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COVID-19 Legislation

Federal

Recent Guidance

EEOC Guidance – COVID-19 and Anti-Discrimination Laws (Post-PHE)

On [May 15](#) the U.S. Equal Employment Opportunity Commission (EEOC) updated its technical assistance [What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws](#).

The EEOC maintained this guidance throughout the pandemic and, while much of the content is still relevant with regard to the applicability of anti-discrimination laws, the most recent updates emphasize that employers should not (or, in some cases, may not) automatically abandon certain policies and practices simply because the nationwide COVID-19 public health emergency has officially ended.

State and Local

Emergency Paid Sick Leave

Recently Expired

Long Beach, CA COVID-19 Supplemental Paid Sick Leave (SPSL)

On [February 21](#) Long Beach's City Council adopted Resolution Numbers [23-0027](#) and [23-0028](#), ending the local COVID-19 health emergency and sunsetting the city's SPSL requirements as of that date.

Los Angeles City, CA COVID-19 Supplemental Paid Sick Leave (SPSL)

As reported in our [December 22, 2022](#) Update, Los Angeles' SPSL requirements ended on [February 15](#).

Los Angeles County, CA Supplemental Paid Sick Leave (SPSL)

On February 28 the Los Angeles County Board of Supervisors [voted](#) to end the local COVID-19 emergency declaration on March 31, 2023. As a result, the county's SPSL and COVID-19 Vaccination Leave requirements expired on [April 14](#).

Puerto Rico Emergency Paid Sick Leave (EPSL)

On April 9, 2020 the governor of Puerto Rico signed Act No. 37-2020, which [permanently](#) amended Puerto Rico's Minimum Wage, Vacation and Sick Leave Act (Act No. 180-1998) to require employers to provide non-exempt employees who are sick or suspected of being sick with a pandemic illness during a state of emergency with five days of emergency paid sick leave after all other leave has been exhausted. On [May 11](#) the governor signed [Executive Order 2023-012](#), immediately ending the COVID-19 state of emergency and, consequently, the associated EPSL requirement.

San Francisco, CA Public Health Emergency Leave (PHEL)

San Francisco's Public Health Emergency Leave ordinance is [permanent](#)*; however, the requirement for employers to provide PHEL for reasons associated with COVID-19 ended on [February 28](#).

* Please see our [February 27](#) Update and our [Side-by-Side EPSL Summary](#) for additional details.

Seattle, WA Paid Sick and Safe Time for Gig Workers (GW PSST)

The GW PSST ordinance ceased to apply to transportation network companies (TNC), such as Uber and Lyft, as of [January 1, 2023](#). Non-TCN gig workers were entitled to accrue and use paid sick and paid safe time until [April 30](#). Details may be found on the Seattle Office of Labor Standards' dedicated [webpage](#).

Still in Effect

Oakland, CA COVID-19 Emergency Paid Sick Leave (EPSL)

Oakland's EPSL requirements remain in place until the end of the local COVID-19 emergency, which was most recently [renewed on April 18](#) by Oakland's City Council via [Resolution No. 89657](#).

Colorado Public Health Emergency Leave (PHEL)

Colorado's COVID-19 "disaster emergency", originally declared on March 11, 2020, expired on April 27, 2023, and the nationwide public health declaration expired on May 11. PHEL entitlement remains in place until four weeks after all applicable public health emergency declarations end or are suspended; therefore, employees may take any remaining COVID-19 related PHEL through [June 8, 2023](#).

As a reminder, the Healthy Families and Workplaces Act (HFWA) is a [permanent](#) law that requires employers to provide their employees with (1) up to 48 hours of sick and safe leave each year, and (2) up to an additional 80 hours of paid leave immediately upon the declaration of a public health emergency at the federal, state, or local level.

More information may be found on the Colorado Department of Labor and Employment's HFWA [webpage](#), and in INFO #6B, most recently updated on May 12 and located [here](#).

Nevada Hospitality Workers Paid Leave

Nevada's COVID-19 leave requirements apply to "public accommodation facilities" in counties with populations of 100,000 or more (i.e., Clark and Washoe). Passed in August of 2020, and summarized in our [September 1, 2020](#) Update, the law does not feature a specified end date; rather, its requirements apply for each day in which:

1. The rate of positive test results for SARS-CoV-2 in the county reported by the Division of Public and Behavioral Health of the Department exceeds 5 percent in any rolling 14-day period in the 90-day period immediately preceding that day; *or*
2. The number of new COVID-19 cases in the county reported by the Division of Public and Behavioral Health of the Department exceeds 100 new cases per 100,000 residents in any rolling 14-day period in the 90-day period immediately preceding that day.

The Nevada Department of Health and Human Services' Division of Public and Behavioral Health has the following resources linked to their COVID-19 [webpage](#):

- Southern Nevada Health District (Clark County): [COVID-19 Case and Vaccine Data](#)
- [COVID-19 in Washoe County / Washoe County COVID-19 Dashboard](#)

New York COVID-19 Sick Leave

New York's [COVID-19 Sick Leave](#) requirements remain in effect for the duration of COVID-19 quarantine or isolation orders.

The New York State Department of Health's [isolation guidance webpage](#) instructs individuals to follow the Centers for Disease Control and Prevention's (CDC) guidelines for COVID-19 [isolation](#) and [exposure](#). New York employees who must isolate may utilize the [Affirmation of Isolation Form](#) as if it were an individual Order for Isolation issued by the New York State Health Commissioner as part of their request for leave.

Philadelphia, PA COVID-19 Leave

Philadelphia's COVID-19 Leave requirements are in effect until [December 31, 2023](#). Note, however, that separate paid leave requirements for health care workers ("Health Care Epidemic Leave") were [permanently](#) added to the city's paid sick leave law in 2020 (see our [October 5, 2020](#) and [December 15, 2020](#) Updates for more details).

More information may be found on the city's COVID-19 Pandemic Paid Sick Leave Resources [webpage](#), as well as in [final regulations](#) released on February 23, 2023.

Updated EPSL Summary

Please see our [Side-by-Side EPSL Summary](#) for more details on each of the Emergency Paid Sick Leave Laws.

Non-COVID-19 Legislation

Federal

Updated Worksite Posters

Family and Medical Leave Act of 1993 (FMLA)

As part of its campaign to celebrate the [FMLA's 30th anniversary](#) and boost awareness, the U.S. Department of Labor (DOL) has released an updated version of the required poster. The updates don't represent significant content changes, but rather clarify certain elements.

The new poster is available in [English](#) and [Spanish](#) on the DOL's Wage and Hour Division's [website](#), which includes the note that the April 2016 and February 2013 versions still fulfill the posting requirements.

All covered employers are required to display the poster in a conspicuous place where employees and applicants for employment can see it. The poster must be displayed at all locations even if there are no eligible employees. Employers with FMLA-eligible employees must also include the same information contained in the poster in their employee handbook or other written materials provided to employees at hire. *For more information on employer notification requirements under the FMLA, see [Fact Sheet #28D](#).*

Fair Labor Standards Act (FLSA)

The Department of Labor's Wage and Hour Division (WHD) also released a new FLSA poster last month, which reflects a change associated with the [Providing Urgent Maternal Protections for Nursing Mothers Act \(PUMP Act\)](#) enacted on December 29, 2022 (*i.e., the availability of break time to overtime-exempt employees*).

The new poster is available in [English](#) as well as in several other languages on the WHD's [website](#). The website specifies that the former version no longer fulfills the posting requirement and must be replaced with the new version.

Every employer with employees subject to the FLSA's minimum wage provisions must display the poster conspicuously in all of their establishments where it can easily be seen and read by employees.

Note: WHD included the following on the [FMLA poster webpage](#)...

The U.S. Equal Employment Opportunity Commission (EEOC) is in the process of updating its "[Know Your Rights](#)" poster to address the [Pregnant Workers Fairness Act](#), which goes into effect on June 27, 2023. For covered employers that purchase an all-in-one poster from third party vendors, you may wish to defer purchasing a new vendor-created poster until after the EEOC releases its updated poster in June 2023 and, in the interim, print and post the free version of the FLSA poster with PUMP Act information from this webpage.

Recent Guidance

Providing Urgent Maternal Protections for Nursing Mothers Act (PUMP Act)

In our [February 27](#) Update we summarized the [Providing Urgent Maternal Protections for Nursing Mothers Act \(PUMP Act\)](#) passed as part of the [Consolidated Appropriations Act of 2023](#) on December 29, 2022.

Supplementing the information available on its [FLSA Protections to Pump at Work](#) webpage and in [Fact Sheet #73](#), the U.S. Department of Labor's Wage and Hour Division (WHD) released [Field Assistance Bulletin No. 2023-02](#) on [May 17](#). The bulletin is directed to WHD field staff, but may also be useful to employers in implementing policies compliant with the PUMP Act's requirements.

State and Local

Paid Family and Medical Leave

Colorado Family and Medical Leave Insurance (CO FAML I) – Amendment

On [March 23](#) the governor of Colorado signed [SB46](#), which amended [CRS 8-13.3-506\(2\)](#) to reflect that an employee's weekly CO FAML I benefit amount will be based on total wages earned during their base period or alternative base period, rather than earnings from only their current job at the time of taking leave

The bill's preamble explains that the way the law was originally written, if an employee was working at a job within the base period or alternative base period but is no longer working at that job at the time the employee takes leave under CO FAML I, the employee's earnings from the previous job would not be included in the calculation of their CO FAML I benefit amount. This would result in a lower benefit than if all prior employment were considered.

Connecticut Paid Leave (CT PL) – Maximum Weekly Benefit Increase June 1, 2023

In 2019 the governor of Connecticut signed [HB5004 / Public Act No. 19-4](#), which established a schedule of increases to the CT minimum fair wage. On [June 1, 2023](#), the minimum fair wage will increase from \$14 per hour to [\\$15 per hour](#).

The minimum fair wage is utilized in calculating Connecticut Paid Leave benefits, including the maximum weekly benefit payable. The increase in the minimum fair wage to \$15 per hour means that the [maximum weekly benefit for CT Paid Leave will increase to \\$900](#) as of [June 1](#).

On October 15, 2023, and on each October 15 thereafter, the CT Labor Commissioner will announce the adjustment in the minimum fair wage to become effective that January 1.

On January 1, 2024, and not later than each January 1 thereafter, the minimum fair wage will be adjusted by the percentage change in the employment cost index, as calculated by the United States Department of Labor.

Maryland Paid Family and Medical Leave (MD PFML) – Effective Date Change and Amendments

On [May 3](#) the governor of Maryland signed [SB828 / HB988](#), making amendments to the [Maryland Family and Medical Leave Insurance Program \(MD Code Tit. 8.3](#), passed as the [Time to Care Act of 2022](#)). Most significantly, the amendments push the program’s effective dates back one year. The table below outlines material changes; a summary of the original law may be found in our [April 13, 2022](#) Update.

	Original Time to Care Act	Amendments via SB828 / HB988
Effective Dates	Contributions: October 1, 2023 Benefits: January 1, 2025	Contributions: October 1, 2024 Benefits: January 1, 2026
Definitions: Application Year	The 12-month period beginning on the first day of the calendar week in which an individual files an application for benefits.	The 12-month period beginning on the Sunday of the calendar week for which benefits are approved .
Definitions: Wages	<i>Not defined</i>	All compensation that is due for employment that is: <ol style="list-style-type: none"> For an employee: <ul style="list-style-type: none"> an hourly wage or a salary; a commission; compensatory pay; severance pay standby pay; a tip or gratuity; holiday or vacation pay; or any other paid leave, including sick leave, that is paid to the employee entirely by the employer; or For a self-employed individual: self-employment income, as defined in 26 USC §1402(b).
Covered Family Members	<ul style="list-style-type: none"> Employee’s Spouse Child of any age: the employee’s biological, adopted, foster, or stepchild; a child for whom the employee has legal or physical custody or guardianship; legal ward of the employee or of the employee’s spouse; a child to whom the employee stands <i>in loco parentis</i>, regardless of the child’s age Parent: employee’s or spouse’s biological, adoptive, foster, stepparent; someone who acted as a parent or stood <i>in loco parentis</i> to the employee or the employee’s spouse as a minor; employee’s legal guardian Employee’s grandparent, grandchild or sibling, whether biological, adoptive, foster or step 	<ul style="list-style-type: none"> Employee’s Spouse or Domestic Partner Child of any age: the employee’s biological, adopted, foster, or stepchild; a child for whom the employee has legal or physical custody or guardianship; legal ward of the employee or of the employee’s spouse; a child to whom the employee stands <i>in loco parentis</i>, regardless of the child’s age Parent: employee’s or spouse’s biological, adoptive, foster, stepparent; someone who acted as a parent or stood <i>in loco parentis</i> to the employee or the employee’s spouse as a minor; employee’s legal guardian Employee’s grandparent, grandchild or sibling, whether biological, adoptive, foster or step

	Original Time to Care Act	Amendments via SB828 / HB988
<p>Reasons for Leave: New Child (<i>expanded</i>)</p>	<ul style="list-style-type: none"> To care for a child during the first year after the child’s birth or after the placement of the child through foster care, kinship care, or adoption. 	<ul style="list-style-type: none"> To care for or bond with a child of the covered individual during the first year after the child’s birth; or During the process through which a child is being placed with the covered individual through foster care, kinship care, or adoption and to care for and bond with the child during the first year after the placement.
<p>Contributions</p>	<ul style="list-style-type: none"> Beginning October 1, 2023, employees*, employers with 15 or more employees**, and self-employed individuals electing to participate in the program will be required to contribute to the Family and Medical Leave Insurance Fund administered under the direction of the Secretary of Labor. The total rate of contribution will be applied to all wages up to and including the Social Security Wage Base (\$160,200 in 2023). <ul style="list-style-type: none"> The initial rate will be determined on or before June 1, 2023, and will be in effect from October 1, 2023, through December 31, 2025. Beginning in 2025 the Contribution Rate and Cost Share will be determined every two years. The rate will be set on or by June 1 and be in effect for the 24-month period beginning the next January 1. If the employer elects to pay a portion of the employee’s required contribution, the employer may deduct an amount that is less than 75% of the rate of contribution required from the wages of the employee. <p>* Section 8 of the law text states that it is intended that the State pay the required contribution to the Fund for employees who make an hourly wage that is less than \$15.00 per hour. This provision expires June 30, 2026.</p> <p>** Section 7 of the law text states that it is intended that the State pay the required contribution to the Fund for employers that are community providers that are community-based agencies or programs funded by the Behavioral Health</p>	<ul style="list-style-type: none"> Beginning October 1, 2024, employees, employers with 15 or more employees**, and self-employed individuals electing to participate in the program will be required to contribute to the Family and Medical Leave Insurance Fund administered under the direction of the Secretary of Labor. The total rate of contribution may not exceed 1.2% of employee wages, and will be applied to all wages up to and including the Social Security Wage Base (\$160,200 in 2023). <ul style="list-style-type: none"> The initial rate will be determined on or before October 1, 2023, and will be in effect from October 1, 2024, through June 30, 2026. Beginning in 2026 the Contribution Rate will be determined annually, on or before February 1, and will apply to the 12-month period beginning the immediately following July 1. If the employer elects to pay a portion of the employee’s required contribution, the employer (1) may deduct an amount that is less than 50% of the rate of contribution required from the wages of the employee, and (2) must notify employees of the rate of contribution set by the state and the portion of that amount that the employer is electing to pay. <p>(* Removed)</p> <p>** §8.3-601(g) states that community providers required to be licensed under MD Statutes Health – General Article Title 7 (Developmental Disabilities Law) may be eligible for quarterly reimbursement by the Maryland Department of Health for 100% of the required employer contribution for</p>

	Original Time to Care Act	Amendments via SB828 / HB988
Weekly Benefit Amount	<p><i>Administration, the Developmental Disabilities Administration, or the Medical Care Programs Administration to serve individuals with mental disorders, substance-related disorders, or a combination of those disorders or developmental disabilities.</i></p> <ul style="list-style-type: none"> If the employee's Average Weekly Wage* (AWW) is 65% or less of the State Average Weekly Wage** (SAWW), the employee's Weekly Benefit Amount (WBA) will be 90% of the employee's AWW. If the employee's AWW is greater than 65% of the SAWW, the employee's WBA will be <i>the sum of</i>: <ol style="list-style-type: none"> 90% of employee's Average Weekly Wage (AWW) up to 65% of the SAWW, plus 50% of the employee's AWW that is greater than 65% of the SAWW If the employee is taking partially paid leave, the employee's WBA will be <i>the lesser of</i>: <ol style="list-style-type: none"> The amount required to make up the difference between wages paid to the employee while the employee is taking partially paid leave and the full wages normally paid to the employee, and If the employee's AWW is greater than 65% of the SAWW, the employee's WBA will be the sum of: <ol style="list-style-type: none"> 90% of employee's Average Weekly Wage (AWW) up to 65% of the SAWW, plus 50% of the employee's AWW that is greater than 65% of the SAWW <p>* Average Weekly Wage (AWW): an employee's total wages received over the last 680 hours for which the employee was paid divided by the number of weeks worked.</p>	<p><i>employees who manage or provide services under Title 7. Providers licensed under Title 7.5 (Behavioral Health Administration) and those defined under §16-201.4 may be eligible for quarterly reimbursement of a percentage of the required employer contribution made for employees who manage or provide services under those sections equal to the percentage of revenue that is attributable to federal and state Medicaid funding and any other state funding received by the provider for the services during the period covered by the reimbursement.</i></p> <ul style="list-style-type: none"> If the employee's Average Weekly Wage* (AWW) is 65% or less of the State Average Weekly Wage** (SAWW), the employee's Weekly Benefit Amount (WBA) will be 90% of the employee's AWW. If the employee's AWW is greater than 65% of the SAWW, the employee's WBA will be <i>the sum of</i>: <ol style="list-style-type: none"> 90% of employee's Average Weekly Wage (AWW) up to 65% of the SAWW, plus 50% of the employee's AWW that is greater than 65% of the SAWW <p>Partially paid leave formula was removed.</p> <p>Maximum Weekly Benefit (date change only):</p> <ul style="list-style-type: none"> \$1,000 in 2026 Beginning September 1, 2026, the Maximum Weekly Benefit will be announced each September 1 and will apply to claims for benefits filed on or after the following January 1. <p>* Average Weekly Wage (AWW): an employee's total wages received over the last 680 hours for which the employee was paid divided by the number of weeks worked.</p>

	Original Time to Care Act	Amendments via SB828 / HB988
	<p>** State Average Weekly Wage (SAWW): the wage calculated on or before December 15 each year for the following July 1, per MD Code §9-603 (Workers Compensation) (\$1,402 for fiscal year ending June 30, 2022, for WC benefits beginning on or after January 1, 2023)</p>	<p>** State Average Weekly Wage (SAWW): the wage calculated on or before December 15 each year for the following July 1, per MD Code §9-603 (Workers Compensation) (\$1,402 for fiscal year ending June 30, 2022, for WC benefits beginning on or after January 1, 2023)</p>
Private Plans	<ul style="list-style-type: none"> An employer may satisfy MD PFML requirements through a private employer plan consisting of employer-provided benefits, insurance, or a combination of both if the private employer plan is offered to all of the employer’s eligible employees and meets or exceeds the rights, protection and benefits provided to a covered employee under the MD PFML law. A private employer plan shall be filed with the Department for approval. Private plan sponsors and their covered employees are exempt from contributing to the Family and Medical Leave Insurance Fund. 	<ul style="list-style-type: none"> An employer may satisfy MD PFML requirements through a private employer plan consisting of employer-provided benefits, insurance through an insurer that holds a certificate of authority issued by the Maryland Insurance Commissioner, or a combination of both if the private employer plan is offered to all of the employer’s eligible employees and meets or exceeds the rights, protection and benefits provided to a covered employee under the MD PFML law. A private employer plan shall be filed with the Department for approval. Private plan sponsors and their covered employees are exempt from contributing to the Family and Medical Leave Insurance Fund. An employer that provides a private employer plan may not deduct from an employee more than the maximum contribution amount set by the MD DOL. To determine the benefit amount under a private employer plan, the weekly benefit amount will be based on the average weekly wage earned from the employer sponsoring the private employer plan. <ul style="list-style-type: none"> If an employee has worked less than 680 hours for the employer sponsoring the private employer plan, the weekly benefit amount will be based on the average weekly wage for state program benefits.
Coordination with Other Leaves	<ul style="list-style-type: none"> If an employee takes leave for which they are receiving MD PFML benefits, the leave will run concurrently with eligible leave that may be taken by the employee under FMLA. Employees must exhaust all employer-provided leave that is not required to be provided under law before receiving MD PFML benefits. Employer-provided 	<ul style="list-style-type: none"> Leave taken under FMLA may be counted against an employee’s maximum duration of leave for which MD PFML benefits are available in an application year for the same purpose if: <ol style="list-style-type: none"> the employer designates a period of leave as covered by FMLA for

Original Time to Care Act	Amendments via SB828 / HB988
	<p>leave to be exhausted must comply with job, benefits, retaliation and discrimination protections required during MD PFML leave.</p> <ul style="list-style-type: none"> Employees receiving benefits under <u>Unemployment</u>* or wage replacement benefits under <u>Workers' Compensation</u> are not eligible for MD PFML benefits, except that an employee receiving compensation for a permanent partial disability under Workers' Compensation may be eligible. <p>* <i>Section 4 of the law text states that "on or before January 1, 2023, the Maryland Department of Labor shall report ... on whether a covered employee using benefits under the Maryland Family and Medical Leave Insurance Program ... is also eligible for Unemployment Insurance Benefits ... and the effect that dual eligibility has on employer ratings."</i></p>
	<p>an employee who would also qualify for MD PFML benefits;</p> <ol style="list-style-type: none"> the employer informs the employee of the employee's eligibility for MD PFML benefits; <p><i>and</i></p> <ol style="list-style-type: none"> the employee declines to apply for MD PFML benefits. <ul style="list-style-type: none"> Employees may not be required to use or exhaust paid vacation, paid sick leave, or other paid time off under an employer policy before, or while, receiving MD PFML benefits. The employee and the employer may agree to use paid vacation, paid sick leave, or other paid time off while a covered individual is receiving MD PFML benefits to replace the employee's wages up to 100% of the covered individual's average weekly wage. An employer may require that MD PFML benefit payments be made concurrently, or otherwise coordinated with, payments made or leave that is allowed under the terms of a separate employer-provided leave policy due to parental care, family care, or military leave or under a disability policy. MD PFML benefits and any additional paid leave cannot total more than 100% of the employee's average weekly wage. Employees receiving benefits under <u>Unemployment</u> or wage replacement benefits under <u>Workers' Compensation</u> are not eligible for MD PFML benefits, except that an employee receiving compensation for a permanent partial disability under Workers' Compensation may be eligible.

Oregon Paid Family and Medical Leave (OR PFML) – Potential Effective Date Delay

Contributions toward Oregon’s paid family and medical leave program, [Paid Leave Oregon](#), began this January 1, and benefits are scheduled to become payable on [September 3, 2023](#).

On [May 8](#) the governor of Oregon signed [SB31](#), allowing the Oregon Employment Department (OED) until [August 11, 2023](#) to evaluate whether sufficient funds have been collected to support claims for benefit payments beginning in September. Should OED determine that the Paid Family and Medical Leave Insurance Fund is not solvent, the effective date for benefits will be pushed back to [December 3, 2023](#), or possibly even later pending subsequent reviews conducted on a quarterly basis. We will continue to monitor and provide updates as available.

Note: *As of today*, this legislation has not altered the timeline for [private plan applications](#).

- Employers planning to establish a private plan who filed a Declaration of Intent (*for the purpose of exemption from state program contributions beginning January 1, 2023*) on or before November 30, 2022, have until [May 31, 2023](#), to submit their private plan applications to the Oregon Employment Department (OED). If a private plan application is not received by OED by May 31, 2023, the Declaration of Intent is cancelled and no longer effective. If an employer does not have an approved equivalent plan by [June 30, 2023](#), the employer must remit contributions for all unpaid periods since January 1, 2023, with all due penalties and interest. If the equivalent plan is not approved, employers may not retroactively withhold contributions from employees’ wages to pay the contributions due.
- Equivalent plan applications submitted [on or after July 1, 2023](#), will be effective the first day of the calendar quarter immediately following the date of approval. With the exception of the Declaration of Intent process, employers must remit contributions to the state program for any quarter preceding the effective date of their approved private plan.

More information on the timeline for private plan applications may be found on the OED’s [Equivalent Plans webpage](#), as well as in our [September 30, 2022](#) Update.

Paid Family Leave as a Class of Insurance

In the past few months two states have joined [Virginia](#) in amending their insurance codes by adding paid family leave as a class of insurance:

Arkansas

[SB111 / Act 84](#), enacted February 23, adds Section [23-62-112](#) to the Arkansas Code. Effective [July 30, 2023](#), the law permits insurers authorized to transact accident and health or life insurance business in the state or Arkansas to issue family leave insurance in the state.

“[Family leave insurance](#)” is defined as an insurance policy issued to an employer related to a benefit program provided to an employee to pay a percentage or portion of the employee’s income loss due to (*absence from work associated with*):

1. the birth of the employee’s child or adoption of a child by the employee;
2. the placement of a foster child in the home of the employee;
3. the care of the employee’s family member who has a serious health condition; or
4. circumstances arising because the employee’s family member, who is a service member, is on active duty or has been notified of an impending call or order to active duty.

Family leave insurance may be written as an amendment or rider to a group disability income insurance policy, or as a separate group insurance policy.

Tennessee

[SB454](#), signed on March 31, amends [Title 56, Chapter 7](#) of the Tennessee Code. The new law, titled the “[Tennessee Paid Family Leave Insurance Act](#)” was effective immediately, and permits insurers licensed in the state to sell life or disability insurance to issue family leave insurance beginning [January 1, 2024](#).

“[Family leave insurance](#)” is defined as an insurance policy issued to an employer related to a benefit program provided to an employee to pay a percentage or portion of the employee's income loss due to (*absence from work associated with*):

1. the birth or adoption of a child by the employee;
2. placement of a child with the employee for foster care;
3. care of a family member of the employee who has a serious health condition; or
4. the status of a family member of the employee who is a service member on active duty or who has been notified of an impending call or order to active duty.

Covered family members include the employee's child under age 18 or over age 18 and incapable of self-care, spouse, parent or “another person defined as a family member in a policy of insurance issued under this part”.

Family leave insurance may be written as an amendment or rider to a group disability or life insurance policy, or as a separate group insurance policy.

Michigan Tax Incentive for Employers Providing Paid Adoption Leave – Delayed

Last October the governor of Michigan signed [HB6070 / Public Act No. 207](#), which added Section [§206.715](#) to the state's income tax law.

The Act states that, beginning with the [2023 tax year](#), “qualified employers” who voluntarily provide paid adoption leave to their employees may claim a tax credit equal to [50%](#) of the wages paid to each “qualified employee” for any period in the tax year during which the employee is on adoption leave. The maximum amount of credit allowed per employee for a single adoption leave period is [\\$4,000.00](#). The maximum amount of leave with respect to any qualified employee for which a credit may be claimed must not exceed [12 weeks](#).

A “qualified employer” is an employer with a written policy offering parental leave and adoption leave that provides at least [two weeks of paid leave](#) to each full-time qualified employee and a proportionate amount of leave to part-time qualified employees. The leave must provide at least [50%](#) of the employee's normal wages.

A “qualified employee” is an individual who has been employed by the employer for at least [1 year](#), and for the preceding year had compensation that does not exceed 60% of the amount applicable for “highly compensated employees” for that same year ([\\$150,000 in 2023](#)).

The credit does not apply to any adoption leave that is paid by the state or a political subdivision of the state, or that is required to be paid by law.

On [December 29, 2022](#) the Michigan Department of Treasury posted a [Notice to Taxpayers Regarding Public Act 207 of 2022](#), which includes the following:

“... Treasury does not currently have the authority to begin implementing PA 207 and administering the adoption leave credit against the Michigan withholding tax, and it will not have such authority unless and until a specific appropriation with respect to PA 207 is passed by the state legislature. Treasury is publishing this Notice so that taxpayers are aware that [the adoption leave tax credit provided for in PA 207 will not become effective on January 1, 2023.](#)”

Accrued Paid Leave

Puerto Rico Minimum Wage, Vacation and Sick Leave Act – Reversal of 2022 Amendments

Our [July 26, 2022](#) Update included a summary of PC1244 / [Law 41-2022](#), which reversed changes made to Puerto Rico’s Minimum Wage, Vacation and Sick Leave Act (Act No. 180-1998) by the Labor Transformation and Flexibility Act (LTFA) in 2017. In response to motions filed by the Financial Oversight & Management Board for Puerto Rico, on March 3, 2023, the District Court for the District of Puerto Rico ruled Law 41-2022 **null and void**.

This decision reverts the [Minimum Wage, Vacation and Sick Leave Act](#) requirements to their early-2022 levels:

- The eligibility threshold for non-exempt employees’ sick leave and vacation time returns to **130 hours per month**; employees who work fewer than 130 hours in a month are not eligible to accrue paid leave.
- **Sick leave** accrues at a rate of **1 day per month** for each month in which the employee works 130 hours (*this was unchanged by Law 41-2022*).
- **Vacation time** returns to an accrual schedule based on **years of service***; time is accrued for each month in which the employee works 130 hours:

Years of Service Completed	Monthly Accrual	Days per Year
<1	1/2 day	6
1-4	3/4 day	9
5-14	1 day	12
15	1 1/4 days	15

** The schedule above applies to employees hired on or after January 26, 2017, and to employers with 13 or more employees (employers with 12 or fewer employees must provide accrual at a rate of 1/2 day per month). Employees hired prior to January 26, 2017, accrue 1 1/4 days per month, up to 15 days per year.*

The ruling also impacts other Puerto Rico employment laws; please see the following articles for additional information:

- Littler Mendelson P.C.: [Nullified ab initio: What Employers in Puerto Rico Need to Know About the Decision to Nullify the New Labor Reform Bill \(March 7, 2023\)](#)
- Jackson Lewis P.C.: [Federal Court Strikes Down Amendments to Puerto Rico 2017 Employment Law Reform \(March 6, 2023\)](#)

Illinois Paid Leave for All Workers Act – Resources

Our [February 27](#) Update included a summary of the [Paid Leave for All Workers Act](#) (now [Public Act 102-1143](#), signed on March 13), which provides that on [January 1, 2024](#), covered Illinois employees will begin accruing paid leave to be used for any reason. Formal regulations and the required notice are expected from the Illinois Department of Labor (IDOL) in the coming months; in the meantime, IDOL has begun the process of building FAQ on its dedicated [webpage](#).

Bloomington, MN Earned Sick and Safe Leave – Model Notice and Resources

Bloomington’s Earned Sick and Safe Leave (ESSL) law becomes effective on [July 1, 2023](#). To support employers and workers the city has posted new resources on its dedicated [webpage](#), including the model notice, FAQ and initial rules.

Reminder: As of July 1, 2023, employers must conspicuously **display the required notice** within each of their facilities in Bloomington, in English and any language spoken by 5% of employees at the workplace.

An employer that provides an [employee handbook or orientation materials](#) to its employees must also include the notice.

In addition, the [earnings statement](#) required by [MN Stat. §181.032](#) must also include the hours of ESSL used and the amount available at the end of each pay period.

Additional details on the ESSL may found in our [July 26, 2022](#) and [February 27, 2023](#) Updates.

Other News

Colorado – Military Leave Law Amendment

On [March 10](#) the governor of Colorado signed [HB1045](#), immediately amending the state's military leave law applying to private companies ([CRS §28-3-609 et seq.](#)).

Prior to the amendment the law provides that members of the Colorado National Guard or the U.S. reserve forces are entitled to up to 15 days of protected leave in any calendar year for military training. The amendment changes the 15 days to the equivalent of three weeks of work on the employee's regular work schedule. It also adds that the employee is entitled to use any paid leave available to them during leave, or may choose to take the leave as unpaid.

Georgia – Removal of Kin Care Repeal Date

On [May 1](#) the governor of Georgia signed [SB61 / Act 90](#), immediately removing the July 1, 2023, repeal date on the state's "kin care" law ([GA Code §34-1-10](#)).

The law requires employers who provide employees with paid sick leave to allow use of that time to care for covered family members. 2020's [SB408](#) extended the law from its original sunset date of July 1, 2020, through June 30, 2023.

Georgia – Voting Leave Amendment

On [May 4](#) the governor of Georgia signed [SB129 / Act 341](#) which, in part, amends the state's voting leave law effective [July 1, 2023](#).

[Currently](#) the law provides that employees must be permitted by their employer up to two hours to vote on the day a federal, state or local primary or election is held. This time need not be provided if the employee's work hours commence at least two hours after the opening of the polls, or end at least two hours prior to their closing.

The [amended law](#) states that up to two hours must be permitted on either one of the days designated for advance in-person voting or on the day on which the primary or election is held, and removes the constraints around the employee's work hours.

Both the current and amended sections note that the employer may specify the hours during which the employee may be absent for voting purposes. The law does not require that time provided be paid.

Virginia – Leave for Organ and Bone Marrow Donation

On [April 12](#) the governor of Virginia approved [SB1086](#), establishing leave requirements for organ and bone marrow donation effective [July 1, 2023](#). The new law adds Article 2.2 ([§40.1-33.7 through §40.1-33.12](#)) to [VA Code Title 40.1, Chapter 3](#).

Applies to

- [Employers](#) with [50 or more employees](#), including the state but excluding the federal government
- [Employees](#) who have been employed by their employer for at least a 12-month period and have worked 1,250 hours during the previous 12 months as of the date the requested organ donation leave begins.

Leave Entitlement

- **Organ donation:** up to **60 business days** in any 12-month period
- **Bone marrow donation:** up to **30 business days** in any 12-month period
- To receive organ donor leave, the eligible employee must provide written physician verification to the employer that (1) the employee is an organ or bone marrow donor, and (2) there is a medical necessity for the donation of the organ or bone marrow.

Pay During Leave

- This leave is **unpaid**; employees must be permitted to take paid sick leave or other paid time off to which the employee is otherwise entitled in addition to or in lieu of organ or bone marrow donation leave.
- During a period of organ or bone marrow donation leave, any employee who works on a commission basis must be paid any commission that becomes due for work performed before taking leave.

Job and Benefits Protection

- Organ and bone marrow donation leave does **not** run concurrently with leave taken under the federal Family and Medical Leave Act of 1993 (FMLA).
- Employees returning from organ or bone marrow donation leave are entitled to restoration of the position of employment held by the employee when leave began, or an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. However, an employer may deny restoration of the employee's position of employment because of conditions *unrelated* to the employee exercising their rights under this law.
- Leave taken for organ or bone marrow donation may not be constituted as a break in the employee's continuous service for the purpose of the employee's right to salary adjustments, sick leave, vacation, paid time off, annual leave, seniority, or other employee benefits.
- An employee's coverage under a health benefit plan must be maintained for the duration of organ or bone marrow donation leave as if the employee had continued in employment continuously.
- Employers are prohibited from discharging, disciplining, threatening, discriminating against, or penalizing an employee, or taking other retaliatory action regarding an employee's compensation, terms, conditions, location, or privileges of employment, because the employee has requested or exercised their rights under this law, or has alleged a violation of the law.

Nothing in the law is meant to discourage employers from adopting more generous leave policies, or to interfere with an employer's obligation to comply with a collective bargaining agreement or an employment benefit program that provides leave sufficient to meet the law's requirements.

Any employer who knowingly violates the law will be subject to a civil penalty of up to \$1,000 for the first violation and, for subsequent violations that occur within two years of any previous violation, up to \$2,500 for the second violation and up to \$5,000 for each successive violation. The size of the employer's business and the gravity of the violation will be considered in determining the amount of any penalty.

Please contact your MMA account team members with specific questions about this or other Updates. View past Updates on the Absence, Disability & Life blog at <https://mma-adl.com/blog/>.

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