



## Summary of Leave Law Changes

Private Employer Sector

For the period covering: March 2014



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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.

## California

### Family Leave Amendments – Proposed

*Notice of Proposed Amendments: February 27, 2014.*

As previously announced by the Fair Employment and Housing Council (DFEH Council), DFEH released proposed regulations to amend sections 11087 to 11098 of Title 2 of the California Code of Regulations (“Family Care and Medical Leave”). The proposed regulations are intended to clarify some aspects of the existing regulations and adopt many of the recent amendments to the federal FMLA regulations to make the two acts more consistent.

Some clarifications to the proposed regulations include making clear that same-sex spouses are covered under CFRA and that the FMLA regulations apply to CFRA leave "to the extent not inconsistent" with the CFRA regulations. In addition, the proposed regulations require a California employer to maintain the employee's group health benefits for the whole leave time period (and not just up to 12 weeks).

Additional information, including the proposed amendment text can be viewed on the DFEH [website](#) and by viewing the following:

[Notice](#) of Proposed Amendments

[Text](#) of the Proposed Amendments

No proposed effective date has been released at this time. DFEH will review the proposed regulations after considering all comments, objections, and recommendations regarding the proposed action. However, employers covered by CFRA should carefully review the proposed regulations and consider whether to submit comments and/or proposed revisions. There is a public comment period through June 2, 2014.

Comments can be submitted via email to [FEHCouncil@dfeh.ca.gov](mailto:FEHCouncil@dfeh.ca.gov). There will be two public hearings on the proposed amended regulations: 10:00 a.m. on April 7, 2014 at UC Irvine School of Law, and 10:00 a.m. on June 2, 2014 at the California Public Utilities Commission Main Auditorium in San Francisco.

Additional information can be found on the DFEH website [here](#).

## District of Columbia

### Safe and Sick Act – Passed

*Passed and Effective February 22, 2014. Delayed enforcement until October 1, 2014.*

The District of Columbia's Accrued Sick and Safe Leave Act of 2008 has been amended to expand the definition of employees to give protection to additional types of workers and clarify those who are excluded.

The Act amends and expands both the definition of "employee" and "employer." Under the 2008 law, the term "employee" referred only to an individual who had been continuously employed by the same employer for one year and had worked at least 1,000 hours in the 12 months immediately preceding a request for leave. The Act eliminates both requirements, while expanding the definition of "employer."

Under the new definition, an "employer" is any entity that exercises control over a workers' wages, hours, or working conditions directly or indirectly or through an agent or any other person, including through the services of a temporary services or staffing agency or similar entity. The net result of this change is the expansion of leave eligibility to a larger group of employees.

The Act ultimately expands sick and safe leave to tipped restaurant and bar employees, a group that is currently excluded from receiving accrued paid leave.

In addition, currently, accrued but unused leave may be carried over annually, but the amount of leave that can be used in one year is limited to the maximum hours the employee could earn in a year. The Act deletes these provisions as well as the provision that unused accrued paid leave is not paid out on termination.

The Act became effective on February 22, 2014, but DC's FY2014 budget (ending September 30, 2014) did not include funding to implement it. Because the Act will not apply until its fiscal effect is included in an approved budget and financial plan, enforcement of the new sick leave provisions is not expected to begin until DC's FY2015 budget takes effect. Although regulations are expected to be issued to address the new leave requirements, it is unclear whether they will be released before October 1, 2014.

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

## Hawaii

### Organ and Bone Marrow Donation Leave – Proposed

*HB 1233. Modified: March 21, 2014. Representative: Wakai.*

If passed, HB 1233 would create an organ and bone donation leave of absence for private employees. The leave would require certain private employers to allow employees to take leaves of absence for organ, bone marrow, or peripheral blood stem cell donation. Unused sick leave, vacation, or paid time off, or unpaid time off, may be used for these leaves of absence.

Employers would be required to restore an employee returning from leave to the same or equivalent position and be prohibited from discharging, fining, suspending, disciplining, or in any other manner discriminating against an employee who used the leave.

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

## Minnesota

### Sick and Safety Leave – Proposed

*SB 2006. Proposed: February 27, 2014. Representative: Wiklund.*

If passed, SB 2006 would provide for a sick and safety leave. Employers would have to permit employees to use sick leave for assistance to the employee or assistance to the employee's relatives because of sexual assault, domestic assault or stalking.

An employee may use sick leave as allowed under this section for safety leave, whether or not the employee's employer allows use of sick leave for that purpose for such reasonable periods of time as the employee's assistance may be necessary. Safety leave may be used for assistance to the employee or assistance to their relatives. For the purpose of this regulation, "safety leave" is leave for the purpose of providing or receiving assistance because of sexual assault, domestic abuse, or stalking.

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

## New Jersey

### Family Leave Insurance – Proposed

*SB 2944. Proposed: March 24, 2014. Representative: Andrzejczak.*

If passed, SB 2944 would provide family leave insurance for certain first responders. This bill provides a first responder, who has a family member, who was also a first responder for the same entity, and who was killed in the line of duty, with up to 52 weeks of paid family leave to be taken within 24 months of the incident.

First responders are defined under the bill as a law enforcement officer, paid firefighter, paid member of a duly incorporated first aid, emergency, ambulance, or rescue squad association, or any other individual who, in the course of employment, is dispatched to the scene of a motor vehicle accident or other emergency situation for the purpose of providing medical care or other assistance.

If passed, family leave insurance benefits would provide compensation equal to 66 2/3% of the individual's average weekly wage, up to a maximum per week. The program would be administered by the NJ Department of Labor.

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

## New York

### Family Leave Benefits – Proposed

*SB 4742. Modified: March 20, 2014. Representative: Addabbo.*

If passed, SB 4742 would set up workers' compensation benefits for injury or sickness, pregnancy or family leave. Eligible employees would be able to take paid family care.

Family care as defined would mean any leave taken by an employee from work:

1. To participate in providing care, including physical or psychological care, for a family member of the employee made necessary by a serious health condition of the family member or;
2. To bond with the employee's child during the first 12 months after the child's birth, or the first 12 months after the placement for adoption or foster care;
3. Because of a qualifying exigency as interpreted under FMLA;
4. And adding domestic partner relationship.

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

## Washington

### **Domestic Partnership Notice – Passed**

*SB 6239. Modified: March 20, 2014. Representative: Addabbo.*

On June 30, 2014, many, but not all, state registered domestic partnerships will be converted to marriage under state law.

In 2012, a new [law](#) was passed, setting out specific criteria for which state registered domestic partnerships are to be converted and which are not. While the Secretary of State's Office is responsible for filing state registered domestic partnerships, it is the Department of Health that is responsible for the conversion to marriage.

Details regarding how the domestic partner rules will change, the rules that apply, and the notices can be viewed by visiting [here](#).

## Wisconsin

### **Paid Family Leave – Proposed**

*AB 894. Proposed: March 27, 2014. Representative: Pope.*

Under current law, an employer, including the state, employing at least 50 individuals on a permanent basis in this state, must permit an employee who has been employed by the employer for more than 52 consecutive weeks and who has worked for the employer for at least 1,000 hours during the preceding 52-week period to take six weeks of family leave in a 12-month period. Family leave may be taken for the birth or adoptive placement of a new child or to care for a child, spouse, domestic partner, or parent who has a serious health condition.

This bill creates a family leave benefits program, to be administered by the Department of Workforce Development (DWD), under which an employee who is on family leave is eligible to receive family leave benefits from the family leave benefits trust fund created under the bill fund. The benefit would be calculated in the amount of two-thirds of the employee's average weekly earnings, subject to a maximum of 53 percent of the state's average weekly earnings as of June 30 of the previous year, or, for a fractional week, one-seventh of the employee's weekly benefit amount multiplied by the number of days of family leave taken that week.

An employee is not entitled to receive wages or salary while taking family leave, but may substitute, for portions of family leave, other types of paid or unpaid leave provided by the employer. The family leave benefit program would be administered by the DWD.

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