.
- Care for a family member who is isolating, without an order to do so, because of a COVID-19 diagnosis, due to a determination by a public health official or healthcare professional that the essential worker's presence at the place of employment or in the community would jeopardize the health of other individuals because of the essential worker's exposure to, or exhibited symptoms associated with, COVID-19.
- Care for a family member due to a determination by a public health official or healthcare professional that the family member's presence at the place of employment or in the community would jeopardize the

health of others because of the family member's exposure to, or exhibited symptoms associated with, COVID-19.

- Care for a child or other family member when the care provider, school or place of care is unavailable due to the emergency. This includes schools that are physically closed but providing instruction remotely.

Employers may require workers to provide documentation of the need to use the public health emergency leave. Employers are not required to pay for the leave if the worker fails to provide documentation. The commissioner of labor and industry will adopt regulations regarding the forms of documentation that an employer may require.

Nevada

AB 190 (kin care)

Enacted May 31, 2021

Effective Oct. 1, 2021

Informational only — Sedgwick does not administer

Nevada has enacted a [new law](#) requiring any employer that provides sick leave to allow an employee to use that leave to assist certain family members. Under the new law, if an employer provides paid or unpaid sick leave to their employees, the employer must allow an employee to use any accrued sick leave to assist an immediate family member who has an illness, injury, medical appointment or other authorized medical use. “Immediate family” means an employee’s child, foster child, spouse, domestic partner, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, stepparent, or any person for whom the employee is the legal guardian. An employer may limit the amount of sick leave that an employee may use to the amount the employee accrues during a six-month period.

Employers that provide sick leave to employees must post the bulletin issued by the labor commissioner in a conspicuous location in each workplace. The bulletin may be included in any printed abstract posted by the employer.

Nevada

SB 209 (COVID-19 and paid leave)

Enacted June 9, 2021

Effective June 9, 2021

Informational only — Sedgwick does not administer

Nevada has [enacted a law](#) that amends the mandatory paid time off statute to require that employers provide leave for receiving COVID-19 vaccinations. The amended law also specifies some of the purposes for which paid leave may be used under the existing mandatory paid leave law.

Effective immediately through Dec. 31, 2023, private employers with 50 or more employees in Nevada must provide all employees with up to four total hours of paid leave for the purpose of receiving a COVID-19 vaccine. Employees receiving a single-dose vaccine are entitled to use only two consecutive hours of vaccination leave, while employees receiving two doses are entitled to use two consecutive hours of vaccination leave per injection. Employers that provide a clinic on their premises where the employee can be vaccinated for COVID-19 during their regular work hours, as well as employers in their first two years of operation, are exempt from these requirements.

The amended law provides that employees must give notice to their employers of their intent to use vaccination leave at least 12 hours before using the leave.

Employers may not deny employees the right to use vaccination leave or condition the use of leave on the finding of a replacement worker. Employers are also prohibited from retaliating against employees for using vaccination leave in accordance with the law.

The new law directs the Office of the Nevada Labor Commissioner to prepare a bulletin concerning the law's provisions, and covered employers must post the bulletin in a conspicuous location in each workplace. The amended law also requires employers to maintain a record of the receipt or accrual and use of paid leave for a COVID-19 vaccination for a one-year period and must make the information available upon request of the labor commissioner.

In addition to creating paid leave for COVID-19 vaccination, the amended law amends the existing mandatory paid leave law by adding that such leave is available to employees for "any" use.

New Hampshire

HB 2 (Granite State Paid Family Leave Plan)

Enacted June 25, 2021

Effective Jan. 1, 2023

New Hampshire has enacted the [Granite State Paid Family Leave Plan](#). The law provides mandatory coverage for all permanent state employees and is voluntary for private employers. Private employers may choose to offer coverage under the plan at no cost to their employees, or on a contributory or partially contributory basis. Private employers receive a tax credit of 50% of the premiums paid if they sponsor the plan for their employees.

If a private employer chooses not to offer the plan to its employees, individual employees may choose to purchase coverage under the state-offered plan. The law provides that employers with over 50 employees must permit employees who have opted into the plan to use payroll deductions to pay for the plan and remit payments to the state. Employers with fewer than 50 employees need not process payroll deductions on behalf of individuals who opt to receive coverage.

Under the new law, eligible employees will receive paid benefits of 60% of their average weekly wage, subject to a cap, for six weeks per year. Employees may take leave for:

- The birth of a child of the employee or placement of a child with the employee for adoption or fostering within the last 12 months.
- The serious health condition of a child for the following family members: biological, adoptive or foster parent; stepparent or legal guardian of the child or the child's spouse or domestic partner; a biological, adoptive or foster grandparent or step-grandparent or a spouse or domestic partner.
- A qualifying exigency arising from foreign deployment with the armed forces, or to care for a service member with a serious injury or illness as permitted under the federal Family and Medical Leave Act.

The law requires that if a private employer has 50 or more employees and voluntarily sponsors the plan, it must restore any individual who takes leave under the plan to the same or an equivalent position to the one they held before the leave. These employers must also provide health insurance to the individual during leave, though the individual is still responsible for any employee-shared costs of health insurance.

The law prohibits these employers from discriminating or retaliating against an employee that uses the leave benefits.

An employer may require that any paid leave taken under the plan run concurrently with leave that is allowed under a collective bargaining agreement or the federal Family and Medical Leave Act.

Oregon

HB 2474 (Family Leave Act Amendment)

Enacted June 8, 2021

Effective Jan. 1, 2022

Oregon has amended its [Family Leave Act](#) (OFLA) regarding leave available during a public health emergency. The OFLA applies to employers with 25 or more employees in the state and provides employees unpaid leave for a variety of medical and health-related reasons.

Under the OFLA, an employee is eligible for leave after 180 days of employment if they have worked an average of 25 or more hours per week during that period, with some exceptions. The amendment provides that all employees of a covered employer may take leave during a public health emergency except for employees who have worked for the employer for fewer than 30 days before the requested leave would begin, or who worked for an average of fewer than 25 hours per week in the 30 days before the requested leave would begin. Because this change in eligibility is only in place during a public health emergency and does not go into effect until Jan. 1, 2022, Sedgwick is evaluating the best process to ensure the appropriate eligibility is assessed.

The amended law also permits employees who have separated from employment and were reemployed within 180 days to take OFLA leave under certain circumstances.

The OFLA permits an employee to take leave to care for the employee's child who requires care due to an injury, illness or health condition. Under the amended law, the reasons for leave are expanded to include care for the employee's child who requires care because the child's school or childcare provider has closed because of a public health emergency. This does not change Sedgwick's current administration of OFLA as this was already in place through OFLA regulations.

While the law allows employers to request medical verification from a healthcare provider when an employee takes leave for various purposes, the amended law clarifies that an employer may not require medical verification when the employee requests leave to care for a child at home when the child's school or childcare provider has closed because of a public health emergency. Rather than requesting medical verification in that situation, the amended law permits employers to request verification such as the name of the child, the child's school or childcare provider, an employee statement that no other family member is willing and able to care for the child, and if the child is older than 14, a statement that special circumstances exist that require the employee to care for the child.

Oregon

HB 3398 (paid family and medical leave)

Passed the House; Passed the Senate June 25, 2021

If enacted, effective 90 days after adjournment

Oregon enacted a paid family and medical leave program in August 2019, providing eligible employees with up to 12 weeks of paid family, medical and safe leave benefits. Payroll contributions and employer notifications to employees were set to begin Jan. 1, 2022, and employees could begin using leave benefits Jan. 1, 2023.

If enacted, [this amendment](#) will delay the implementation of the paid family and medical leave by one year. Payroll contributions and employer notifications to employee will be delayed to Jan. 1, 2023, and employees will be able to use their leave benefits beginning Jan. 1, 2024.

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.

© 2021 Sedgwick

800.625.6588

Sedgwick@sedgwick.com

SEDGWICK.COM