



Summary of Leave Law Changes

Private Employer Sector

For the period covering: November 2013



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.

Federal

Veterans Day Off Leave – Proposed

US HR 3368. Modified: November 1, 2013. Sponsor: Braley

If passed, US HR 3368 would require employers to provide veterans with time off on Veterans Day. An employee would be eligible after working 12 months with the employer. The leave would be unpaid and could only be denied by an employer if it would impact public safety or cause the employer significant economic injury.

The Act would make it unlawful for any employer to interfere with, restrain, or deny the taking of or the attempt to take, any leave provided under the Act. In addition, it would be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this Act.

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

California

Crime Victims Leave – Passed - Reminder

SB 288. Effective: January 1, 2014. Sponsor: Lieu

Starting January 1, 2014, SB 288 will prohibit an employer 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.

Specifically, SB 288 would prohibit discrimination against victims of felonies including child abuse, domestic violence, physical abuse of the elderly or a dependent adults, sexual assault, and solicitation for murder.

Employees must provide the employer with reasonable notice in advance of taking time off, unless advanced notice is not feasible. Take note that the employee need not be called to testify or otherwise be required to attend the hearing to be protected.

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

Victim of Domestic Violence Leave – Passed - Reminder

SB 400. Effective: January 1, 2014. Sponsor: Jackson

SB 400 amends the Victims of Domestic Violence, Sexual Assault and Stalking Leave provisions related to employment laws. Existing law provides protections to victims of domestic violence or sexual assault and prohibits an employer from taking adverse employment action against an employee that is a victim.

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 bill would create 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](#).

District of Columbia

Organ Donation Leave – Proposed

DC B.40. Modified: November 2, 2013. Representative: Barry

DC B.40, also known as the “Organ Donors Save Lives Act of 2013”, would provide a tax credit for individuals who donate their organs, up to a certain amount related to live organ donation. In addition any leave taken would qualify as medical leave under the District of Columbia Family and Medical Leave Act of 1990 (DCFML).

If passed, the Act would become effective January 1, 2014. At that time an individual taxpayer could claim a nonrefundable credit against taxes for live organ donation expenses incurred during the tax year for which the live organ donation occurs in an amount up to \$25,000.

Specific to a leave of absence, any employee who becomes unable to perform the functions of the employee's position because of a serious health condition, or because he or she makes a live organ donation, shall be entitled to medical leave for as long as the employee is unable to perform the functions. The medical leave would be limited to 16 workweeks during any 24-month period and could be taken intermittently when medically necessary.

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

Hawaii

Same Sex Marriage – Passed

SB 1. Effective: December 2, 2013. Representative: Galuteria

Hawaii Governor Neil Abercrombie has signed into law a bill that will legalize marriage for same-sex couples in the State of Hawaii. The Governor signed SB 1, the “Hawaii Marriage Equality Act,” in a ceremony at the Hawaii Convention Center on November 13, 2013.

This new law recognizes marriages between individuals of the same sex and extends to same-sex couples the same rights, benefits, protections, and responsibilities of marriage that opposite-sex couples receive.

The new law takes effect on December 2, 2013. Hawaii is now the 15th state in the nation to fully embrace marriage equity.

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

Illinois

Same Sex Marriage – Passed

SB 10. Effective: June 1, 2014. Representative: Cullerton

Illinois Governor Pat Quinn signed legislation making Illinois the 16th state in the nation to embrace full marriage equality. The legislation permits all couples in the state to receive the rights and protections of marriage.

SB 10 requires that all Illinois laws pertaining to civil marriage must apply equally to all couples. The law will guarantee equal access to status, benefits, protections, rights and responsibilities for all couples entering into marriage and their families. The law also allows the voluntary conversion of a civil union to a marriage and protects the religious freedom of churches, mosques, synagogues, temples and other religious organizations.

The law takes effect on June 1, 2014.

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

New York

New York City Pregnancy Discrimination Amendment – Passed

Int. No. 974-A. Effective: January 30, 2014. Representative: Vacca.

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](#).

Oregon

Portland City Sick Time Ordinance –Update and Reminder

Chapter 9.0- Protected Sick Time. Effective: January 1, 2014

On November 1, 2013, the City Attorney’s office published Administrative Rules to help implement Portland’s new Sick Leave Ordinance. Under the ordinance, beginning January 1, 2014, private-sector employers doing business in Portland that have six or more employees will be required to provide qualifying employees with a minimum of one hour of paid sick leave for every 30 hours of work performed by the employee.

An employee’s sick time use may run concurrently with other leave under federal or state law (e.g., OFLA or the federal Family and Medical Leave Act). Additionally, except for PTO, unless allowed by the employer, an employee cannot use sick time while on any other paid leave, e.g., sick time cannot be used while receiving workers’ compensation benefits.

The Administrative Rules, templates and workplace posters can be viewed by visiting [here](#).

Wisconsin

Pregnancy Discrimination –Proposed

SB 401. Proposed: November 11, 2013. Representative: Harris

SB 401, if passed would require an employer explore with an employee who requests a reasonable accommodation because of pregnancy, childbirth, or a related condition that is known to the employer, including lactation, all possible means of providing the reasonable accommodation. The review would include changing the employee's job responsibilities, changing the employee's work hours, relocating the employee's work area, providing mechanical or electronic aids to the employee, transferring the employee to a less strenuous or less hazardous job, or, subject to the prohibition against requiring an employee to take leave, providing family, medical, or any other type of leave to the employee.

The bill provides that employment discrimination on the basis of sex includes all of the following:

1. Refusing to reasonably accommodate any condition, unless the employer can demonstrate that the accommodation would pose a hardship on the employer's program, enterprise, or business.
2. Requiring an employee to take family, medical, or any other type of leave as a reasonable accommodation of an employee's inability to adequately undertake the job-related responsibilities of a particular job because of pregnancy, childbirth, or a related condition that is known to the employer, including lactation, unless the employer can demonstrate that permitting the employee to remain at work would pose a hardship on the employer's program, enterprise, or business.

Further, the bill would require an employer, on the request of an employee for a transfer to a less strenuous or less hazardous job as a reasonable accommodation, to transfer the employee for a period up to the duration of the employee's inability to adequately undertake the job-related responsibilities of a particular job if:

1. the employer has a policy or practice, or is subject to a collective bargaining agreement, authorizing or requiring the transfer of an employee with a temporary disability to a less strenuous or less hazardous job for the duration of the disability; or
2. the employer can provide the transfer without having to create additional employment that the employer would not have created otherwise, discharge any employee, transfer any other employee with more seniority than the employee requesting the transfer, or promote to a particular job any employee who is not qualified to perform the job.

Finally, the bill requires an employer, on the request of an employee for a reasonable accommodation due to the need to express breast milk for a nursing child, to explore with the employee all of the following possible means of providing that reasonable accommodation:

1. providing the employee with a reasonable break time to express breast milk;
2. providing a private place, other than a bathroom, that is shielded from view and free from intrusion by coworkers and the public where the employee may express breast milk; and
3. providing the employee with access to an electrical outlet, running water, and a refrigerator for the storage of breast milk.

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