



# Paid Leave Compliance: Navigating Common Points of Confusion

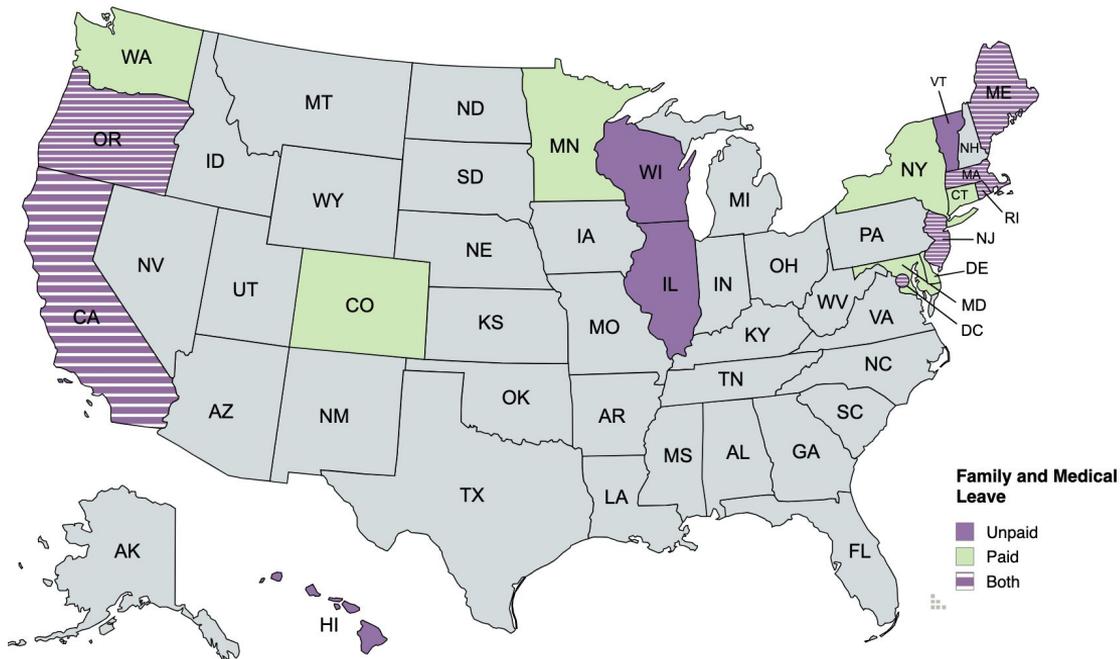
# Today's agenda



- The slides and recording of this webinar will be emailed to registrants tomorrow morning!
- For engagement with your fellow attendees, use the Chat function—for specific questions for our presenters, please use the Q&A function in Zoom

# Family and Medical Leave

- Federal FMLA
  - Required for employers with 50 or more employees
  - 12 weeks of unpaid leave
- 4 states require only unpaid FML leave
- 7 states provide only paid FML leave
- 6 states and D.C. require both



# Paid Family and Medical Leave Insurance: Oregon

## Contribution Rate

Employees pay 60% and employers pay 40% of premium (1% of wages up to \$184,500). Small employers don't pay employer portion.

## Amount / Reasons

12 weeks for medical, family, or safe leave, plus an extra 2 weeks for pregnancy-related medical leave

## Interaction with Other Leave

Runs at the same time as FMLA, but separate from OR's unpaid FMLA. Employers must let employees use other available paid leave while on paid FMLA, so long as benefits don't exceed employee's full wages.



# “How does paid FML interact with other types of leave?”

For both **federal FMLA** and **state unpaid FML**, leave can generally run at the same time.

For **state parental, pregnancy, and sick leave**, it depends on the state:

## California

Paid FML must be separate from any pregnancy leave

## Delaware

Paid FML can count against any other employer-provided leave, with notice

## Connecticut & Maryland

Employees can not receive paid family leave benefits at the same time as unemployment or worker’s comp benefits

## Washington:

Paid FML must be separate and in addition to any sick leave or temporary disability benefits related to pregnancy or childbirth

# “Can employees use other available leave to top off paid FML benefits?”

- **U.S. DOL:** If employee is on FMLA leave and receiving state paid FML benefits, employers can't require employees to use other available paid time off, but can agree to use other paid leave to top off paid FML benefits.
- **General rule:** An employee may choose to use paid FML and sick leave or other paid leave benefits at the same time, but the combined benefits can't exceed 100% of the employee's regular earnings.
- **Exception:** In Oregon, employers can choose whether to let employees use other paid leave in addition to paid FML benefits that exceeds the employee's full wages.

# 2026 Family and Medical Leave Updates

## **New Jersey**

Will expand job protection to more employees starting July 17, 2026

## **Delaware**

Paid leave benefits became available to employees on January 1, 2026

## **Minnesota**

Payroll deductions and benefits started January 1, 2026

## **Colorado**

Additional 12 weeks of paid leave available for employees with a child in the NICU starting January 1, 2026

## **Rhode Island**

Maximum temporary caregiver insurance leave increased to 8 weeks per year (up from 7) on January 1, 2026

# Future Paid Family and Medical Leave

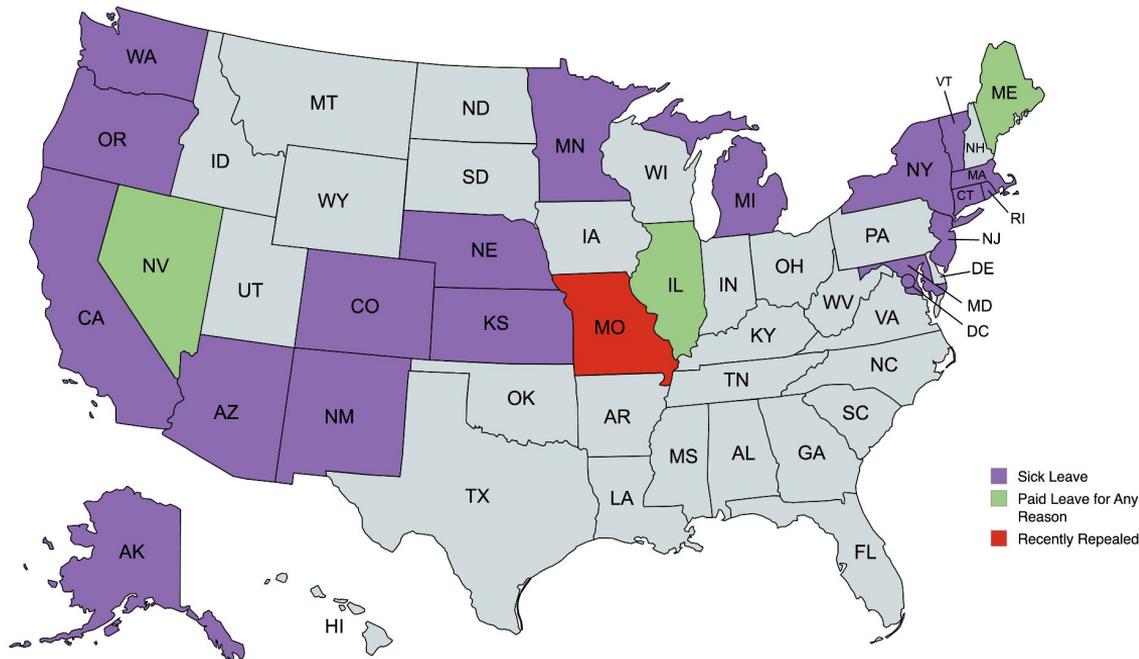
**Maryland** Payroll Contributions Jan 1, 2027 Employee Benefits Jan 3, 2028

**Maine** Payroll Contributions Jan 1, 2025 Employee Benefits May 1, 2026

**California** Expanded “family member” definition effective July 1, 2028

# Paid sick leave laws

- 20 states and D.C. currently require sick leave
- 22 localities require sick leave
- 3 states and 5 localities require paid leave for any reason
- No federal sick leave law
  - In reality, **81% of U.S. employees have access to Paid Sick Leave**

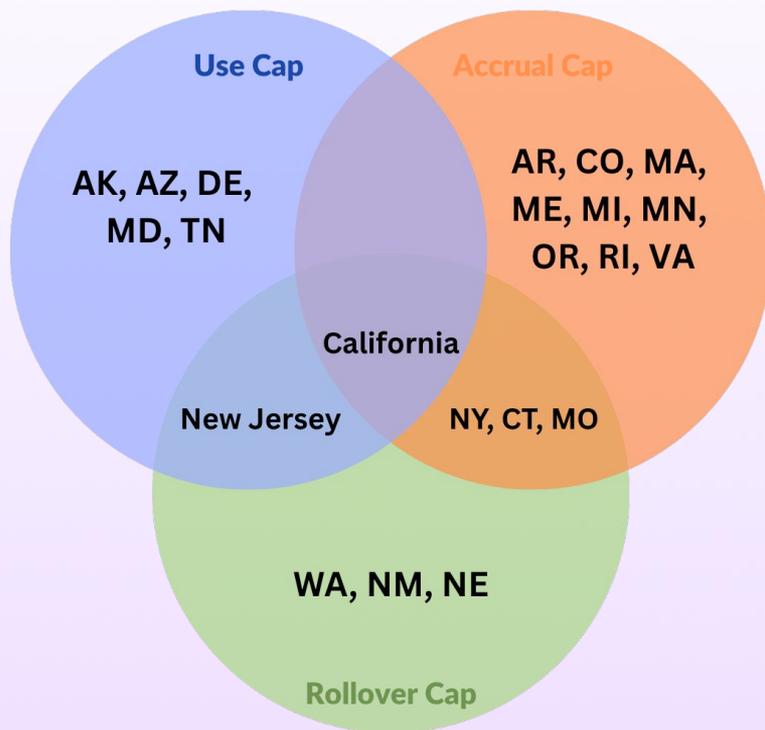


# Sick leave caps

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

	California	New York	Washington
Yearly Use Cap	5 Days/40 Hours	40/56 Hours	Uncapped
Yearly Accrual Cap	5 Days/40 Hours	40/56 Hours	Uncapped
Rollover Cap	10 Days/80 Hours (None if frontloading)	Uncapped	40 Hours

# Sick leave caps, continued





## Quiz:

How many hours of sick leave must employees be allowed to roll over each year in New York?

# Sick leave amounts

## Accrual

- Employees earn leave at a certain rate per work hour
- Commonly, that's 1 hour of leave per 30 hours worked
- Employees can only use leave after they have earned it

## Frontloading

- Employees get a lump sum of leave at the beginning of the year
- Commonly, that's 40 hours
- This amount may need to be added to if leave is uncapped
- Leave is available immediately

# Sick leave carryover

## Carryover

- In most states, if you frontload, don't have to allow carryover
- Otherwise, caps vary

## Payout

- No state requires sick leave payout at termination

# Minimum leave increments

- **Alaska:** hourly increments or the smallest increment used by the employer's payroll system to account for leave, whichever is smaller.
- **Minnesota:** the same increment of time for which employees are paid, but in no less than 15-minute increments. Employers can't require employees to take leave in more than 4-hour increments.
- **New Jersey:** Employers can choose in what increments employees can take leave, but they can't require an increment that is longer than the number of hours the employee was scheduled to work during a shift.

# Waiting periods

## Alaska

Employees must be allowed to use sick leave as soon as it is accrued.

## Connecticut

Employees can start using sick leave on their 120th day of employment.

## Massachusetts

Employers can require employees to wait until the 90th calendar day after being hired to start using their accrued sick leave.

## Maryland

Employers can require employees to wait until their 107th calendar day of work to start using their leave.



# Many states require specific sick leave notices

When using PTO to cover sick leave, don't forget to provide required sick leave notices—they still apply.

1. Most states require employers to **post some form of notice** of sick leave rights in a place where employees can read it. (e.g., New York)
2. Many states require individual notice of sick leave rights to be provided **upon hire**. (e.g., California)
3. Some states require employers to provide notice of used and available leave on **employee pay stubs** every pay period. (e.g. Washington)
4. Minnesota requires that employers provide **individual or posted notice** of sick leave rights. The notice must also be **included in employee handbooks**, if the employer has one.

# Using PTO to replace sick leave

- State laws set a floor that employers must meet when using PTO to cover sick leave requirements
- Employers typically choose to be more generous by providing more PTO than required by state sick leave laws.

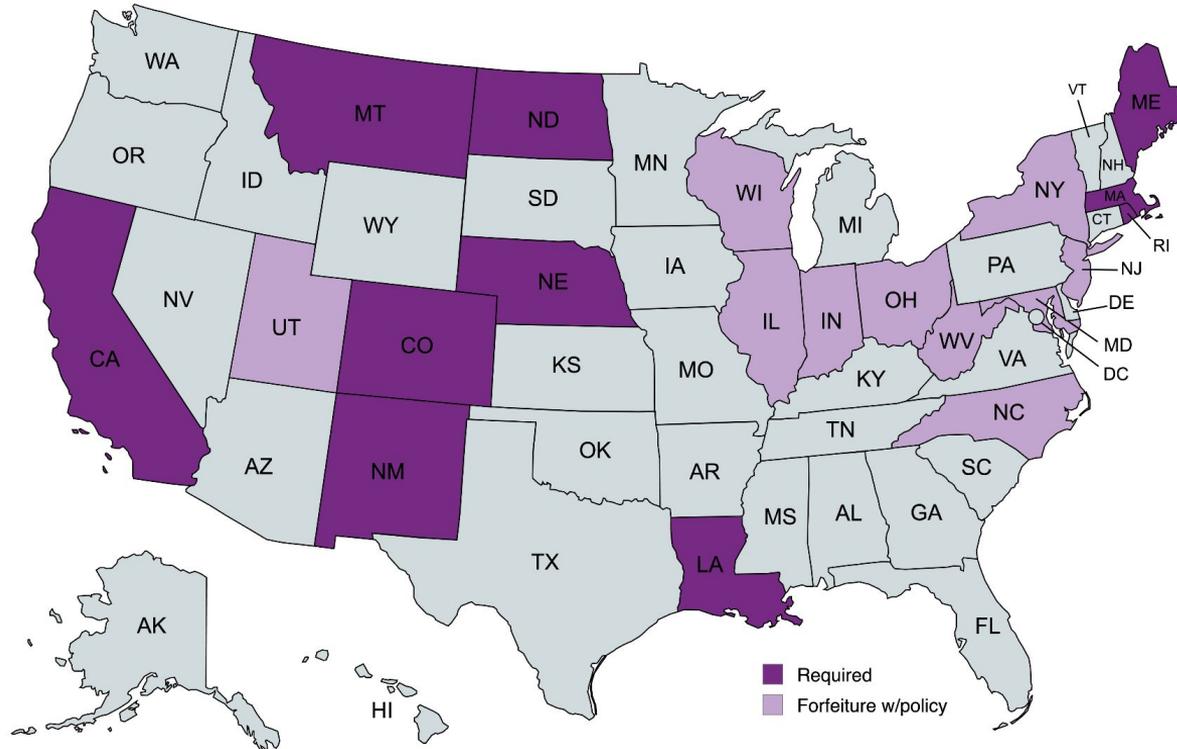
## Pros

- Simpler
- More easily managed
- More freedom for employees

## Cons

- PTO policy is now subject to sick leave rule
- Record-keeping requirements
- Notice requirements

# PTO payout by state



# Sick leave: Payout (PTO for sick leave)

## Accrual

- Employees only need to be paid out for the hours they have earned

## Frontloading

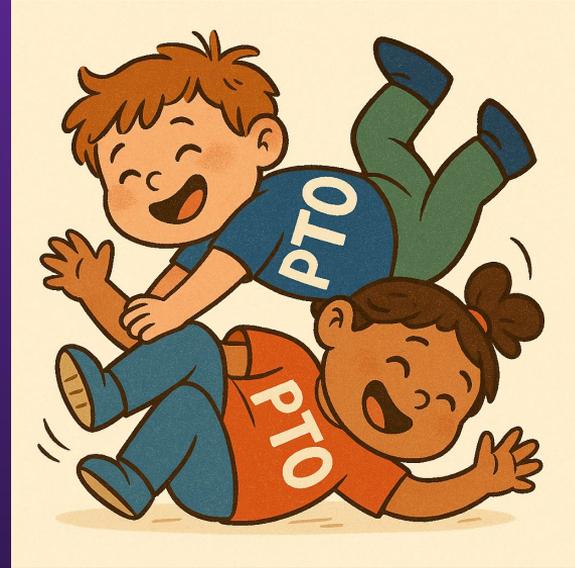
- Employees must be paid for all their unused leave



# PTO rollover

Only 4 states require all earned but unused PTO to be carried over year-to-year:

- California
- Colorado
- Montana
- Nebraska



# Unlimited/flexible time off

## Benefits

- Provides employees with more leave and flexibility
- Saves HR time by making leave easier to manage
- May avoid some legal requirements like carryover or payout
- Generally, unlimited time off isn't considered earned leave, so laws controlling earned but unused time off/ sick leave don't apply

## Drawbacks

- Requires clear communication from managers and a high degree of trust in employees
- Most laws aren't clear about how unlimited time off interacts with sick leave requirements
- Record-keeping can get messy or overlooked
- Organizations can face legal issues if they claim to provide unlimited time off but their culture discourages taking time off (McPherson v. EF Intercultural Foundation, Inc.)

# The right option for your organization

- There is no “one size fits all” solution
- Consider Factors like:
  - Employee Count
  - Employee Locations
  - Employee Expectations
- Consider asking your employees what leave structure they would be interested in.

# Leave Policies Demo



A screenshot of a document viewer interface. The title bar at the top reads "Addenda Employee Handbook PTO f...". The interface includes a menu bar with "File", "Insert", and "Go to". Below the menu bar is a rich text editor toolbar with options for style (Paragraph), font (Calibri), size (12pt), and various text and image editing tools. On the left side, there is a "Search Outline" input field and a list of document sections: Introduction, Fair Employment Practices (with sub-items: At-Will Employment, Equal Employment Opportunit..., Disability and Pregnancy Acco..., Lactation Accommodation, Religious Accommodation), Employee Conduct (with sub-items: Code of Conduct, Whistleblower Protection). The main content area displays the title page of the handbook, which reads: "SixFifty", "ADDENDA EMPLOYEE HANDBOOK", "WITH VACATION/PTO COVERING SICK LEAVE", and "February 26, 2026".

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Download our new report

“The State of Employment Law  
Compliance in 2026”

and join our webinar next week!



## The State of Compliance: How HR teams are Managing Risk in 2026

WEBINAR

MAR 5, 2026 • 10 AM PT | 1 PM ET



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