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LEAVE AND DISABILITY REGULATORY COMPLIANCE

Summary of legislative and regulatory changes

Private employer sector | June 2023

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California: Anaheim

Ordinance No. 38015 (paid time off following incident of workplace violence)

Enacted Jun. 27, 2023

Effective Jan. 1, 2024

Informational only – Sedgwick does not administer

The city of Anaheim, California, has enacted an ordinance that requires hotel employers in Anaheim, California to provide hotel workers with personal safety devices designed to alert hotel security or managerial staff when a hotel worker reasonably believes that violent or threatening conduct or an emergency is occurring on hotel property or in the workplace and in the hotel worker's presence. The ordinance requires hotel employers, upon request, to provide reasonable accommodations to a hotel worker who has been subjected to violent or threatening conduct and to allow a hotel worker up to three hours paid time off on the date of incident of workplace violence. The paid leave must be for the purpose of reporting the conduct to law enforcement or consulting with a counselor or advisor of the hotel worker's choice. The ordinance also requires hotel employers to provide training to hotel workers and to retain records of incidents for three years.

Colorado

SB 17 (paid sick and safe leave amendments)

Enacted Jun 2, 2023

Effective Aug. 7, 2023

Informational only – Sedgwick does not administer

Colorado has amended the Healthy Families and Workplaces Act (HFWA) to expand the permissible uses for leave. In addition to the health- and safety-related reasons for which employees can take sick leave under the prior iteration of the HFWA, employees may now access paid leave for qualifying bereavement and natural disaster-related reasons.

The HFWA requires an employer to provide paid leave for the following reasons: (1) a mental or physical illness, injury, or health condition that prevents work; (2) obtaining preventive medical care (including a vaccination), or a medical diagnosis, care or treatment of any mental or physical illness, injury or health condition; (3) obtaining medical attention, mental health care or other counseling, legal or other victim services, or relocation required as a result of being a victim of domestic abuse, sexual assault or criminal harassment; (4) care for a family member who has a mental or physical illness, injury or health condition, or who needs the sort of care listed above; or (5) closure by a public official of the employee's place of business or the employee's child's school or place of care due to a public health emergency (as defined by the law), requiring the employee to care for the child.

Under these amendments, employees may also take accrued paid leave for the following reasons: (1) to grieve, attend funeral services or a memorial or deal with financial and legal matters that arise after the death of a family member; (2) to care for a family member whose school or place of care has been closed due to inclement weather, loss of power, loss of heating, loss of water or other unexpected events; or (3) to evacuate the employee's place of residence due to inclement weather, loss of power, loss of heating, loss of water or other unexpected events.

The HFWA also required employers to provide supplemental public health emergency leave in connection with the COVID-19 pandemic. This obligation expired on June 9, 2023.

Connecticut

SB 2 (paid sick leave uses for service workers)

Enacted Jun. 26, 2023

Effective Oct. 1, 2023

Informational only – Sedgwick does not administer

Connecticut has amended its laws to include additional permissible uses of paid sick leave for service workers. Under state law, an employer must permit a service worker to use accrued paid sick leave for (1) a service worker's illness, injury or health condition; (2) the medical diagnosis, care or treatment of a service worker's mental illness or physical illness, injury or health condition; or (3) preventative medical care for a service worker. Under the amendment, a service worker can also use accrued paid sick leave for a "mental health wellness day," defined as a day during which a service worker attends to such service worker's emotional and psychological well-being in lieu of attending a regularly scheduled shift.

In addition, a service worker who is a victim of family violence or sexual assault may use paid sick leave for medical care or psychological or other counseling for physical or psychological injury or disability, to obtain services from a victim services organization, to relocate due to such family violence or sexual assault or to participate in any civil or criminal proceedings related to or resulting from family violence or sexual assault. The amended law entitles a service worker who is the parent or guardian of a child victim of family violence or sexual assault to also take leave for those purposes, provided the service worker is not the perpetrator or alleged perpetrator of such family violence or sexual assault.

Illinois

HB 3516 (organ donation paid leave)

Passed Senate; Passed House; To Governor Jun. 16, 2023

If enacted, effective Jun. 1, 2024

Informational only – Sedgwick does not administer

If enacted, this proposed amendment would require Illinois employers of 51 or more employees to provide their employees with up to 10 days of paid leave for organ donation. “Organ” is defined as any biological tissue of the human body that may be donated by a living donor, including but not limited to the kidney, liver, lung, pancreas, intestine, bone and skin or any subpart thereof. Illinois already provides employees up to 30 days of unpaid leave for organ and bone marrow donation, up to 1.5 hours to donate red cells and up to 2 hours for platelets every 56 days. Sedgwick has and will continue to administer the already existing unpaid leave.

Illinois

SB 1515 (leave to correct E-Verify discrepancies)

Passed Senate; Passed House; To Governor Jun. 6, 2023

If enacted, effective Jul. 1, 2023

Informational only – Sedgwick does not administer

If enacted, this proposed amendment to the Illinois Right to Privacy in the Workplace Act would provide that if an employer using E-Verify is notified of a discrepancy between an employee's name or Social Security number and the Social Security Administration's records, the employer would have to provide the employee with specified information and grant the employee up to 30 days of unpaid leave to correct any verification discrepancy.

Louisiana

SB 200 (one-day leave for genetic testing and cancer screening)

Enacted Jun. 8, 2023

Effective Aug. 1, 2023

Informational only – Sedgwick does not administer

Louisiana has amended its employment discrimination statutes to afford employees protections pertaining to obtaining genetic testing and medically necessary cancer screenings. Under the amended law, an employer must grant an employee a one-day leave of absence from work to obtain genetic testing or preventative cancer screening when medically necessary.

“Preventative cancer screening” means healthcare services necessary for the detection of cancer, including but not limited to magnetic resonance imagining, ultrasound or some combination of tests.

“Medically necessary” means healthcare services that are in accordance with generally accepted evidence-based medical standards or are considered to be the standard of care by most physicians or independent licensed practitioners within the community of their respective professional organizations. In order to be considered medically necessary, the services must be reasonably necessary to diagnose, correct, cure, alleviate or prevent the worsening of a condition or conditions that endanger life, cause suffering or pain, or have resulted or will result in a handicap, physical deformity or malfunction. Services for which no equally effective and less costly course of treatment is available or suitable for the recipient are also considered medically necessary. Services that are experimental, not approved by the federal Food and Drug Administration, investigational or cosmetic are not deemed medically necessary and are specifically excluded from coverage unless coverage for early screening and detection is provided for under Louisiana law.

An employee may use one day of leave for this purpose. The employee must provide the employer at least 15 days’ advance notice to the employer and make a reasonable effort to schedule the leave so as to not unduly disrupt the employer’s operations. The employee must provide supporting documentation confirming that the genetic testing or cancer screening occurred, when requested by the employer.

An employer is not required to provide paid time off to an employee who is absent from work for genetic testing or cancer screening. However, an employee must be permitted to substitute any accrued vacation time or other appropriate paid leave for the leave for genetic testing or cancer screening. Finally, an employer must post a notice of these leave rights as prepared by the Louisiana Workforce Commission in a conspicuous location on its premises.

Maine

LD 1964 (paid family and medical leave benefits program)

Passed House; Passed Senate Jun. 23, 2023

If enacted, effective Jan. 1, 2025

If enacted, benefits begin Jan. 1, 2026

If enacted, this proposed law, entitled "An Act to Create the Maine Paid Family and Medical Leave Benefits Program," would provide up to 12 weeks of paid leave per year to all eligible employees in the private and public sector, except for employees of the federal government, regardless of employer size. The leave would also not be limited to the employees' own conditions or the conditions of legal or biological family members. Rather, the plan would permit employees to take leave to care for any individual with whom they have "a significant personal bond that is or is like a family relationship regardless of biological or legal relationship." Additionally, an employee would be able to take the paid leave immediately after starting employment.

If this bill is signed into the law, Maine will begin assessing the 1% payroll tax on January 1, 2025, which will split evenly between the employer and employee. Employees will be able to start taking paid family and medical leave on January 1, 2026.

During the approved leave period, if enacted, the program will replace 90% of an employee's wages for income earned that is equal to or less than 50% of Maine's average weekly wage, which is currently $1,036. The portion of the covered individual's average weekly wage that is more than 50% of the state average weekly wage must be replaced at a rate of 66% up to the maximum weekly benefit. To calculate the benefit amount, the average weekly wages the individual earned over the preceding four calendar quarters will be used, but any earnings from bonuses will be excluded. The maximum weekly benefit is set at the state average weekly wage, which changes annually. Notably, benefits are not subject to state income tax.

Employers that offer comparable private paid leave plans could opt out of the program and would not be allowed to impose a cost to employees greater than the payroll tax under the state plan. Also, businesses with 15 or fewer workers would be exempt from paying into the state plan. However, employees of those small business, including part-time employees, still would be required to pay into the program and could still claim benefits.

Minnesota

HB 1830 (voting leave amendments)

Enacted May 24, 2023

Effective Jul. 1, 2024

Informational only – Sedgwick does not administer

Minnesota law entitles an employee who is eligible to vote in an election to be absent from work for the time necessary to appear at the appropriate polling place, cast a ballot and return to work on the day of that election. The employer cannot penalize the employee for the absence or deduct from the employee's salary or wages because of the absence. This amendment permits an employee eligible to vote in an election to be absent from work in order to vote in person during the period for early voting prior to election day.

Nevada

AB 163 (employment protections for sexual assault victims)

Enacted Jun. 5, 2023

Effective Jun. 5, 2023

Nevada has amended its statute providing domestic violence leave for employees. The amendment expands the law to allow an employee to use this leave if the employee or the employee's family or household member is a victim of sexual assault. The amendments also add accommodation requirements and create antiretaliation and unemployment-related protections for victims of sexual assault. Sedgwick already administers this leave and this update does not require any changes to our policies or processes.

State law requires employers to provide up to 160 hours of leave during a 12-month period to an employee who is a victim of domestic violence, or an employee whose family or household member is a victim of domestic violence. As amended, the law requires employers to provide this leave to a victim of an act that constitutes sexual assault under state law.

The amended law also expands the state's reasonable accommodation requirements for domestic violence victims to victims of sexual assault. As amended, the law requires an employer to provide reasonable accommodations to an employee who is a victim of sexual assault or whose family or household member is a victim of sexual assault. An employer is not required to provide reasonable accommodations if doing so would impose an undue hardship on the employer's operations.

The amendments also ensure eligibility for unemployment benefits for a victim of sexual assault if the person's reason for leaving employment is connected with the incident of sexual assault. The amended law prohibits the Employment Security Division of the Department of Employment, Training and Rehabilitation from denying a person's claim for unemployment compensation benefits if that person left employment to protect themselves or a family or household member from sexual assault and the person is actively engaged in an effort to preserve employment.

Finally, the amended law creates antiretaliation and antidiscrimination protections for sexual assault victims. The amendment prohibits an employer from conditioning employment or taking certain employment actions because: (1) the employee/prospective employee is a victim of sexual assault; (2) the employee/prospective employee's family or household member is a victim of sexual assault; or (3) of other circumstances related to being a victim of sexual assault.

Oregon

HB 3028 (restrictions for leave used by appointed member of state board)

Passed House; Passed Senate Jun. 21, 22023

If enacted, effective 91 days after adjournment

Informational only – Sedgwick does not administer

If enacted, this proposed law would prohibit Oregon employers from requiring an employee to use vacation leave, sick leave or annual leave for time spent by the employee in service as an appointed member of a state board or commission. The new law would require employers to allow the employee to take unpaid leave for the time spent in such service.

Oregon

SB 913 (other leave as supplement to paid family and medical leave benefit)

Passed Senate; Passed House Jun. 20, 2023

If enacted, effective 91 days after adjournment

Benefits begin 9/3/23

If enacted, this proposed amendment would make a number of technical and substantive changes to the Oregon paid family and medical leave insurance program. The substantive changes would include a clarification that the definition of "wages" does not mean employee contributions paid by the employer; additional determination criteria for employee's place of performance for purposes of determining whether employee's wages are subject to provisions related to contributions and benefits; and permission for an employer to allow employees to use all or a portion of other employer-provided paid leave to supplement paid family and medical leave benefits.

Oregon

SB 999 (family leave and paid family and medical leave reinstatement)

Enacted Jun. 7, 2023

Effective Jun. 7, 2023

Oregon has amended two state laws: the Family Leave Act (the "Act") and the Paid Family and Medical Leave Insurance Program (the "Program").

The Act permits eligible employees to take up to 12 weeks of leave within a given one-year period. The amendments define a one-year period to mean a period of 52 consecutive weeks beginning on the Sunday immediately before the date when leave commences.

Under the Act, employers may take leave to care for a family member under certain circumstances. The amendments redefine "family member" to match the definition under the Program and include a covered individual's: (1) spouse; (2) child, or child's spouse or domestic partner; (3) parent, or parent's spouse or domestic partner; (4) sibling or stepsibling, or the sibling or stepsibling's spouse or domestic partner; (5) grandparent, or grandparent's spouse or domestic partner; (6) grandchild, or grandchild's spouse or domestic partner; (7) domestic partner; or (8) individual related by blood or affinity whose close association with a covered individual is the equivalent of a family relationship.

Under both the Act and the Program, employers must offer employment in an equivalent position to employees returning from leave under certain circumstances. Previously under the Act, if an equivalent position was not available where the employee formerly worked, the employer could offer an equivalent position at a location within 20 miles of the employee's former job site. The amendments to both the Act and the Program now require an employer to offer such a position, if it is available, and extend the location to up to 50 miles of the employee's former job site. If positions are open at more than one job site, the employer must offer the returning employee a position at the job site nearest the employee's former job site first.

The amended law makes it clear that employees on leave under the Program are still responsible for contributions made to cover the cost of health insurance premiums. While an employee is on leave under the Program, if the employer continues to pay any portion of the employee's cost of disability, life or other insurance coverage, the employer can then deduct these advanced amounts from the employee's pay once they return. However, the deductions may not exceed 10% of the employee's gross pay each period.

Puerto Rico

PC 951 (calculation of maternity leave)

Passed Senate; Passed House May 30, 2023

If enacted, effective immediately after becoming a law

If enacted, this amendment of Puerto Rico's Working Mothers Protection Act of 1942 would clarify that maternity leave is calculated using working days rather than consecutive calendar days.

Rhode Island

HB 5584 (SB 1082) (healthy and safe families and workplaces act amendment)

Enacted Jun. 20, 2023

Effective Jun. 20, 2023

Informational only – Sedgwick does not administer

Rhode Island has amended the definition of employee included in the Healthy and Safe Families and Workplaces Act (the "Act"). The law previously exempted apprenticeships and interns from the definition of employee. The amendment clarifies that the only exemptions from inclusion as an employee for purposes of the Act are independent contractors, subcontractors, work study participants and individuals exempted from the definition of "employee" in the Fair Labor Standards Act (29 U.S.C. § 204 *et seq.*).

Rhode Island

SB 828 (enforcement of leave and wage & hour violations)

Enacted Jun. 22, 2023

Effective Jun. 22, 2023

Rhode Island has amended its employment practices statutes to provide additional remedies to employees returning from temporary caregiver leave to enforce their rights to a continuation of their medical benefits, reinstatement of status, payment and other benefits. It also extends these remedies to employees who allege work violations on holidays and Sundays, violations of child labor or industrial homework laws, wage discrimination or minimum wage violations.

With this amendment, employees in a private civil action to enforce these rights may seek the following additional relief and damages provided for in Rhode Island's wage payment statute: (1) recovery of any unpaid wages and/or benefits; (2) compensatory damages; (3) liquidated damages in an amount up to two times the amount of unpaid wages and/or benefits owed; (4) appropriate equitable relief, including reinstatement of employment, fringe benefits, and seniority rights; injunction; reasonable attorney's fees and costs, and/or (5) any other appropriate relief or penalties authorized by the minimum wage or wage payment laws.

In a private civil action alleging retaliation by the employer for engaging in whistleblower or job-related investigations relating to these rights, this amendment allows the aggrieved employee to seek the following additional relief and damages provided in Rhode Island's whistleblower statute: (1) reinstatement of employment; (2) payment of back wages; (3) full reinstatement of fringe benefits and seniority rights; (4) injunctive relief; (5) actual damages; (6) treble damages; and/or (7) costs of litigation and attorneys' fees.

Texas

HB 1996 (paid family and medical leave insurance plans)

Enacted Jun 12, 2023

Effective Sep. 1, 2023

Informational only – Sedgwick is not a qualified insurer

Texas has enacted a new law authorizing qualified insurers to provide paid family leave insurance, which will be considered a type of disability income insurance. Employers should note that this law does not require an employer to provide paid family and medical leave to employees or to purchase a policy.

The new law defines "family leave insurance" as a policy issued through an employer related to a benefit program provided to an employee to pay for a portion of the employee's income loss due to family leave taken by the employee. Definitions of other relevant terms are included, such as "family member," "dependent," and "parent."

The new law requires the family leave insurance policy to provide the details of and requirements for each covered family leave reason. The reasons for which an employee may use family leave insurance benefits are: (1) participating in providing physical or psychological care for a family member made necessary by a serious health condition, defined as an illness, injury, impairment or physical or mental condition that involves inpatient care, continuing treatment or continuing supervision by a health care provider; (2) bonding with the employee's new child during the first 12 months after birth or the placement of the child for adoption or foster care; (3) addressing a qualifying exigency arising from a family member being on active duty or who has been notified of an impending call to active duty; (4) caring for a family member injured in the line of duty; or (5) taking other family leave as specified in the policy.

The family leave insurance policy must specify certain additional items. It must provide the length of benefits available for covered benefits (which cannot be less than two weeks during a period of 52 consecutive weeks); the amount of benefits to be paid (and the definition of and calculation methods for the wages on which the benefits are based), and the permissible terms and conditions of any uncovered waiting period under the policy (examples included in the new law).

The new law suggests several methods for calculating the 52-week benefit period, but regardless of the method it must be specified in the policy. In addition, if benefits are subject to offsets for wages the policy must include which wages may be offset and the circumstances under which wages will be offset.

The policy must also include any limitation, exclusion or reduction for benefits. The new law lists the permissible limitations, exclusions or reductions, including: (1) lack of required notice and medical certification as required by the policy; (2) where the serious health condition for which the leave is to be taken was brought about by the willful intention of the employee; (3) periods of family leave during which more than one covered employee seeks family leave for the same family member; or (4) any period where the employee performed work for compensation, was eligible to receive money directly or indirectly from the employer or was eligible for benefits under another statutory program or employee-sponsored program.

Washington

HB 1570 (paid family and medical leave for transportation network drivers)

Enacted May 15, 2023

Effective Jul. 23, 2024

Washington has enacted amendments to its family and medical leave law to provide coverage for transportation network drivers who are performing services that are facilitated through a digital network. Under the amendment, beginning July 1, 2024 through December 31, 2028, the Employment Security Department (the "Department") will administer a pilot program for transportation network companies and drivers.

Under the program, drivers will continue to have the option of electing coverage under Washington's family and medical leave law as self-employed individuals. By the 15th day of the month following the end of the calendar quarter, the program requires transportation network companies to report to each driver the total amount of compensation that the driver earned providing network services through the transportation network company's digital network in that quarter. By the 15th day of the month following the drivers' reporting deadline for the calendar quarter and until February 15, 2029, the Department will share data with each transportation network company on the drivers who, in that calendar quarter: (1) reported and paid assessed premiums; and (2) withdrew or canceled paid family and medical leave coverage. Finally, by the 15th day following the receipt of information from the Department and until February 15, 2029, transportation network companies must pay each driver who elected coverage an amount equal to the premium rate assessed, multiplied by the amount of compensation, that the driver earned providing network services through the transportation network company's digital network in that quarter.

Drivers electing coverage must elect both family and medical leave and are responsible for 100 percent of all premiums assessed to an employee under the program. Drivers will be required to file a written notice of election with the Department. Drivers will be eligible for family and medical leave after working 820 hours in the state during the qualifying period following the date of filing the notice.

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.

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