



**2013 Leaves of Absence
Year-End Summary**
Private Employer Sector



sedgwick

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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.

Leave Management Updates 2013 Summary

Federal

FMLA: Department of Labor (DOL) Notices

Final Rule to Implement Statutory Amendments to the Family and Medical Leave Act.

The U.S. Department of Labor's Wage and Hour Division released on February 5, 2013, the final rule regulations implementing two important expansions of FMLA protections. The first expansion provides families of eligible veterans with the same job-protected FMLA leave currently available to families of military service members and it also enables more military families to take leave for activities that arise when a service member is deployed. The second expansion modifies existing rules so that airline personnel and flight crews are better able to make use of FMLA. The regulations took effect March 8, 2013.

DOL Resources provided:

Final Rule - http://www.ofr.gov/OFRUpload/OFRData/2013-02383_PI.pdf

Guides and Fact Sheets - <http://www.dol.gov/whd/fmla/2013rule/>

Comparison Chart - <http://www.dol.gov/whd/fmla/2013rule/comparison.htm>

Department of Labor Releases 2012 FMLA Survey Report

The Department of Labor released findings of a survey titled *Family and Medical Leave Act in 2012: Final Report* which shows that FMLA continues to make a positive impact on the lives of workers without imposing an undue burden upon employers. The fact sheet with the survey statistics can be found by visiting:

http://www.dol.gov/whd/fmla/survey/FMLA_Survey_factsheet.pdf

DOL Resources Provided:

FMLA Survey page - <http://www.dol.gov/whd/fmla/survey/>

News release - <http://www.dol.gov/opa/media/press/whd/WHD20130175.htm>.

Defense of Marriage Act (DOMA) and the Family Medical Leave Act (FMLA).

The Supreme Court ruled on June 26, 2013, that Section 3 of the Defense of Marriage Act was unconstitutional. Section 3 previously precluded recognition of a same sex spouse as a spouse under federal law. The Court's decision did not affect the constitutionality of Section 2, which permits a state to refuse to recognize same-sex marriage that was legally performed in another state.

The Supreme Court's decision can be reviewed by visiting [here](#).

States

The following is a summary of the 2013 state leave law updates:

California

Domestic Violence Leave

Effective January 1, 2014

CA Labor Code Section 230 and 230.1

Starting January 1, 2014, the same protections provided to victims of domestic violence will be extended to victims of stalking. The bill would also require the employer to provide reasonable accommodations for such a victim (which may include taking safety measures).

The law prohibits an employer from discharging or discriminating against an employee or refusing to rehire because of the employee's status as a victim of domestic violence, sexual assault, or stalking if notice is provided to the employer (unless notice is not feasible). The law creates a private right of action for an aggrieved employee to seek enforcement of the victim status protection and reasonable accommodation provisions.

The bill can be viewed by visiting [here](#).

California

Victim of Crime Leave

Effective January 1, 2014

CA Labor Code Section 230

Starting January 1, 2014, an employer is prohibited from discharging, discriminating or retaliating against an employee who has been the victim of a serious criminal offense and needs to take time off from work to appear in court for any proceeding involving the employee's rights as a victim.

Upon the victim's request, any time needed to appear in court (including any delinquency proceeding, post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is an issue) would be protected.

The bill can be viewed by visiting [here](#).

California

State Disability Insurance Program Paid Family Leave Amendment

Effective July 1, 2014.

CA Unemployment Insurance Code Section 3300

Currently, California's Paid Family Leave (PFL) program allows employees to be paid temporary disability insurance benefits for taking leave to care for a seriously ill child, spouse, parent, or domestic partner, or to bond with a minor child, including foster or adopted child.

Starting July 1, 2014, PFL program's definition of "family" is expanded to permit workers caring for their seriously ill siblings, grandparents, grandchildren, and/or parents-in-law to also receive PFL benefits.

The bill can be viewed by visiting [here](#).

California

Disaster and Emergency Services Leave

Effective January 1, 2014

CA Labor Code Section 230.4

Effective January 1, 2014, the law allowing employees to take a leave of absence for emergency services is amended. Existing law requires an employer, employing 50 or more employees, to allow an employee who is a volunteer firefighter to take temporary leaves of absence for the purpose of engaging in fire or law enforcement training. The total leave time is up to 14 days per calendar year.

The amendment will require employers to additionally allow an employee who performs emergency duty as a volunteer firefighter, reserve peace officer, or as emergency rescue personnel, to take the leave of absence described above for the purpose of engaging in fire, law enforcement or emergency rescue training.

The law can be reviewed by visiting [here](#).

Colorado

Family Care Act

Effective May 5, 2013

Colorado Revised Statutes, part 2 to article 13.3 of title 8.

In addition to the leave to which an employee is entitled under FMLA, an employee in the state of Colorado is entitled to take leave to care for a person who has a serious health condition if the person is 1) The employee's partner in a civil union, or 2) is the employee's domestic partner and 3) has registered the domestic partnership with the municipality in which the person resides or with the state, or 4) is recognized by the employer as the employee's domestic partner.

For purposes of confirming an employee's relationship to a person described in 1-4 above, an employer may require the employee to provide reasonable documentation or a statement of a family relationship.

The law can be reviewed by visiting [here](#).

Connecticut
Military Leave
Effective October 1, 2013
Public Act 13-49

On October 1, 2013, Public Act 13-49 extended employment protections currently afforded to employees who are U.S. armed forces reservists or National Guard members to members of the state armed forces who take time from their employment to perform ordered military duty.

Under the Act, employers must provide employees a leave of absence when ordered to perform military duty, including meetings or drills, during normal working hours. Such employees are not to be subjected to any loss or reduction of vacation or holiday privileges or be prejudiced with reference to promotion or continuance in office or employment because of such absence. Armed forces of the state means the organized militia, the National Guard, the naval militia and the Marine Corps branch of the naval militia.

The law can be reviewed by visiting [here](#).

Delaware
Emergency Services Leave
Effective September 6, 2013
DE Code Title 19

This law establishes the Volunteer Emergency Responders Job Protection Act. The Act prohibits an employer from terminating or taking any other disciplinary action against an employee who is a volunteer emergency responder if such employee, when acting as a voluntary emergency responder, is absent from his or her place of employment for a Governor-declared State of Emergency lasting up to 7 days or a President-declared National Emergency lasting up to 14 days.

The Act further prohibits an employer from terminating or taking any other disciplinary action against an employee who misses work due to an injury sustained.

The law can be reviewed by visiting [here](#).

**Maryland
Family Military Leave
Effective**

Annotated Code of Maryland Section 3–803

Effective October 1, 2013, employees are now able to take a leave of absence from work on the day that an immediate family member is leaving for, or returning from, active duty outside the United States as a member of the armed forces of the United States.

Employers are prohibited from requiring employees to use compensatory, sick, or vacation leave when taking such leave. This law applies to both private and public employers with 50 or more employees, and to both part-time and full-time employees who have worked for the employer for the last 12 months and for at least 1,250 hours during the last 12 months. Employers may require an employee to submit proof to the employer verifying that the leave is taken in accordance with the law.

The law can be viewed by visiting [here](#).

**Maryland
Pregnancy Discrimination
Effective October 1, 2013**

Annotated Code of Maryland Section 20–601(a) through (d) and 20–606(a)(4)

If an employee requests a reasonable accommodation for a disability caused or contributed to by pregnancy, an employer must explore with the employee certain means of reasonably accommodating the disability. In addition an employer may be required to transfer an employee to a less strenuous or less hazardous position for a certain period of time under certain circumstances.

The law can be reviewed by visiting [here](#).

**Maryland
Emergency Services Leave
Effective July 14, 2014**

MD Tax General Article 10-208

Effective July 14, 2014, the law protecting volunteer members of the Maryland Wing of the Civil Air Patrol is amended. Existing law provides volunteer members to take up to 15 days of unpaid leave per calendar year in order to respond to an emergency event. The law also protects such volunteers from discrimination or discharge because of such membership.

The law will provide that whenever the Commissioner of Labor and Industry determines that a violation of the law has occurred, the commissioner is to either try to resolve the issue by mediation or ask the attorney general to bring an action on behalf of the employee or job applicant.

The law can be reviewed by visiting [here](#).

**Minnesota Family Medical and Parental Leave
Expansion - Effective August 1, 2013**

Minnesota Statutes 2012, section 181.9413

Under current law, employees are limited to using their sick leave for themselves and their children. The new law will extend these benefits to include adult children, spouses, siblings, parents, grandparents and stepparents.

Under the new law: 1) An employee may use personal sick leave benefits provided by the employer for absences due to an illness of or injury to the employee's child, adult child, spouse, sibling, parent, grandparent, or stepparent, for such reasonable periods of time as the employee's attendance with the child may be necessary, on the same terms upon which the employee is able to use sick leave benefits for the employee's own illness or injury. This change applies only to personal sick leave benefits payable to the employee from the employer's general assets. 2) An employer may limit the use of personal sick leave benefits provided by the employer for absences due to an illness of or injury to the employee's adult child, spouse, sibling, parent, grandparent, or stepparent to no less than 160 hours in any 12-month.

The law can be reviewed by visiting [here](#).

**Nebraska
Emergency Services Leave
Effective August 1, 2013**

Section 30.1-10.1-01 of the North Dakota Century Code

The law prohibits an employer from terminating or demoting an employee, or in any way discriminating against the employee in terms and conditions of employment, because the employee is absent or tardy from employment due to serving as a volunteer emergency responder in response to a disaster or emergency.

This law currently would not apply if the employee in serving as a volunteer emergency responder is absent or tardy from employment for a period that exceeds 20 regular working days in a calendar year.

The bill can be reviewed by visiting [here](#).

New Jersey
Domestic Violence Leave
Effective October 1, 2013
NJ Revised Statute Title 34

On July 17, Governor Chris Christie signed into law the New Jersey Security and Financial Empowerment Act (SAFE Act), which provides victims of domestic violence and their family members the right to take 20 days of unpaid leave within the year following an incident of domestic violence or a sexually violent offense. The SAFE Act takes effect on October 1, 2013.

The SAFE Act covers the vast majority of employers in New Jersey, including all private and public entities with 25 or more employees. Employees will be eligible for leave pursuant to the Act if they have worked for their current employer for at least 12 months and at least 1,000 hours in the 12-month period preceding the leave.

The Act can be reviewed by visiting [here](#).

New Jersey
Jersey City Paid Sick Time
Effective January 24, 2014
City Ordinance 13.097

The Mayor of Jersey City has approved an ordinance that requires employers with 10 or more employees to provide up to 40 hours of paid sick time to compensated employees. Under City Ordinance 13.097, employees will accrue one hour of paid sick time for every 30 hours worked.

Any employer with a paid leave policy, such as a paid time off policy that provides an amount of paid leave sufficient to meet the total annual accrual requirements of this Ordinance is not required to provide additional paid sick time.

The law details can be reviewed by visiting [here](#).

New York
New York City Pregnancy Discrimination Amendment
Effective January 30, 2014
Int. No. 974-A.

On October 2, 2013, Mayor Michael Bloomberg signed into law the Pregnant Workers Fairness Act. This enacted an amendment to the New York City Human Rights Law (NYCHRL) that requires New York City employers with four or more employees to provide reasonable accommodations for pregnancy, childbirth, and related medical

conditions. An exception to the requirement is if the employer can prove that the accommodation would cause an undue hardship. The law takes effect 120 days from enactment, on January 30, 2014.

Under the amendment to the NYCHRL, a woman who is pregnant or has given birth is entitled to reasonable accommodation due to the pregnancy, childbirth, or a related medical condition so that she can perform the essential requisites of the job. It is unlawful for an employer to refuse to provide such reasonable accommodation when the employee's pregnancy, childbirth, or related medical condition is known, or should have been known, by the employer, unless the employer can prove that the accommodation would cause an undue hardship.

Additionally, if the employer believes that the employee could not with a reasonable accommodation satisfy the essential requisites of the job, the employer must be prepared to prove such a claim.

The law can be reviewed by visiting [here](#).

New York
New York City Paid Leave Time
Effective April 1, 2014

Int. No. 97-A.

The New York City Paid Leave benefit will go into effect April 1, 2014 for employees of businesses with 20 or more workers and at a later date for smaller employers. Under the Act, employees who work more than 80 hours in a year including full time, part time, and temporary/seasonal employees will accrue "sick leave" at a rate determined by the number of hours worked.

Specifically, employees will accrue one hour for every 30 hours worked and are entitled to 40 hours (the equivalent of five working days) per calendar year. While accrued but unused sick leave may be carried over from year to year, an employee may only use 40 hours of leave per calendar year.

Even though the law is characterized as a paid sick leave measure, the Act actually covers a broad category of absences, including the following: absences due to the employee's own mental or physical illness, injury, or health condition; absences due to the medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition or the need for preventive medical care for an employee or family member; or closure of an employee's place of business or an employee's child's school or childcare provider due to a public health emergency.

The law can be reviewed by visiting [here](#).

Oregon
Domestic Violence Leave Expansion
Effective January 1, 2014
ORS 659A.270

Part-time and new employees are now covered under the Oregon domestic violence victims' law. Oregon law protects victims of domestic and sexual violence from discrimination in the workplace and gives them the right to take reasonable time off to get court or law enforcement protection or take other safety measures.

The law previously did not apply to those who worked 25 or fewer hours a week or had not been employed at least 180 days prior to the leave sought.

The law can be viewed by visiting [here](#).

Oregon
City of Portland Paid Leave
Effective January 1, 2014
Portland Sick Leave Code 3-13-13

The City of Portland now requires employers with six or more employees to provide five days (40 hours) of paid sick leave per year to employees to care for their own illness or for a sick family member. Smaller employers will be required to grant up to 40 hours of unpaid sick leave.

Employers will be required to post notice of employees' leave rights and maintain records of leave time accrued and used by employees. Employers will also be prohibited from discriminating or retaliating against employees who request or use sick leave, or complain of being denied requested leave.

The law can be reviewed by visiting [here](#).

Oregon
Family and Medical Leave
Effective January 1, 2013
ORS 659A.159

The state expanded the Oregon Family Leave (OFLA) to include bereavement allowing eligible employees to take family leave to deal with the death of a family member. The period of leave is limited to two weeks, and this leave must be counted toward the total period of authorized family leave under OFLA.

The law incorporates the existing definition of "family member," meaning that an employee make take the leave for the death of a spouse, same sex domestic partner,

parent, parents-in-law (including the parents of same-sex domestic partners), grandparent, grandchild, child, stepchild, or child of the employee's same sex domestic partner.

The eligible employee must provide notice of the leave, but unlike other kinds of OFLA leave, the employer may not reduce the 2-week leave entitlement for failure to timely provide notice. The leave must be completed within 60 days of the date on which the employee receives notice of the death.

The law can be reviewed by visiting [here](#).

Rhode Island

Paid Family Leave

Effective July 11, 2013

Chapter 28-41 of the General Laws

Rhode Island passed an act relating to temporary disability insurance which would establish a temporary caregiver insurance program to provide benefits to workers who take time off for a seriously ill child, spouse, parent, and domestic partner or to bond with a new child.

The program allows workers to collect a portion of their regular paycheck for up to four weeks if they're caring for a new child or ailing parent, parent-in-law, grandparent, domestic partner or spouse. It is scheduled to begin on Jan. 1.

Qualifying workers will receive two-thirds of their weekly wages for up to four weeks and an employer can run the temporary caregiver leave time concurrent with FMLA and Rhode Island Family Leave. The four weeks is job protected. The program will be funded by employee contributions.

The Act can be reviewed by visiting [here](#).

Tennessee

Military Leave

Effective July 1, 2013

Tennessee Code Annotated, Section 8-33-109

Employer are required to provide members of reserve components, after they have used the 20 working days of paid military leave, up to five days of sick leave in lieu of annual leave. This is to provide members of the reserves time without having to take leave without pay. Such leave applies to members of a reserve component of the U.S. Armed Forces, including members of the Tennessee army and air national guard.

The law can be reviewed by visiting [here](#).

Vermont

Voting Leave Amended

Effective July 1, 2013

VE Statutes Annotated at Title 21

In Vermont, subject to the essential business operations of a business or government entity, an employee already has the right to take an unpaid leave of absence from work in order to attend his or her annual town meeting, provided the employee gives the employer at least seven days' notice prior to the meeting. This law is amended to now provide general protections against discharge or retaliation.

The law can be reviewed by visiting [here](#).

Washington

Paid Family Act - Delayed

Effective July 3, 2013

RCW 49.86.030

The State of Washington has enacted a law delaying the implementation of the family leave insurance program until funding and payment of benefits are authorized in law.

The October 1, 2015, implementation date for family leave insurance benefits is removed. Family leave insurance benefits will become payable when the Legislature has specifically appropriated funding and enacted an implementation date.

The law can be reviewed by visiting [here](#).

Federal Legislative Tracking into 2014

Federal Proposed Changes to Watch

The Family and Medical Insurance Leave Act H.R. 3712

Rep. DeLauro and Sen. Gillibrand

Introduced: December 12, 2013

The Family and Medical Insurance Leave Act (The FAMILY Act) of 2013 would create a national family and medical leave insurance program to provide workers with a portion of their wages for a limited period of time (up to 60 workdays, or 12 weeks in a year) to address their own serious health condition, including pregnancy or childbirth; to deal with the serious health condition of a parent, spouse, domestic partner or child; to care for a new child; and/or for specific military caregiving and leave

purposes.

The FAMILY Act would create an independent trust fund within the Social Security Administration to collect fees and provide benefits. This trust would be funded by employee and employer contributions of 0.2 percent of wages each.

The proposal makes leave available to every individual regardless of the size of their current employer and regardless of whether such individual is currently employed by an employer, self-employed or currently unemployed, as long as the person has sufficient earnings and work history.

The Act can be reviewed [here](#).

State Proposed Changes to Watch

Same-Sex Marriage Defense of Marriage Act

As of January 2014, seventeen states have legalized same-sex marriage. California, Connecticut, Delaware, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, New Mexico, New York, Rhode Island, Vermont, and Washington, as well as the District of Columbia. The Illinois law will not become effective until June 1, 2014.

In addition, Oregon recognizes same-sex marriages performed in other states. In December 2013, a federal court declared Utah's ban on same-sex marriage unconstitutional, and more than 900 same-sex marriages took place immediately following the ruling. However, on January 6, 2014, the United States Supreme Court stayed the ruling pending further appeals.