



## Summary of Leave Law Changes

Private Employer Sector

For the period covering: June 2013



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## Table of Contents

Federal .....	3
Supreme Court’s DOMA Decision and the Impacts on FMLA .....	3
Connecticut .....	4
Military Leave– Passed.....	4
Maryland.....	5
Pregnancy Discrimination – Passed.....	5
Massachusetts.....	6
Family and Medical Leave – Proposed.....	6
Michigan .....	7
Family Military Leave – Proposed.....	7
Minnesota .....	8
Family Medical and Parental Leave Expansion- Passed.....	8
New York .....	9
New York City Paid Sick Leave – Update .....	9
Oregon .....	10
Domestic Violence Leave Expansion – Passed .....	10
Pennsylvania .....	11
Paid Family Leave - Proposed.....	11
Tennessee .....	12
Military Leave - Passed .....	12

**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.**

## Federal

### Supreme Court's DOMA Decision and the Impacts on FMLA

#### ***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 Court did not address when its decision to repeal Section 3 of DOMA is effective and employers are left with many questions about how to bring their programs into compliance. Many answers will certainly require agency guidance.

Arguably, due to a Supreme Court rule that allows a 25 day period to request a rehearing on the decision, the first effective day would be July 22. However, some agencies are trying to determine whether a retroactive effective date would apply.

Although future guidance will clarify what employers should be doing, employers should begin to analyze what policy changes will be needed.

**So what does this mean for FMLA?** Specific to leave law administration, prior to Section 3 being ruled unconstitutional, same-sex married couples were not entitled to care for a seriously ill spouse and certain family military provisions available to opposite-sex spouses under FMLA. The Court's decision has now removed the distinction between same-sex and opposite-sex marriages for FMLA. However, states are still free to hold the distinction.

Lawfully married same-sex spouses who live in a state where same-sex marriage is recognized will be entitled to the same FMLA entitlements as opposite-sex spouses. This includes up to 12 weeks in a 12 month period to care for a seriously ill spouse, for activities that arise in connection with a military spouse's deployment, and up to 26 weeks of military caregiver leave for a military spouse who is seriously injured or ill. For same-sex spouses working for the same employer, the combined 12 week leave provision when leave is taken for a seriously ill child or parent would apply.

As more information on this decision and its impacts on leave administration become available, Sedgwick will provide additional updates.

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

## Connecticut

### Military Leave— Passed

*SB 835, Public Act 13-49; Effective October 1, 2013.*

Starting October 1, 2013, Public Act 13-49 extends 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 Marine Corps branch of the naval militia.

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

## Maryland

### Pregnancy Discrimination – Passed

*SB 784. Effective October 1, 2013.*

Starting October 1, 2013, 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 Act can be reviewed by visiting [here](#).

## Massachusetts

### Family and Medical Leave – Proposed

*HB 1740. Modified 6/26/2013. Representative: Koczera.*

If passed, HB 1740 would require employers provide unpaid family and medical leave similar to the Family Medical Leave Act (FMLA). The law would cover employers who employ 20 or more employees for each working day during each of 20 or more calendar workweeks. If passed, the leave would not affect any bargaining agreement or company policy which provides employees with greater or additional benefits than those required by the leave.

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

## Michigan

### Family Military Leave – Proposed

*SB 448. Introduced: 6/20/2013. Representative: Gregory.*

If passed, SB 448 would provide family military leave from employment for the spouse of an individual deployed in active military service during periods of military conflict. All employers who employ 15 or more employees, including the state and a unit of local government would be required to provide such leave to an eligible employee. An employee would be eligible once they worked an average of 20 or more hours per week for an employer under an express or implied contract of hire, but does not include an independent contractor.

An employer would be required to provide an employee up to the lesser of 20 days or 160 hours of family military leave per deployment during a period of military conflict if all of the following conditions are met:

1. The employee has been employed by the employer for at least 12 months and for at least 1,250 hours during the immediately preceding 12 months,
2. The employee is the spouse of an individual who is a member of the armed forces of the United States or a member of 1 of the reserve components of the armed forces of the United States who is called into active duty in the armed forces of the United States,
3. Within 5 days after the employee receives official notice of an impending call to active duty or of a leave from deployment, the employee gives notice to the employer that the employee intends to take family military leave.

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

## Minnesota

### Family Medical and Parental Leave Expansion- Passed

*S.B. 840. Effective: August 1, 2013.*

Effective August 1, 2013, the state will be more lenient in how employees use their personal sick leave benefits. 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](#).

## New York

### New York City Paid Sick Leave – Update

*Int. No. 97-A. Effective April 1, 2014.*

Lawmakers overrode a veto by Mayor Michael Bloomberg to pass the Earned Sick Time Act for New York City, which will require businesses to offer paid sick leave for their workers. The 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
- 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 Act also permits employers to require reasonable notice and reasonable documentation in certain circumstances.

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

## Oregon

### Domestic Violence Leave Expansion – Passed

*H.B.2903. Effective January 1, 2014.*

Starting January 1, 2014, part-time and new employees will be 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 bill can be viewed by visiting [here](#).

## Pennsylvania

### Paid Family Leave - Proposed

*SB 962. Proposed: 5/30/2013. Representative: Leach.*

If passed, SB962 would provide for paid family and medical leave for eligible employees under certain circumstances and for regulations by the Department of Labor and Industry.

An eligible employee has the same meaning as defined under the Family Medical Leave Act (FMLA). An employer must provide not less than 12 weeks of paid leave to an eligible employee to care for the child during the period extending from the beginning of a pregnancy to one year after the birth, adoption or placement of the child.

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

## Tennessee

### Military Leave - Passed

*SB 667. Effective July 1, 2013.*

SB667 requires employers 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 bill can be reviewed by visiting [here](#).