



Designing Flexible Leave Policies that Work: Payout, Carryover, and More

April 17, 2025

Today's agenda

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Paid
Leave Rules

2

Multi-State
Policies

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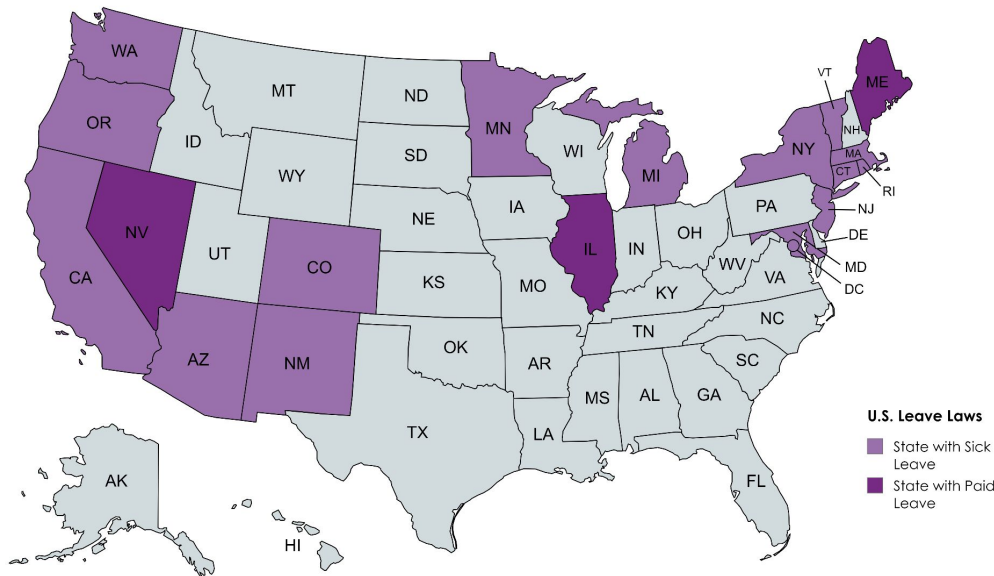
Accrual,
Carryover, and
Payout

4

Q&A

Paid leave laws

- 19 States and D.C. with Sick Leave
- 22 Localities
- 3 States and 5 Localities with Paid Leave for Any Reason
- No Federal Sick or Paid Leave Law
 - Shocking [compared to the rest of world](#)
 - In reality, [81%](#) of U.S. employees have access to Paid Sick Leave

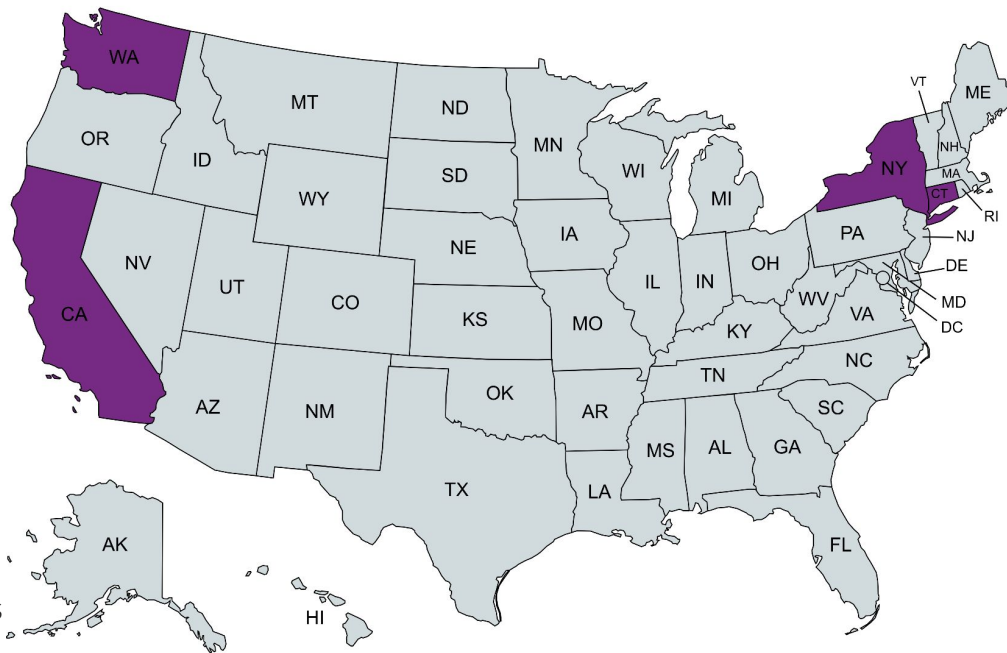


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Jan. 1st, 2025 changes to sick leave

Washington expands uses to include declared emergency leave. “Family member” definition also expanded

California expands sick leave to include uses for agricultural workers, more types of crimes, and to cover family members who are victims of crime



New York expands sick leave to include 20 additional hours of prenatal care leave

Connecticut expands paid sick leave to cover all industries and changes the employee threshold from 50 to 25 Connecticut employees

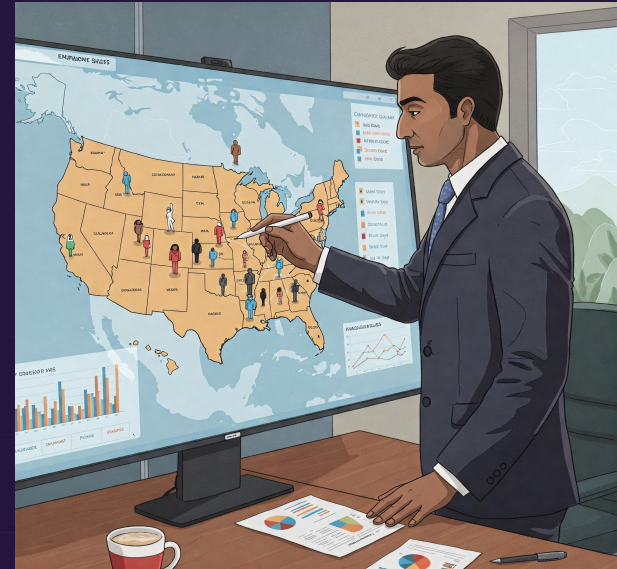
“Which employees do I count?”

Lawyer answer: It depends.

Some laws clearly define which employees to count—many laws don’t provide a definition.

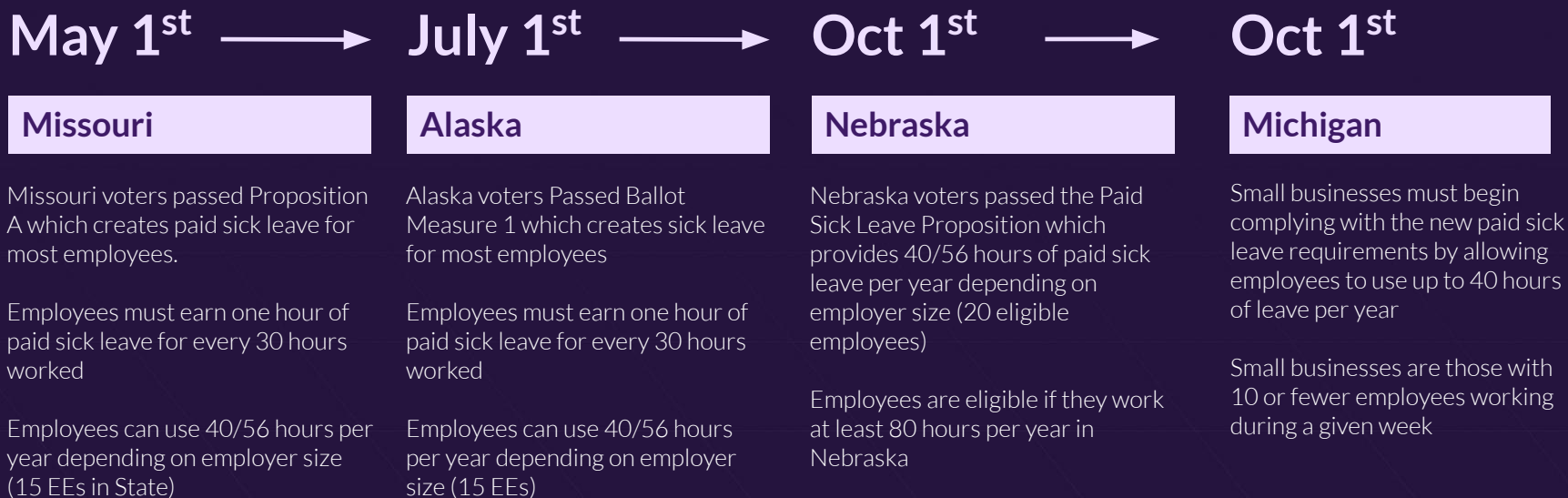
Examples:

- Worldwide
- In the US
- In the State/Locality
- At a worksite
- Eligible/Covered Employees



2025 timeline of new laws and changes

Voters in 4 states have passed new sick leave laws that take effect in 2025



Paid leave for any reason

Nevada

Employers with 50+ employees in Nevada must provide employees with up to 40 hours of paid leave per year

Employers are exempt during their first 2 years of existence

Maine

Employers with 11+ employees in Maine must provide employees with up to 40 hours of paid leave per year

Unless there is an emergency, employers can require 4 weeks of notice

Bernalillo Co., NM

Employers with a physical location and two or more employees within the unincorporated limits of Bernalillo County have to provide between 28-56 hours of paid leave per year

Illinois

All employers must provide employees with up to 40 hours of paid leave per year

Law enacted January 1, 2024

Exemption for localities with their own rules

Chicago paid leave and paid sick leave

Employees accrue 1 hour of paid leave for any reason and 1 hour of paid sick leave for every 35 hours worked—up to 40 hours per year of each

- Los Angeles (hotel worker) and West Hollywood have similar requirements

Employees can carry over up to 16 hours of paid leave and 80 hours of paid sick leave each year

- If employers frontload paid leave for any reason, carryover isn't required. Sick leave must always carry over.

Chicago employers with 100+ covered employees must pay out all unused paid leave (but not unused sick leave)

- Starting July 1, 2025, employers with 51+ covered employees must also pay out all unused paid leave. Until then, medium-sized employers only need to pay out up to 16 hours of unused paid leave.
- If an employer offers unlimited paid time off, they must pay out the equivalent of 40 hours, minus any paid leave taken in the last 12 months.

Paid leave and unpaid sick leave

	Paid Leave	Unpaid Sick Leave
West Hollywood	Employees accrue up to 96 hours of paid leave per year	Employees accrue up to 80 hours of unpaid sick leave per year
Los Angeles	Hotel workers accrue up to 96 hours of paid leave per year	Hotel workers accrue up to 80 hours of unpaid sick leave per year

Specifics

- **Paid leave uses:** Employees can use paid leave for sick leave, vacation, or personal need. At least half must be for vacation or personal necessity leave in West Hollywood.
- **Unpaid leave uses:** Employees can use unpaid sick leave for their own illness or to care for a sick family member.
- **Carryover:** Employees can carry over any accrued and unused paid leave, up to the 192-hour carryover cap. They can carry over accrued and unused unpaid sick leave, up to the 80-hour accrual cap. These requirements apply even if the employer frontloads this leave.
- **Use Cap:** Employers can limit employees to 96 hours of paid leave and 80 hours of unpaid sick leave per year.
- **Payout:** Local ordinance doesn't specify, so state law applies - in this case, payout not required.

Which state's laws govern your employment relationships?

Lawyer answer: It depends.

General rule: The law of the state where the employee works.

- **Follow up:** Does having an employee in a state mean you are subject to a specific law in that state that grants employees leave?

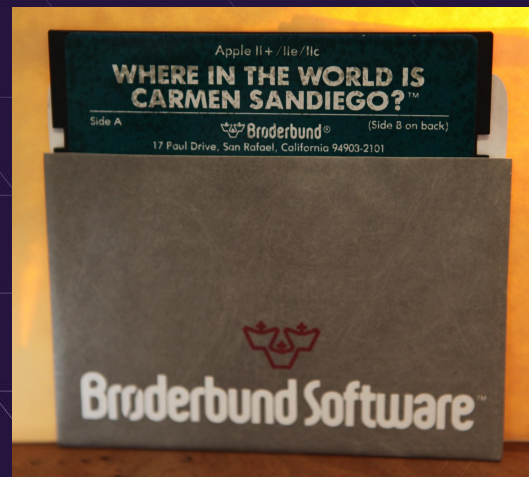
Where in the **world** are my employees?

A good relocation policy can help make sure you **never have to ask** that question

- It should, at minimum, require employees to tell you before they move

But you have **options**. Relocation policies can:

- Prohibit relocation all together;
- Require individual approval;
- Create a list of pre-approved states;
- Or just require employee notice



Managing multi-state leave policies

Approach #1: State addenda

Remove most or all of the state-specific policies from the handbook.

Attach an addenda to the handbook with information organized by state.

Approach #2: Universal leave policies

Replace state-specific leave policies with one policy that complies with the most strict requirements from all states.

Approach #3: PTO

Replace time off policies with one overarching time off policy that can be used for any reason.

States are increasingly requiring this type of leave.

Handbook

Using addenda

- Uses a general policy applicable to all employees, and fills in state-specific rules through a separate addendum
- Prevents offering more leave than required, at the cost of simplicity

Parental and Pregnancy Leave Policy

This policy covers leave employees can take when they are pregnant or when they have (or adopt) a child. Employees may also be eligible for leave under federal or state family and medical leave laws that could be used for similar purposes. See the Paid Family and Medical Leave Insurance and Unpaid Family and Medical Leave policies for more information. The leave outlined in this policy is in addition to any leave employees may be eligible for under those policies, unless it specifically says otherwise in the state- and locality-specific sections below.

If there is any conflict between this general policy and any of the state- or locality-specific policies, the policy that is more generous to employees will govern.

Who can take this leave?

Employees who are pregnant, who recently had a child, or who will soon have a child are eligible for this leave. This includes employees who adopt a child or who accept the placement of a child with them for foster care.

What can this leave be used for?

This can be used for any reasons related to pregnancy, childbirth, adoption, or foster placement.

How much leave can employees take?

Employees can take up to 8 weeks of leave, which may be taken within 12 months of the birth, adoption, or placement of a child.

Is this leave paid?

This leave is partially paid. The first 4 weeks of leave are paid while the remaining 4 weeks will be unpaid.

What notice do employees need to provide?

Employees should provide at least 2 weeks' advance notice of their intent to take this leave. This notice which should include the dates when the leave will begin and end.

If employees can't give notice 2 weeks in advance, they should provide as much advance notice as possible.

What verification can SixFifty ask for?

Employees who take leave due to pregnancy- or childbirth-related medical conditions may have to submit a doctor's certification showing they are medically able to return to work before their leave ends.

Are employees' jobs and benefits protected when they take this leave?

Employees' jobs will be held for them in accordance with applicable law while they are on leave under this policy. Nothing in this policy requires SixFifty to reemploy individuals who are not eligible for reemployment rights under applicable law.

What other information do employees need to know?

During any period of leave taken under this policy, employees will remain eligible to continue to participate in all SixFifty benefit plans in effect at that time, in accordance with the terms of those plans. Employees will continue to accrue paid time off in accordance with the applicable policy.

SixFifty prohibits and will not tolerate discrimination or retaliation against any employee or applicant because of that person's pregnancy or decision to use parental leave.

Addendum



Maryland Parental Leave

This policy applies only when SixFifty has between 15 and 49 employees for each workday in at least 20 weeks in either the current or preceding calendar year.

Who can take this leave?

Maryland employees are eligible to take leave under this policy if they: (i) requested parental leave, (ii) have been employed for at least 12 months and worked for 1,250 hours during the 12 months prior to their parental leave request, and (iii) work at a site where SixFifty employs at least 15 employees within a 75-mile radius.

What can this leave be used for?

Eligible employees may use this leave for the birth of the employee's child or the placement of a child with the employee for adoption or foster care.

How much leave can employees take?

Employees can take up to 6 weeks of leave per 12-month period.

Is this leave paid?

This leave is unpaid.

What notice do employees need to provide?

Employees must provide at least 30 days' written notice to SixFifty of their intent to take parental leave, except in the case of a premature birth, an unexpected adoption, or unexpected foster placement, in which cases notice should be provided as soon as is practical.

Are employees' jobs and benefits protected when they take this leave?

Upon return from parental leave, employees will be restored to their original position or to a position with equivalent benefits, pay, and other terms and conditions of employment. The Organization may decline to restore the employee to their previous position if (1) it is necessary to prevent substantial and grievous economic injury to our operations, (2) we notify the employee at the time we determine that economic injury would occur, and, if the employee's leave has already begun, (3) they elect not to return after receiving this notice.

Employees may continue participating in any group health plans they were enrolled in before parental leave.

Can employees use any accrued paid time off to cover this leave?

Employees may use available paid leave as a substitute for parental leave, in which case their paid leave and parental leave entitlements run concurrently.

What other information do employees need to know?

SixFifty may deny an employee's request for parental leave in accordance with applicable law.

The universal approach

- Omits state-specific references in favor of providing most restrictive requirements to employees in all states
- Simplifies policies and makes them easier to read and administer at the cost of giving more leave than necessary to some employees

Witness Duty Leave

Employees who are witnesses or prospective witnesses in legal proceedings can take time off to testify or provide information in connection with the proceeding. Employees can also take time off to attend juvenile judicial proceedings involving their child.

Who can take this leave?

Employees can take this leave if they are witnesses or prospective witnesses in any kind of legal proceedings (including discovery proceedings) before a court or other government body, or if they have a right to attend juvenile judicial proceedings related to their children or minor family members. This includes employees who are plaintiffs or defendants in an elder or domestic abuse civil case.

What can this leave be used for?

Employees can use this leave to:

- Attend, testify, or otherwise participate in the legal proceeding, regardless of whether they receive a subpoena;
- Speak to a member of their state legislature if requested by the legislature or a committee or member of the legislature;
- Attend any juvenile court proceedings involving their child that the employee has the right to attend;
- Attend a hearing or participate in an investigation if requested by the government entity conducting the hearing or investigation; or
- Attend a court appearance, a parental responsibility class, or their child's medical, surgical, psychiatric, or psychological evaluation or treatment if they are ordered to do so by a juvenile court.

How much leave do employees get?

Employees can take as much time off as they need for the reasons this policy allows.

Is this leave paid?

This leave is unpaid, except that it will be paid when employees use it to respond to a subpoena related to a legal proceeding that involves SixFifty or an incident the employee was involved in during their employment.

Exempt salaried employees will not have their pay reduced for any week in which they work and also miss time to serve as a witness, except to offset amounts employees receive as a witness fee.

Using PTO to replace sick leave

- Sick leave laws have basic rules about how much time off employees accrue and how that time can be used.
- Employers can choose to be meet these requirements through a PTO-for any reason policy that is at least as generous as sick leave requirements
- Unlimited PTO for any reason solves accrual and use, but don't forget procedural requirements

Benefits:

Fewer documents

- One policy instead of two

More easily managed

- Just one bucket to track

More flexible

- Employees can choose how to use accrued leave

Drawbacks:

Complicates PTO policy

- Must account for laws in all relevant states

Needs constant adjustment

- As new sick leave rules take effect

Administrative requirements

- Sick leave laws sometimes have notice and record-keeping requirements that aren't usually included in PTO

Unlimited PTO policies are often the simplest choice

Benefits

- Always provide enough leave
- Avoids some simple requirements like accrual and carryover
- Provides employees with more leave and flexibility
- Simpler to administer than limited PTO
 - No need to track individual leave amounts

Drawbacks

- Easier for employees to abuse
- Most laws don't clearly address how unlimited PTO interacts with sick leave
- Record-keeping can get messy
- Might not work if not truly unlimited
 - Company culture or policy language that discourages taking time off or implies it is limited - *McPherson v. EF Intercultural Foundation, Inc.*

Limited PTO policies can work too

Benefits

- Harder to abuse
- Easier to track how much leave employees are taking
- No risk of “false” unlimited policy
- Allows amount of leave to vary by state so you don’t give more than is required
- Less uncertainty about using them to fulfill sick leave requirements

Drawbacks

- More complicated to draft & administer
- Restrictions on how/when leave can be used can lead to liability
- More likely to be subject to carryover/payout requirements
- Less flexibility for employees

Choose what's best for **your organization**

- There is no “one size fits all” solution
- Consider factors like how many employees you have, where they're located, and what their expectations are
- Most importantly, consider what your priorities are
 - Is administrative simplicity the goal?
 - Are you trying to reduce labor costs?
 - Do you need an easy-to-understand policy that accounts for employees in 20+ states?



Using PTO to meet sick leave requirements

Amount

Accrual rate or frontloaded amount must be at least as generous as sick leave law requires

Caps

Don't be too strict with annual accrual caps, total accrual caps, or use caps

Carryover

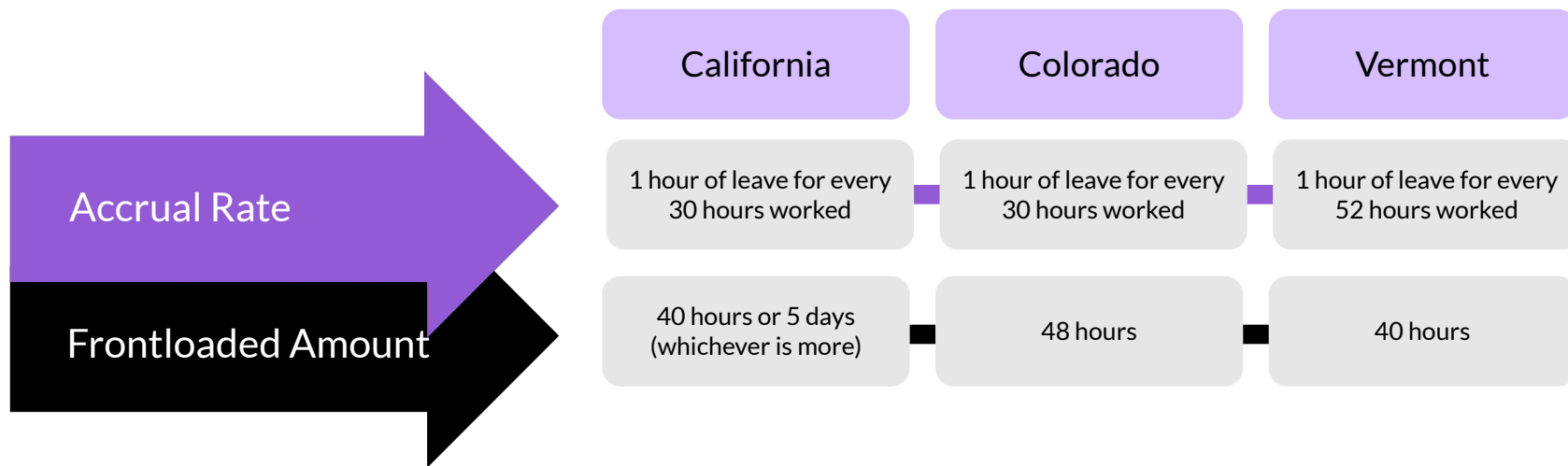
Allow employees to carry over unused leave if the law requires it

Payout

Follow PTO rules, which have more payout requirements than sick leave laws

Replacing Sick Leave with PTO: Amount

Sick leave laws set the floor for the amount of leave employers must provide.

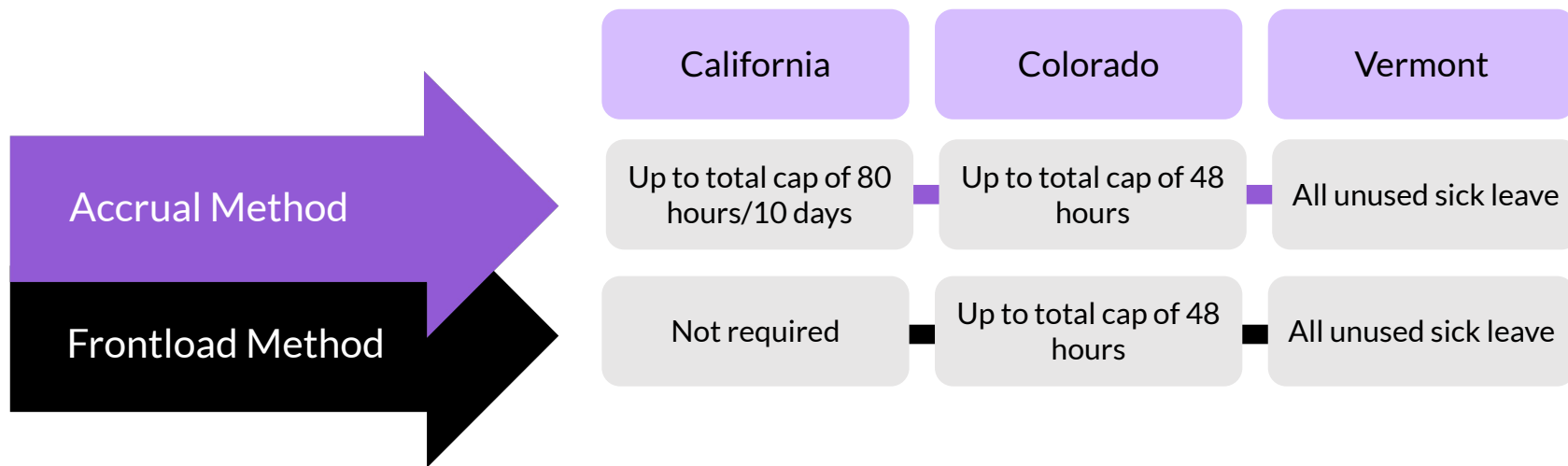


Replacing Sick Leave with PTO: Caps

Leave laws set different limits on how much leave can be earned and used.

	California	Colorado	Vermont
Yearly Use Cap	5 Days/40 hours	48 hours	40 hours
Yearly Accrual Cap	5 Days/40 hours	48 hours	40 hours
Total Cap	10 Days/80 hours	48 hours	Uncapped

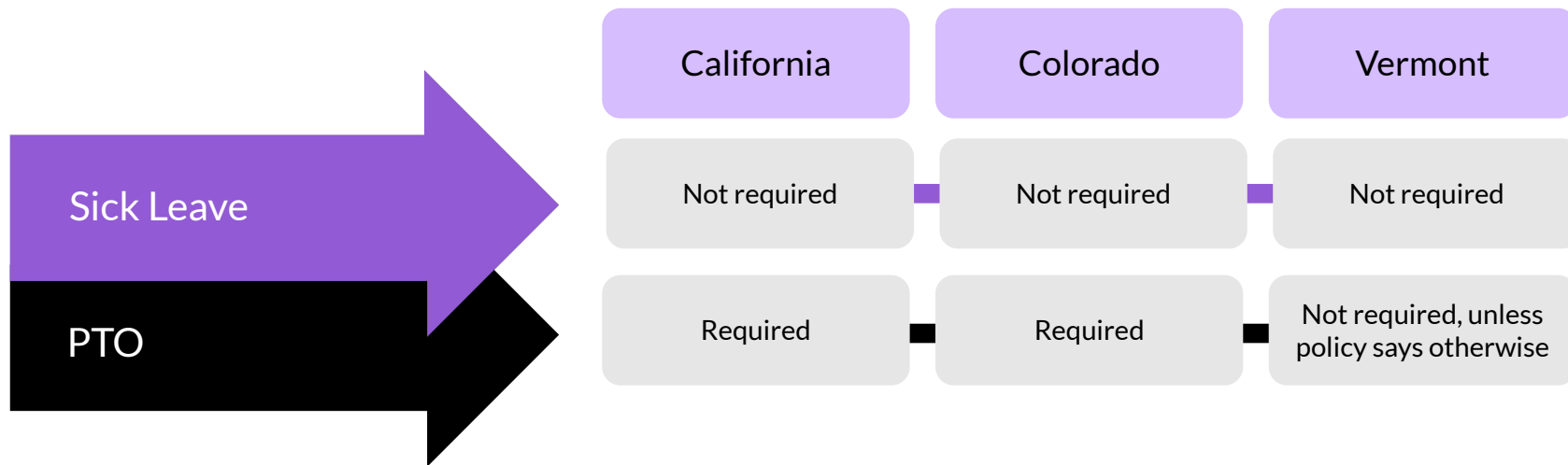
Replacing Sick Leave with PTO: Carryover



*California, Colorado, and Montana are the only states that require employers to carry over all unused PTO.

Replacing Sick Leave with PTO: Payout

PTO laws are usually more strict than sick leave laws regarding payout at the time of separation.



Unlimited PTO: a way to avoid tracking accrual, caps, carryover, and payout

- Must be truly unlimited
- Be careful denying leave under an unlimited policy
- Make clear that the policy can be used for vacation and sick leave
- Consider exceptions for long-term medical leaves of absence or parental leave

Research

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Sick Leave ×Colorado ×Clear All

Jurisdiction ↑

Topic

Subtopic

Colorado

Leave

Sick Leave

Summary

Colorado's Healthy Families and Workplaces Act requires employers to provide up to 48 hours of paid sick and safe time leave per year. The law also requires to provide additional sick leave during a public health emergency. For information on that requirement, see [Colorado's Public Health Emergency Leave](#) section.

Colo. Rev. Stat. § 8-13.3-401, et seq.

Who can take this leave?

All Colorado employees are eligible for this leave. Independent contractors are not eligible.

Which employers have to provide this leave?

All employers with one or more employees in Colorado have to provide this leave.

How much leave do employers have to provide?

Employees earn one hour of paid sick leave for every 30 hours worked, up to 48 hours per year. Accrual starts at the time of hire.

Exempt employees are presumed to work 40 hours per week for purposes of sick leave accrual, but if their normal workweek is fewer hours, accrual is based on the normal workweek.

Action

SixFifty's [Sick Leave Policy Tool](#) can help employers create a compliant sick leave policy.

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Research

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Jurisdiction ↑

Topic

Subtopic

Colorado

Leave

Vacation / Paid Time Off

Do employers have to provide vacation?

Employers don't have to provide Colorado employees with paid or unpaid vacation time.

Do employers have to roll over an employee's unused vacation time to the next year?

Employers must roll over any unused vacation. It can't be forfeited. But employers can set a cap on the amount of vacation an employee can accrue.

Do employers have to pay out accrued vacation at the time of separation?

Employers have to pay out accrued vacation at the time of separation. Colo. Rev. Stat. § 8-4-101. Generally, employers would not have to pay out an unlimited PTO policy because the amount can't be determined.

Action

SixFifty's [Paid Time Off and Vacation Policy tool](#) can help employers create a compliant paid time off or vacation policy.



Thank you!

Any questions?

Want to learn more about SixFifty?

Scan to book a personalized 1:1
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Or visit
sixfifty.com/request-a-demo