

State Coronavirus Leave Efforts

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This content is not to be considered legal advice. We recommend Clients speak with legal counsel specializing in labor and employment law to ensure your organization meets requirements.

California

California Statutory Paid Leave

- **Disability Insurance:** CA Statutory Disability Insurance is available for EE who is subject to medical quarantine or illness related to COVID-19 that ***is certified by medical professional or individualized quarantine order.***
 - Governor Newsom ***waived one-week waiting period.***
- **Paid Family Leave:** CA Paid Family Leave is available if EE is unable to work because caring for ill or quarantined family member because of COVID-19 that ***is certified by medical professional or individualized quarantine order.***
- **Paid Sick Leave:** CA Paid Sick Leave is available if EE or a family member is sick or for preventative care when civil authorities recommend quarantine.

Los Angeles Supplemental Paid Sick Leave Law

- Supplemental Paid Sick Leave law requires *all ERs w/500 or more EEs in LA or 2,000 or more EEs in US to provide at least 2 weeks of additional paid COVID-19-related leave through December 31, 2020* with a cap of \$511 per day and \$5,110 in aggregate.
- Is in addition to all leave except FFCRA paid sick leave
- Available for:
 1. EE takes time off because of public health official (PHO) or HCP requiring or recommending that EE isolate or self-quarantine to prevent spread of COVID-19
 2. EE takes time off work because EE is ≥ 65 years and has underlying health condition
 3. EE takes time off work because EE needs to care for family member who is not sick but who PHO or HCP have required or recommended isolation or self-quarantine
 4. EE takes time off work to care for family member whose senior care provider or school or child care provider caring for child under age 18 temporarily ceases operations in response to public official recommendation.
- Exemptions, including emergency personnel, critical parcel delivery EEs, and ERs that offer 160 hours or more paid leave annually
- No documentation can be required
- Effective 4/10/20

San Francisco Public Health Emergency (PHE) Leave

- Board of Supervisors passed on 4/7/20 – awaiting Mayor signature
- Private ERs with ≥ 500 EEs must provide paid leave during COVID-19 PHE
- To be in effect until 61st day after enactment or PHE ends, whichever occurs first
- Covers EEs that perform 56 or more hours of work in SFO in 365 days immediately preceding law's effective date.
- Includes full and part-time employees.
- ER can exempt a health care provider or emergency responder
- Must provide amount of leave that would be required under FFCRA at full pay
- ERs can offset amount of PHE leave by employer-sponsored paid leave provided on or after 2/25/20 for same reasons
- Covered uses:
 - EE being subject to individual or general federal, state or local quarantine or isolation order (including shelter-in-place or caring for family member who is subject
 - EE in vulnerable population
 - EE advised by health care provider to self-quarantine or caring for family member so advised
 - EE with symptoms of COVID-19 and seeking medical diagnosis or caring for family member with same
 - EE caring for family member whose school or place of care has been closed or is unavailable

San Francisco, CA – Regular Paid Sick Leave

- EE may use Paid Sick Leave (PSL) to take time off work if:
 - Public health official (PHO) or health care provider (HCP) requires or recommends an EE isolate or quarantine to prevent spread of COVID-19.
 - EE falls within definition of vulnerable population.
 - EE's business or work location temporarily ceases operations in response to PHO recommendation.
 - EE needs to provide care for a family member whose school, childcare provider, senior care provider or work temporarily ceases operations in response to PHO recommendation.
- Prohibits ERs from asking for doctor's note or other documentation for use of paid sick leave taken during duration of Local Health Emergency due to COVID-19

San Jose Paid Sick Leave Ordinance

- Was passed by City Council on 4/7/20 and with Mayor for signature
- Provides up to 80 hours of paid leave to EEs providing essential services w/in city
- Applies to all ERs not required to provide paid leave under FFCRA
- EE must have worked at least 2 hours w/in San Jose
- Paid Sick leave not required if EE can work from home
- Previously existing ER sponsored leave can satisfy statute as long as for same reasons.
- Rate of pay is same as FFCRA with same income caps
- Paid Sick leave can be used for same reasons as FFCRA

Emeryville, California

- EE may use Paid Sick Leave (PSL) to take time off work if:
 - Public health official (PHO) or health care provider (HCP) requires or recommends an EE isolate or quarantine to prevent spread of COVID-19.
 - EE falls within definition of vulnerable population.
 - EE's business or work location temporarily ceases operations in response to PHO recommendation.
 - EE needs to provide care for a family member whose school, childcare provider, senior care provider or work temporarily ceases operations in response to PHO recommendation.

Colorado

Emergency Colorado Dep't Labor & Employment Orders

- Effective 3/11/2020 and ***amended/expanded*** on 3/26/20
- In effect for 30 days (or longer if Governor extends state of Emergency)
- ERs in leisure & hospitality, food services, childcare, education, food service, home health of high-risk individuals, nursing homes and community living facilities must provide:
 - Up to 4 calendar days of fully paid sick leave
 - To EEs with flu-like symptoms who are being tested for COVID-19
 - Expanded 3/26 to include EEs where HCP has recommended isolation or quarantine even if not being tested
 - If EE receives a negative test before end of 4 days, paid leave ends
 - ERs who already provided 4 paid sick leave days do not need to provide additional paid sick leave unless EE already exhausted paid sick time.

New Jersey

New COVID-19 Legislation – New Jersey S2304

NJ Governor signed S2304 on 3/25/20. **Effective immediately:**

1. EEs can use paid sick leave under **Earned Sick Leave** law for school or work closure because of state of emergency declared by Governor for epidemic or is quarantined, or caring for family member who is quarantined.
2. Definition of **“serious health condition”** under **NJ unpaid Family Leave Act** is expanded to include epidemic-related absences where **healthcare provider (HCP) or public health authority has determined that presence of family member in the community is dangerous** and the HCP or authority has ordered family member to be isolated or quarantined.
 - ✓ **Does not apply** for an **employee’s own** quarantine or isolation

NJ S2304 Expands Statutory Disability & Paid Family Leave

3. NJ Statutory Disability (DI) is *expanded* to include:

- *“Sickness”* for purposes of DI during an emergency declared by the Governor or by a public health authority in relation to a communicable epidemic to include a *quarantine or isolation recommendation by a health care provider or public health authority* because an EE’s presence in the community could jeopardize the health of others.
- 7 day waiting period is waived.

4. NJ Paid Family leave (PFL) is expanded to include:

- *Same as above* when the *quarantine or isolation recommendation relates to a family member* who needs in-home care or treatment

New York

Visit www.sunlife.com/nypfl for Q&A
and additional content about New York.

Amendments to NY DBL/PFL: Effective 3/19/2020

NY legislature has amended their statutory disability (NY DBL) and Paid Family Leave laws (NY PFL) to provide benefits to EEs impacted by COVID-19.

Job Protected Leave for EEs subject to mandatory or precautionary order of quarantine or isolation by NY state, or any department of health, local board of health or other government entity due to COVID-19 (“Quarantine Order”)

Employer Size	Paid Sick Days
≤10 EEs (with ≤ \$1 million net 2019 income)	0
≤10 EEs (with >\$1 million net 2019 income)	5
11-99 EEs	5
≥100 EEs & Public ERs (any size)	14

All ERs must provide job-protected unpaid leave until the end of Quarantine Order

Does ER have to provide these paid sick days for each Quarantine Order?

Special COVID-19 NY DBL & NY PFL Benefits

After the paid sick leave for COVID-19, EE can file for ***both NY DBL and NY PFL at the same time.***

Law ***changes definition of disability*** to include inability of EE to work during a Quarantine Order and when an EE has exhausted all Paid Sick Leave provided under Act (on prior slide)

- This eliminates the waiting period for EEs at ERs with 10 or fewer EEs and less than \$1,000,000 in net income

Law ***also changes “family leave”*** to mean:

- any leave taken by EE from work when subject to Quarantine Order **or**
- to care for minor dependent child of EE who is subject to Quarantine Order

The expanded NY DBL and expanded NY PFL only apply to private ERs with < 100 EEs

Amount of COVID-19 related NY DBL & PFL Benefit

NY DBL/NY PFL	Current Max. Weekly Benefit	COVID-19 Weekly Max. Benefit
NY DBL	\$170/week	\$2,043.92/week
NY PFL	\$840.70/week	\$ 840.70/week
Total	Not allowed to receive both	\$2,884.62

EEs who are asymptomatic or not yet diagnosed with any medical condition and are physically able to work during Quarantine Order whether remotely or otherwise are NOT eligible



If EE is eligible for federal paid COVID-19 leave, EE cannot get special NY COVID-19 benefits – except as a “top up”



A Quarantine Order is sufficient proof of disability or need for PFL



Potential Issues under NY COVID-19 Laws

- How do you measure size of ER?
 - ✓ NY Worker's Compensation Board (WCB) has said all employees, not just those in NY
- The COVID-19 Paid Sick Leave **only** applies if **an EE is subject to a Quarantine Order**.
 - ✓ Paid Sick Leave **not available** to care for child or others subject to Quarantine Order
 - Must be Quarantine Order that applies to EE
 - EE may be able to get personal Quarantine Order if child has Quarantine Order
 - ✓ Paid Sick Leave is **not available** if EE has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 **if there is no individualized Quarantine Order**
 - EE can get attestation from HCP and has 30 days to get Quarantine Order

Potential Issues under NY COVID-19 Laws

- Quarantine or Isolation Order has **very narrow definition**
 - ✓ Must be issued by NY State Department of Health or Local Health Department.
 - ✓ ***If EE cannot get order, can submit Attestation from treating health care provider but must submit actual order within 30 days.***
- **Mandatory Isolation:**
 - ✓ Individual has tested positive for COVID-19 **or**
 - ✓ Testing is unavailable but individual is symptomatic and had contact with known COVID-19 case
- **Mandatory Quarantine:**
 - ✓ Individual has been in close contact with someone who tested positive for COVID-19 or is currently in mandatory isolation **or**
 - ✓ Individual is symptomatic and has returned w/in 14 days from level 2, 3, or 4 COVID-19 risk rated country
- **Precautionary Quarantine:**
 - ✓ Individual is asymptomatic and has returned w/in 14 days from level 2, 3 or 4 COVID-19 risk rated country **or**
 - ✓ Individual has been determined to have had proximate exposure with someone who tested positive for COVID-19

NY Paid Sick Leave – broader than COVID-19



- On April 2, 2020, Governor Cuomo approved a regular Paid Sick Leave law that will be effective on September 30, 2020.
- Employees begin accruing paid sick leave on 9/30/20 but leaves do not begin until January 1, 2021.

New York City

- New York City has issued guidance on use of NYC Earned Sick and Safe time. This leave may be used:
 - If EE feels ill or shows symptoms of COVID-19
 - EE gets tested for flu or COVID-19
 - EE is under quarantine or self-isolating for preventative purposes
 - EE is caring for family member under precautionary order of quarantine
 - When a public official closes business temporarily due to a public health emergency
 - When a public official closes EE's child's school or childcare provider due to public health emergency
- Quarantine Order not required

Westchester County Paid Sick Leave

- Paid sick leave may be used:
 - If EE's workplace closes due to a public health emergency
 - If the EE's child's school or childcare facility closes due to a public health emergency

Oregon

Oregon temporarily expands Family Leave Act

- Oregon Bureau of Labor & Industries issued rules temporarily expanding the Oregon Family Leave Act (OFLA) to cover:
 - An absence to care for EE's child whose school or place of care has been closed in conjunction with a statewide public health emergency declared by a public health official
 - Governor Brown has ordered K-12 schools closed through 4/28/2020

Rhode Island

Rhode Island Temporary Disability Insurance (TDI) and Temporary Caregiver Insurance (TCI)

- For COVID-19 related claims, RI will waive 7-day minimum amount of time that claimants must be out of work to qualify for TDI/TCI benefits.
- For individuals under quarantine, RI will waive required medical certification and allow temporary qualification by self-attestation that they are/were under quarantine due to COVID-19.

Washington, D.C.

D.C. expanded unpaid FMLA Act

- Creates new Declaration of Emergency Leave
 - EEs who cannot work due to “circumstances giving rise to public health emergency”. Includes at a minimum:
 - ✓ COVID-19 government-mandated quarantine or isolation OR
 - ✓ If government or medical professional recommends EE self-quarantine or isolate
- Applies to ERs of all size
- Applies to all EEs – no length of service or hours worked required
- Duration is for period of Public Health Emergency
- Effective for 90 days (subject to extension)
- The government-mandated quarantine or isolation order does not appear to need to be individualized (regulations may clarify)

COVID-19 Emergency COVID-19 Sick Leave

- Passed by Council on 4/7/20
- Provides emergency paid leave if EE cannot work because of COVID-19 public health emergency
- Applies to ERs with 50 to 499 EEs
- Excludes health care providers
- Pay is greater of regular rate of pay or D.C. minimum wage
- EE must have been employed for at least 15 day
- ER can require EE to first exhaust other paid leave
- ER must provide up to 80 hours for full time EEs/prorated for part time
- No certification requirements permitted unless EE uses at least 3 consecutive days of leave
- IF ER does not continue health insurance coverage, ER may not require certification

Other State/Local
COVID-19 legislation
and orders
(proposed and
enacted)

Examples of Other Proposed/Adopted Legislation

State/City	Proposal	State City	Proposal
CA AB 2887 Proposed	Amends Paid Sick Leave (PSL) law to provide EE with paid sick days for immediate use in public health emergency (PHE)	MN HB 4414 Proposed	Permits kin care benefits when EE or EE's family member in quarantine or isolation or for business or school closure due to communicable disease
CA AB 3123 Proposed	Prohibits retaliation for cooperating with quarantine/isolation order; Permits use of PSL if place of business is closed due to PHE or if EE's child's school is closed for PHE	MN HB 3532/ SB 4194 Proposed	Amends quarantine leave statute to provide increased protections for quarantined workers, including option to work from home
CA AB 3216 Proposed	Amends CFRA to make it unlawful to refuse to grant request by employee to take family and medical leave due to COVID-19	P.R. PC 1550 Proposed	Provides for 2 weeks of full salary during closure declared by Department of Health
MI HB 5701 Passed	Prohibits ERs from taking adverse action against EE who is absent from work during a declared emergency	Ohio HB593/ SB299 Proposed	Requires paid leave for EE who is unable to work due to quarantine or mandatory isolation
KY SB 282 Proposed	Requires ER to provide paid sick leave in response to COVID-19	WA Seattle CB 119754	Amends Paid Sick leave ordinance to relax provisions on using leave due to closure of school or place of care

Many legislative proposals to expand Paid Sick Leave Laws to include COVID-19 related absences

- Many *states and cities* have adopted or are proposing *expansions of paid sick leave laws* to cover various reasons for absences related to COVID-19, including:
 - School or child care closures
 - Shelter-in-place orders
 - Recommendations by health care providers or government offices regarding isolation and quarantine.
- Check your local rules and requirements
 - Legislation, Regulations, Executive or Agency Orders



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