

# Mandatory Employee Leave:

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## An In-Depth Analysis of State and Local Laws

October 2019



# What We'll Cover

- What are the different kinds of leave
- What are the major leave laws under federal law
- What are the state and local mandated leave laws
- Why offering leave is good for business even if not legally required to do so
- How to administer employee leave
- Special notification considerations

# Types of Leave

- Family and medical
- Sick
- Paid time off
- Military/veterans
- Voting and election officials
- Domestic violence
- Bereavement
- And more

# Major Federal Laws

- FMLA
- ADA
- USERRA
- Pregnancy Discrimination Act
- EEO laws protecting religious activities

# Family and Medical Leave Act

- Allows eligible employees to take time off from work for certain medical conditions and family obligations
- Applies to private employers with 50+ employees and public employers
- To be eligible, employees must have worked for a covered employer for a total of 12 months, with a minimum of 1250 hours worked in the last 12 months prior to leave, and work at a location with at least 50 employees within a 75-mile radius
- Leave can be taken for birth or placement of a child, for a serious health condition, or to care for a family member with a serious health condition
- Leave may be unpaid

# Americans with Disability Act

- Prohibits discrimination against qualified individuals with disabilities
- Applies to businesses with 15+ employees
- Under the ADA, employers have a duty to accommodate
  - Reasonable accommodation may include a leave of absence even if the leave exceeds the 12 weeks required by the FMLA
- Leave may be unpaid

# Uniformed Services Employment and Reemployment Rights Act

- USERRA protects members of the military from discrimination
- USERRA requires leave for military service
- Applies to nearly all employers regardless of size
- Leave may be unpaid

# Pregnancy Discrimination Act

- Prohibits employers from discriminating based on pregnancy, childbirth or related medical conditions
- Pregnant employees must be permitted to work as long as they can perform their jobs
- Employers are required to grant leave in the same manner as they would with any other disability or medical issue



# EEO Laws Protecting Religious Activities

- Employers must reasonably accommodate employees' sincerely held religious beliefs unless doing so would pose an undue hardship on the business
- Reasonable accommodations may include flexible scheduling, voluntary shift swaps, and time off for sincerely held religious beliefs

# State and Local Laws

- Sick leave
- Family and medical leave
- Paid time off for any reason
- Military/veterans leave
- Bereavement
- Jury duty
- Court cases
- Voting and election officials
- Domestic violence
- Emergency responders
- Blood, bone marrow and organ donation
- School activities

# Sick Leave Laws

- Laws vary
  - Amount of leave required
  - Accrual rate
  - How leave can be used
  - Carry-over
- Time off may be paid or unpaid depending on the applicable law and/or size of employer
- States include: Arizona, California, Connecticut, Maryland, Massachusetts, Michigan, New Jersey, Oregon, Rhode Island, Vermont and Washington
- Kin Care laws

# State/Local Family and Medical Leave Laws

- Laws vary
  - Coverage and eligibility requirements
  - Amount of required leave allowed
  - Reasons for taking leave
- Time off may be paid or unpaid depending on the applicable law
- States include: California, Connecticut, Hawaii, Maine, Massachusetts, Minnesota, New Jersey, New York, Oregon, Rhode Island, Vermont, Washington, Wisconsin and \*District of Columbia
- Adoption laws, parental leave, pregnancy disability leave

# Paid Time Off Laws

- New trend requiring employers to provide paid time off for any reason
- Laws vary
  - Accrual rate
  - Amount of time available to take
- States that have passed required paid time off
  - Nevada — effective January 1, 2020
  - Maine — effective January 1, 2021

# Military and Veterans Leave Laws

- Provides protections for employees to take time off to fulfill military obligations
- Laws vary
- Almost every state has some form of state-specific military leave law
- Generally, military laws only require unpaid leave
- States include: Iowa, Louisiana, Maine, Massachusetts, New Hampshire and Oregon

# Bereavement Laws

- Provides protections for employees who need time off to grieve lost loved ones
- Laws vary
- Time off may be paid or unpaid depending on the applicable law
- States include: Illinois and Oregon

# Jury Duty Laws

- Provides protections for employees who need to take time off for jury duty
- Laws vary
- Amount of time off will be dictated by the length of jury duty
- Every state except Montana has jury duty laws that give at least equal rights as federal law
- Time off may be paid or unpaid depending on the applicable law



# Time Off for Court Cases

- Provides protections for employees who need to take time off to attend court proceedings
- Laws vary
- Time off may be paid or unpaid depending on the applicable law
- Over half of the states have laws protecting time off for court cases

# Voting and Election Officials Leave Laws

- Provides protections for employees to take time off to vote and to work as an election official on election day
- Laws vary
- Time off may be paid or unpaid depending on the applicable law
- More than half of the states have voting leave laws
- States with election official leave laws include: Alabama, California, Delaware, Illinois, Kentucky, Minnesota, Nebraska, North Carolina, Ohio, Virginia and Wisconsin

# Domestic Violence Leave Laws

- Provides protections for employees who are victims of domestic violence and/or sexual assault and need to take time off for specific reasons such as seeking medical treatment, attending court proceedings, relocating, etc.
- Laws vary
- Time off may be paid or unpaid depending on the applicable law
- Over half the states have these types of law

# Emergency Responders Leave Laws

- Provides protections for employees who need to take time off in conjunction with their duties as emergency responders
- Laws vary
- Time off may be paid or unpaid depending on the applicable law
- More than half the states have emergency responder laws

# Blood, Bone Marrow and Organ Donation Leave Laws

- Provides protections for employees to take time off to donate blood, bone marrow or organs
- Laws vary
- Time off may be paid or unpaid based on the applicable law
- States include: California, Connecticut, Hawaii, Illinois, Louisiana, Maine, Maryland, Minnesota, Nebraska, New York, Oregon, South Carolina and Washington

# School Activities Leave Laws

- Provides protections for employees who need to take time off to attend certain school activities for their children
- Laws vary
- Time off may be paid or unpaid depending on the applicable law
- States include: California, Illinois, Louisiana, Massachusetts, Minnesota, Nevada, New Jersey, North Carolina, Oregon, Rhode Island, Tennessee and Vermont

# Benefits of Time Off from Work

- Improved morale
- Improved health
  - Reduces stress
  - Improves mental health
- Improves productivity
  - Increases focus
  - Decreases burnout
- Decreases absenteeism

# Administering Leave

- Have clear policies
- Document all absences
- Train managers
- Be consistent



# Special Notification Considerations

- Written policies
- Required postings
- Mandatory employee notifications

# ComplyRight HR Solutions



Company Policies

- Over 100 state-specific policies
- Attorney-written
- Recommended list of policies all businesses should have
- Always up-to-date and compliant
- Editable content
- Easily publish and share with employees via e-mail

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