

Law & Policy Group | GRIST

# States, cities tackle COVID-19 paid leave

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# 1

## Introduction

To alleviate some of the economic strain on employees unable to work due to COVID-19, some state and local authorities have implemented new paid leave requirements. Other jurisdictions have modified existing leave laws or benefit programs to accommodate employees' needs during the pandemic. This GRIST provides brief summaries of the new COVID-19-related state and local paid leave benefits, as well as new guidance on how current paid leave benefits apply during the pandemic. This GRIST does not address broader state and local accrued paid sick leave laws that permit using accrued leave for reasons related to a public health emergency (e.g., Michigan, New Jersey, Oregon, Rhode Island, Vermont and Washington). For more information on those programs, see [\*Paid sick leave mandates continue to expand at state level\*](#) (Feb. 8, 2021).

### **Pandemic puts spotlight on paid leave (updated July 13, 2021)**

State and local activity on paid leave issues continue to evolve. The expired federal emergency paid sick and family leave requirements under the Families First Coronavirus Response Act (FFCRA) ([Pub. L. No. 116-127](#)) — applicable only to employers with fewer than 500 employees — did not preempt any state or local paid leave mandates but did provide corresponding tax credits to an employer for qualified wages provided for the required paid leave. Many state and local emergency leave laws were enacted to cover larger employers and employees exempt from the federal law, but without the corresponding tax credits. In some cases, the state/local requirement covers employers of all sizes.

The Consolidated Appropriations Act of 2021 ([Pub. L. No. 116-260](#)) extended the corresponding tax credits for employers subject to the FFCRA that voluntarily continued to provide any unused paid FFCRA leave through March 31, 2021. The American Rescue Plan Act (ARPA) ([Pub. L. No. 117-2](#)), effective April 1, 2021, enhanced the tax credits for voluntarily provided FFCRA-qualifying paid leave through Sept. 30, 2021. Small employers subject to state or local emergency paid leave requirements extending into 2021 may want to assess whether the wages paid under those mandates qualify for the enhanced federal tax credits. Employers of all sizes should also watch for guidance from state and local authorities on coordinating any revived federal paid leave rights with state and local mandates.

On June 21, 2021, the [Occupational Safety and Health Administration](#) (OSHA) published a mandatory COVID-19 workplace safety rule that includes paid leave requirements. The [emergency temporary standard](#) (ETS) applies to employers in certain [healthcare-related](#) work settings beginning July 6, 2021. Covered employers must provide paid leave to employees who:

- Need to get vaccinated or recover from the vaccine's side effects

- Must stay out of the workplace because they have contracted COVID-19, have symptoms or had close workplace contact with a person who tests positive for COVID-19

The ETS responds to President Biden's January 2021 executive order directing OSHA to take action to reduce COVID-19 risks in the workplace. Employers in the healthcare industry should consult with counsel on how best to coordinate the new OSHA paid leave requirements with any applicable local COVID-19 paid leave mandates.

## **Latest updates**

California's supplemental paid sick leave mandate expired at the end of September, at the same time that Massachusetts extended its COVID-19 emergency paid sick leave requirement until April 2022. Many local emergency paid leave provisions related to COVID-19 have expired, while others, like Los Angeles County's, have been extended. Cook County, IL, has enacted an ordinance establishing COVID-19 vaccination rights for employees, adding to the growing list of state and local laws that employers must comply with.

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# Emergency paid leave benefits

## Arizona

The state's industrial commission updated its COVID-19 and earned paid sick time [FAQs](#) on Jan. 26, 2021. Under Arizona's earned paid sick time law (Ariz. Rev. Stat. §§ [23-371](#) to 23-381), employers with 15 or more employees in the state must provide up to 40 hours of earned paid sick time per year, and smaller employers have to provide up to 24 hours. One of the allowed uses of earned, paid sick time is for a public health emergency, including one that closes the school or care facility for an employee's child.

The updated FAQs note that the state governor declared a [public health emergency](#) related to COVID-19 on March 11, 2020. The governor has also issued an [executive order](#) to help health officials and administrators combat the spread of the virus and to reduce the financial burdens on Arizonans by lowering associated healthcare costs.

Earned, paid sick time must be available for these reasons:

- A public official has closed an employee's place of business due to the public health emergency.
- An employee or a family member contracts or needs to be tested for the virus.
- An employee or a family member is quarantined after exposure to COVID-19 — regardless of whether the employee or family member has actually contracted the virus — and a healthcare provider or public health official has determined that the employee's or family member's presence in the community may jeopardize the health of others.
- An employee needs to care for a child whose school has closed.

The FAQs also contain information about emergency paid leave available through the FFCRA.

## California (updated Aug. 9, 2021)

Employees unable to work due to COVID-19 may be able to use employer-provided paid sick leave (PSL) or qualify for benefits under the state disability insurance (SDI) or paid family leave (PFL) programs. Both SDI and PFL benefits are approximately 60% to 70% of wages (depending on income) and range from \$50 to \$1,300 a week:

- **PSL.** [COVID-19 FAQs](#) from the Department of Industrial Relations confirm that employees can use available PSL for their own or a family member's need to seek diagnosis, care or treatment of an existing health condition; obtain preventive care; or deal with issues related to domestic violence,

sexual assault or stalking. The [Healthy Workplaces, Healthy Families Act of 2014](#) entitles employees to use up to 24 hours of PSL (accrued at a rate of one hour of leave for every 30 hours worked) each year. According to the FAQs, preventive care may include self-quarantine after actual or potential exposure to COVID-19 or travel to a high-risk area. The PSL law does not apply if an employee's child's school or childcare has closed due to COVID-19. In that case, up to 40 hours of unpaid leave for child-related purposes may be available under [California law](#), and an employee can concurrently use accrued PSL as preventive care. Employers cannot require an employee to use PSL but can require the employee to use other paid leave — like vacation or paid time off (PTO) — before taking unpaid leave.

- **SDI.** [Executive Order No. 25-20](#) authorized the Employment Development Department (EDD) to waive the seven-day waiting period normally required before an employee can claim SDI benefits for disabilities related to COVID-19. However, [Executive Order 8-21](#) restores that waiting period for SDI claims with a start date on or after Oct. 1, 2021. SDI provides up to 52 weeks of partially paid leave for an eligible employee's own disability. The EDD has [confirmed](#) that employees unable to work because of exposure to or a diagnosis of COVID-19 (certified by a medical professional) can file a claim for disability benefits.
- **PFL.** The state's PFL program provides up to eight weeks of paid leave to care for a seriously ill family member, among other reasons. Employees do not have any waiting period for PFL. The EDD has [confirmed](#) that PFL benefits are available to eligible employees unable to work because they have to care for an ill or quarantined family member due to COVID-19 (if certified by a medical professional).

### Supplemental paid sick leave (expired)

Legislation (2021 Ch. 13, [SB 95](#)) signed on March 19, 2021, revived and expanded the supplemental paid sick leave (SPSL) requirement that originally had expired at the end of 2020. Employers with more than 25 employees nationwide had to provide up to 80 hours of COVID-19 SPSL for covered employees who were unable to work or telework. The law took effect March 29, but was retroactive to Jan. 1. Covered employees on COVID-19 SPSL when the law expired Sept. 30, 2021, may exhaust their leave entitlement.

Employers had to post a [notice of SPSL rights](#) in a conspicuous worksite location or e-deliver the notice to employees who do not frequent a workplace. The [Department of Industrial Relations \(DIR\)](#) published [FAQs](#).

**Amount of SPSL.** Full-time employees and those averaging 40 hours per week were entitled to 80 hours of SPSL. Other workers were entitled to the number of work hours normally scheduled over a two-week period. Variable-hour workers were entitled to 14 times their daily hours worked averaged over a six-month period before the leave began or, if employed fewer than six months, the entire period of employment. For variable-hour workers employed fewer than 14 days, the SPSL entitlement equaled the total number of hours worked before the leave began. Active firefighters scheduled to work more than 80 hours in the two weeks before the leave began were entitled to an equivalent



amount of SPSL. In all cases, leave could be immediately used on an employee's oral or written request.

**Permitted uses.** Employees were entitled to SPSL if unable to work or telework because they were:

- Subject to a COVID-19 quarantine or isolation order
- Advised by a healthcare provider to self-quarantine or self-isolate
- Attending an appointment to receive a COVID-19 vaccine
- Experiencing symptoms related to the vaccine that prevented them from being able to work or telework
- Experiencing symptoms of COVID-19 and seeking a medical diagnosis
- Caring for a family member who was subject to a COVID-19 quarantine or isolation order or had been advised by a healthcare provider to self-quarantine
- Caring for a child whose school or place of care was closed or otherwise unavailable for reasons related to COVID-19 on the premises

**Rate of pay.** SPSL was paid at the highest of the employee's regular rate of pay, the state minimum wage or the local minimum wage. Firefighters were paid equal to their regular rate for scheduled work hours during which leave is taken. SPSL was capped at \$511 per day and \$5,110 in the aggregate per employee, or any higher limit provided by a future federal law requiring paid leave for the same reasons. The cap did not apply to providers of in-home support services. Other covered employees who reached the maximum amounts could use other paid leave to bring the wage replacement up to 100% of their regular rate of pay for leave taken.

**Leave coordination and offsets.** SPSL was in addition to any PSL available to an employee under the state's [Healthy Workplaces, Healthy Families Act of 2014](#). Employers could not require an employee to use other leave, vacation or PTO before or instead of taking SPSL. However, employers could offset the SPSL hours with any supplemental paid leave benefits already provided for the same reasons and at an equal or better pay rate since Jan. 1, 2021. This included supplemental paid leave under federal or local law in effect on or after Jan. 1, 2021. However, any unused FFCRA sick leave benefits available to an in-home support service provider until March 31, 2021, could not offset SPSL under the state law. In addition, offsetting other COVID-19 paid leave for in-home support service providers was permitted only for leave taken on or after April 1, 2021, under federal or local law in effect at that time.

If an employer provided SPSL between Jan. 1 and March 29, 2021, for the COVID-19 reasons recognized under state law but at a lower rate than required, the employee could request retroactive supplemental pay. (However, retroactive payments should have been made automatically to in-home

support service providers.) Employers making a retroactive payment on or before the payday for the next full pay period (as required) could offset those hours against the 2021 SPSL requirements.

**Coordination with OSHA emergency standards.** The Cal-OSHA COVID-19 Emergency Temporary Standards require maintaining an employee's earnings while excluded from the workplace due to COVID-19 exposure. An employer could require a covered employee to exhaust COVID-19 SPSL.

**Recordkeeping, enforcement and penalties.** The recordkeeping, enforcement and penalty provisions of the state's PSL law applied to the SPSL requirements. Among other rights and remedies, the law prohibited retaliation against workers for exercising SPSL rights, and employers could face stiff penalties for unlawfully withholding SPSL days.

### California OSHA emergency temporary standards (updated July 13, 2021)

On June 17, 2021, the state Occupational Safety and Health Standards Board (Cal/OSHA) revised the emergency temporary standards for COVID-19 infection prevention, including the requirement to exclude employees from the workplace. Effective immediately, employers do not need to exclude employees who come into close contact with an infected person if they are fully vaccinated or have recently recovered from COVID-19 and are not experiencing symptoms. The employer must document that the exposed employee received the final dose of a COVID-19 vaccine at least 14 days before contact with the infected person. Employers can keep a copy of the vaccination record (i.e., vaccine card, healthcare document or other record that the employee presented as proof of vaccination) or maintain employee self-attestations of vaccine status. Whichever method is used, employers must keep the information confidential.

**Original ETS.** Beginning Nov. 30, 2020, California Occupational Safety and Health (OSHA) emergency temporary standards for COVID-19 prevention require, in part, paid, protected leave for employees who must stay away from the workplace due to a COVID-19 case or exposure. A COVID-19 case is defined as someone who tests positive for COVID-19, is subject to a local or state health official's COVID-19-related isolation order, or has died from COVID-19. A COVID-19 exposure is defined as being within six feet of a COVID-19 case for at least 15 cumulative minutes over a 24-hour period within or overlapping with a "high-risk exposure period," regardless of the use of face coverings.

**Excluded employees.** Employees with COVID-19 must be excluded from work until at least 24 hours have passed since their temperature has stayed below 100.4 without the use of fever-reducing medications; their symptoms have improved; and at least 10 days have passed since their COVID-19 symptoms first appeared. An employee testing positive but never developing symptoms must stay away from the workplace for at least 10 days after the test specimen collection. An employee with COVID-19 exposure must stay away from the workplace for 14 days after the last known exposure to a COVID-19 case.

**Benefits for excluded employees.** An excluded employee who is able to work but cannot work from home must continue to receive all pay and benefits while excluded. An employer may require the

excluded employee to exhaust PSL benefits before providing exclusion pay and may offset payments by an employee's public benefit payments. The standards do not cap the paid leave, so the same rules presumably apply even if an employee is excluded multiple times due to workplace exposures or an exposure and a later diagnosis. The requirement to continue pay and benefits does not apply during the exclusion period if the employee is not available and able to work.

**Additional information.** The state's [FAQs](#) clarify that the standards don't apply to worksites with only one employee who doesn't have contact with other people or to employees working from home. The state's [website](#) includes links to additional information and should be consulted frequently for updates.

### 2020 SPSL law (expired)

On Sept. 9, 2020, Gov. Gavin Newsom signed [AB 1867](#), which codified [Executive Order No. 51-20](#). The law provided SPSL for food-sector workers and added similar COVID-19 paid leave for other California workers. SPSL for food-sector workers took effect April 16, 2020, and applied to employers with 500 or more food-sector workers nationwide. Food-sector workers work in food and agriculture industries, including packaging, delivery and retail.

A subsequent SPSL requirement applied to nontelecommuting California workers of private companies with 500 or more US employees, as well as healthcare providers and emergency responders working for any employer that elected to exclude those workers from emergency paid sick leave under the FFCRA. Employers had to make SPSL available to workers by Sept. 19, 2020.

The SPSL law expired on Dec. 31, 2020, although any workers on COVID-19 SPSL at the time could exhaust their full SPSL entitlement. The state created [FAQs](#) and a [chart](#) comparing paid leave laws covering California workers affected by COVID-19, including PFL, PSL, FFCRA emergency paid sick leave, SPSL, and FFCRA emergency paid family and medical leave.

**Amount of SPSL.** In all cases, leave was available for immediate use on a worker's oral or written request. Full-time employees and workers averaging 40 hours per week were entitled to 80 hours of SPSL. Other workers were entitled to the number of work hours normally scheduled over a two-week period. Variable-hour workers were entitled to 14 times the daily hours worked averaged over a six-month period before the leave began or, if employed fewer than six months, the entire period of employment. For variable-hour workers (other than food-sector workers) employed fewer than 14 days, the SPSL entitlement equaled the total number of hours worked before the leave began. Active firefighters scheduled to work more than 80 hours in the two weeks before the leave began were entitled to an equivalent amount of SPSL.

**Permitted uses.** Workers entitled to SPSL if unable to work because they were:

- Subject to a COVID-19 quarantine or isolation order
- Advised by a healthcare provider to self-quarantine or self-isolate

- Prohibited from working due to health concerns about potential virus transmission

**Rate of pay.** SPSL was paid at the highest of the employee's regular rate of pay, the state minimum wage, or the local minimum wage and capped at \$511 per day and \$5,110 in the aggregate. Healthcare workers and emergency responders were paid equal to their regular rate for the scheduled work hours during which leave was taken.

**Notice and recordkeeping requirements.** Employers had to post a notice of SPSL rights in a conspicuous worksite location or e-deliver the notice to workers who did not frequent a workplace. As required by the state's PSL law, employers had to provide workers a written notice about their SPSL amount available for use. This notice could appear on an itemized wage statement or in a separate document accompanying wage payments. Employers must maintain records documenting an employee's hours worked and SPSL days accrued and used for three years.

**Leave coordination and offsets.** SPSL was in addition to any PSL available to an employee under state law. Employers could not require an employee to use other leave, vacation or PTO before or instead of taking SPSL. However, employers could offset state-mandated SPSL with any supplemental paid leave benefits already provided for the same reasons and at an equal or better pay rate, including any SPSL provided under Executive Order No. 51-20 or another federal or local law. If an employer provided SPSL to workers other than food-sector workers between March 4 and Sept. 9, 2020, for the COVID-19 reasons recognized under AB 1867 but at a lower rate than the state law required, the employer could retroactively provide supplemental pay to the newly covered workers and offset those hours against the state-mandated requirements.

**Enforcement and penalties.** The enforcement and penalty provisions of the state's PSL law applied to the SPSL requirements. Along with providing other rights and remedies, the law prohibited retaliation against workers for exercising SPSL rights, and employers could face stiff penalties for unlawfully withholding SPSL days.

## Dale City, CA (expired)

On March 8, 2021, the Dale City Council passed an urgency ordinance (No. 1445) requiring grocery and drug store essential workers to receive \$5 per hour as hazard pay — in addition to their regular hourly pay — and up to four hours of paid leave to get vaccinated. Effective on enactment, the ordinance applied to grocery and drug store owners and operators with 500 or more employees nationwide. The measure also covered franchises associated with a franchisor or a network that employs more than 500 employees in the aggregate. The ordinance contained employer notice and poster requirements, as well as anti-retaliation provisions. The ordinance expired on July 8, 2021.

## Long Beach, CA

On May 19, 2020, the Long Beach City Council approved an emergency ordinance (No. 20-0017) — later adopted as a regular ordinance on June 9, 2020 — requiring all private employers with more than

500 employees nationwide to provide paid sick leave for workers impacted by COVID-19, including those needing to care for a child because childcare is unavailable. The ordinance is intended to cover employers not subject to the FFCRA, with special rules for collective bargaining agreements. The measure took effect immediately and will remain in effect until the city council decides — based on reports from the city manager every 90 days — that the ordinance is no longer needed.

The ordinance amends the municipal code to add Chapter 8.110 for COVID-19 paid supplemental sick leave (PSSL). Under the ordinance, full-time employees are eligible for up to 80 hours of paid sick leave, and part-time employees are eligible for paid sick leave equal to their average number of hours worked over a two-week period. Employer cannot require eligible employees to exhaust other sick or accrued leave before using PSSL. Unused PSSL does not have to be paid out when employment terminates or the ordinance sunsets.

**Permitted uses.** PSSL is available to any employee working within the city of Long Beach who is unable to work the following reasons:

- The employee is subject to quarantine or isolation by federal, state, or local order due to COVID-19 or is caring for someone who is quarantined or isolated due to COVID-19.
- The employee is advised by a healthcare provider to self-quarantine due to COVID-19 or is caring for someone who is so advised by a healthcare provider.
- The employee experiences symptoms of COVID-19 and is seeking medical diagnosis.
- The employee is caring for a minor child because the child's school, day care or childcare has closed or is unavailable because of COVID-19, and the employee is unable to secure a reasonable alternative caregiver.

The leave is available for employees who cannot work or telework, and employers can exclude emergency responders and healthcare providers.

**Rate of pay.** Leave is paid at the regular rate of pay up to \$511 per day and \$5,110 in the aggregate. If the leave relates to care for another, it can be paid at two-thirds the regular rate up to \$200 per day and \$2,000 in the aggregate.

**Exemptions and offsets.** Employers with a paid leave or PTO policy that provides at least 160 hours of paid leave annually are exempt. Other covered employers can offset the ordinance requirement for every hour of COVID-19-related paid leave — not including accrued paid leave — already provided on or after March 4.

**Miscellaneous provisions.** Retaliation is prohibited. Employers have limited rights to request documentation and can require reasonable notice only for leave that is foreseeable. The ordinance is enforceable by private action, and damages — including punitive — can be awarded.

## Los Angeles, CA (updated July 13, 2021)

The Los Angeles City Council initially approved an [ordinance](#) requiring employers with employees working in the city to provide COVID-19 supplemental paid sick leave (SPSL) to those employed from Feb. 3 through March 4, 2020. The mayor later issued an [emergency order](#) on April 7, 2020, superseding the ordinance. On April 11 and May 26, 2020, the [Office of Wage Standards](#) issued [rules](#) implementing the mayor's order. The superseding order followed the general framework of the original ordinance but provided additional exemptions for certain employers.

**Revisions to ordinance.** On Feb. 10, 2021, the city revised the order to make SPSL available to any employee employed for at least 60 days who is unable to work or telework. [Updated rules](#) from the Office of Wage Standards reflect that change. On June 24, 2021, Los Angeles mayor revised the city's April 2020 [SPSL ordinance](#) to allow using SPSL to get COVID-19 vaccines and recover from side effects. Employers may require employees to verify their receipt of a vaccine to substantiate use of SPSL for this reason.

The SPSL rights and remedies are in addition to and independent of any other rights, remedies and procedures available under any other law, except the federal FFCRA. The order is effective until two weeks after the local COVID-19 emergency period expires.

**Covered employers.** The emergency ordinance applies to employers with 500 or more employees in Los Angeles or 2,000 or more employees nationwide. The order exempts:

- Employers that closed or stopped operations for at least 14 days after March 4, 2020, due to a city official's COVID-19 emergency order or provided at least 14 days' paid or unpaid leave (including furloughs)
- Employers with a policy providing at least 160 hours of annual paid leave, excluding paid holidays or bereavement leave
- Employers of healthcare providers, first responders and global parcel delivery services
- Government agencies
- Certain new businesses

**Amount of SPSL.** The city's long-standing [sick leave rules](#) require an employer to provide employees at least 48 hours of paid sick leave or one hour for every 30 hours worked. The SPSL is separate from any regular paid sick leave that the employer might have provided or continues to provide, such as the regular accrued paid sick leave required by law. With SPSL, a full-time employee (working at least 40 hours per week or classified as full-time) can receive 80 hours of supplemental leave, while part-time workers receive SPSL equal to their average hours in a two-week period. An employer can offset the SPSL requirement with paid leave (excluding accrued leave) provided for similar reasons on or after March 4, 2020.

**SPSL pay rate.** SPSL originally was paid at an employee's average two-week wages between Feb. 3 and March 4, 2020. As of Feb. 10, 2021, the pay rate for SPSL hours is an employee's average two-week pay over the last 60 days of employment. In all cases, leave pay is capped at \$511 per day or \$5,110 aggregate per employee.

**Permitted uses.** The SSPL is available on request from an employee who:

- Cannot work or telework and has been infected with COVID-19
- Is required or recommended to isolate or self-quarantine to prevent the spread of COVID-19
- Is at least 65 years old or suffers from a health condition like heart disease, asthma, lung disease, diabetes, kidney disease or a weakened immune system
- Needs to care for a family member who is not sick but is in isolation or self-quarantine due to a public health official's or healthcare provider's requirement or recommendation
- Needs to care for a family member whose other care arrangements have temporarily ceased operations due to the public health emergency
- Needs to get a COVID-19 vaccine or recover from its side effects

An employer may not require a doctor's note or other documentation for the use of SPSL. However, an employer may require employees to verify receipt of a COVID-19 vaccine if they use SPSL for this purpose.

### Vaccine leave (expired)

On June 24, 2021, a new public order required paid time off for employees to get vaccinated against COVID-19. Employers had to provide this paid leave to workers employed for at least 60 days who work within the city. The paid time off included travel time to and from a vaccine appointment, as well as time to recover from side effects that prevented the employee from working or teleworking. The order, effective retroactively to Jan. 1, 2021, expired on Sept. 30, 2021. However, employees taking COVID-19 vaccine leave on the expiration date can take their full leave entitlement.

**Retroactive effective date.** Because the order was retroactive, any employee who took unpaid leave to get vaccinated on or after Jan. 1, 2021, had to receive compensation for that time. If the employee used leave other than city- or state-mandated COVID-19 SPSL to get vaccinated, such as paid or unpaid time off or other sick leave time, those leave hours had to be restored. However, employers did not have to provide this compensation and restore other leave unless the employee made an oral or a written request.

**Amount of leave.** The amount of leave depended on employer size and employee status as full-time or part-time. Employers with 25 or fewer employees had to provide full-time employees up to four hours of paid leave for each injection, and up to eight hours of paid leave to recover from any side

effects. These small employers had to provide part-time employees a prorated amount for injections, based on the average hours worked in the preceding 60 days, and a similarly prorated amount for recovery from any side effects. The same paid leave benefits applied to full-time and part-time employees at other employers, but only if an employee had exhausted other COVID-19 supplemental sick leave allotments under state law and city ordinance.

**Rate of pay.** Exempt employees were paid at the same rate and in the same manner as other types of paid leave, but no more than \$511 per day (or \$255.50 for each four-hour period) and \$1,022 in the aggregate. Nonexempt employees were paid their regular rate of pay, the city's minimum wage or their average hourly pay (not including overtime) for the past 60 days, whichever was highest.

**Offset.** Employers could offset this paid leave requirement with any other supplemental paid leave benefit provided on or after Jan. 1, 2021, that was in addition to state-required paid leave and was paid at a rate equal to or greater than this public order requires.

## Los Angeles County, CA

### Vaccine leave (updated Oct. 8, 2021)

The Los Angeles County Board of Supervisors enacted an emergency ordinance (No. 2021-0024U) requiring employers to provide employees in unincorporated parts of the county paid leave for COVID-19 vaccines. The ordinance, enacted on May 18, 2021, was effective retroactive to Jan. 1, 2021, originally scheduled to expire on Aug. 31, 2021, but extended until 14 days after the expiration of the COVID-19 local emergency declared by the Board of Supervisors (No. 2021-0039U).

Full-time employees can take up to four hours of leave at normal pay rate per injection, and part-time employees receive a proportional amount based on hours worked in the two weeks prior to the injection. Employees may use the paid leave for travel time, receipt of the injection and recovery from any associated symptoms. In all cases, the vaccine-related paid leave is in addition to any paid leave under the state's Healthy Workplaces Healthy Family Act, but is only available if an employee has exhausted the COVID-related supplemental paid sick leave (SPSL) provided by state law.

Employers must conspicuously display a revised written notice provided by the Department of Consumer and Business Affairs. The ordinance also contains recordkeeping, nondiscrimination and anti-retaliation requirements.

### SPSL

On Jan. 26, 2021, the Los Angeles County Board of Supervisors approved amendments, retroactive to Jan. 1, 2021, to the interim urgency ordinance enacted in April 2020. The amendments extend SPSL until two weeks after the expiration of the COVID-19 local emergency. The amendments also expand the SPSL requirement to all employers rather than only employers with 500 or more employees nationwide. The ordinance does not apply to federal, state or local government agencies; employers



subject to the federal FFCRA emergency paid leave provisions from March 18 to Dec. 31, 2020; or employers required to provide SPSL under California [Executive Order No. 51-20](#).

Under the ordinance, a full-time employee (working at least 40 hours per week or classified as full-time) can receive 80 hours of SPSL, while part-time workers can receive SPSL equal to their two-week average hours between Jan. 1 and April 28, 2020. Leave pay is capped at \$511 per day or \$5,110 in aggregate per employee. Covered employers can exclude emergency responder and healthcare provider employees.

Leave must be available on written request from employees who cannot work or telework because they:

- Belong to a vulnerable population
- Have a family member subject to a federal, state, or local quarantine or isolation order, including a shelter-in-place order
- Have a family member subject to self-quarantine at the recommendation of a healthcare provider
- Have COVID-19 symptoms needing a medical diagnosis
- Have to care for a child whose school or care facility has closed due to the public health emergency
- Must isolate or self-quarantine as required by a public health official or healthcare provider to prevent the spread of COVID-19
- Are subject to a federal, state, or local quarantine or isolation order related to COVID-19 (e.g., is at least 65 years old or has a health condition like heart disease, asthma, lung disease, diabetes, kidney disease or a weakened immune system)
- Need to care for a family member who is subject to a federal, state, or local quarantine or isolation order related to COVID-19 or have been advised by a healthcare provider to self-quarantine for COVID-19 reasons
- Need to care for a family member whose senior care, school or childcare provider ceases operations in response to a public health or other public official's recommendation

The SPSL is in addition to any paid sick leave available employees under the state's [paid sick leave law](#), and a covered employer cannot require use of any other employer-provided paid or unpaid leave, PTO or vacation time before or instead of taking SPSL. However, SPSL can be offset by any paid leave — above and beyond regular sick or personal leave — that an employer voluntarily provides on or after March 31, 2020, if the amount equals or exceeds the ordinance's requirements and the leave is available for any reason described in the ordinance. In addition, under the amended ordinance, SPSL can be offset by paid sick leave paid under the FFCRA.

The ordinance bars retaliation and discrimination against an employee for asserting SPSL rights. SPSL can be expressly waived by a collective bargaining agreement, as long as the waiver is explicitly set forth in clear and unambiguous terms.

## **Marin County, CA (expired)**

On June 8, 2021, the Marin County Board of Supervisors adopted an urgency ordinance requiring employers with 25 or fewer employees in unincorporated areas of the county to provide supplemental paid sick leave (SPSL) for COVID-19. The ordinance was intended to fill the gap left by California's 2021 COVID-19 SPSL law (SB 95), which applied to employers with more than 25 employees. The ordinance took effect immediately and expired on Sept. 30, 2021.

**Amount of SPSL.** Covered employers had to provide up to 80 hours of SPSL to full-time employees who worked more than two hours in unincorporated areas of the county. Other employees were entitled to SPSL equal to the average number of hours worked in a two-week period over the past six months. SPSL hours were in addition to any paid sick leave available under the state's Healthy Workplace Healthy Family Act and any other paid time-off benefits (like vacation or sick leave) established before March 16, 2020.

Employers could offset SPSL by any COVID-19 paid sick leave already provided under FFCRA, Cal/OSHA regulations, or any similar future state or federal law. In addition, if an employee had at least 80 hours of accrued paid sick leave or 160 hours of combined of paid sick leave, vacation, and time off as of June 8, 2021, the employer did not have to provide additional SPSL. If an employee had fewer than 80 hours of paid time off available, employers had to supplement with enough SPSL to correct the deficiency.

**Rate of pay.** Covered employers has to pay SPSL at the employee's regular rate of pay, up to \$511 per day and \$5,110 in total.

**Permissible uses.** On receiving a written request, covered employers had to provide SPSL to employees who could work or telework for the following reasons:

- The employee was or needed to care for an individual in isolation or quarantine to prevent the spread of COVID-19 on the advice of a healthcare provider or under a federal, state, or local order.
- The employee had or needed to care for an individual who had COVID-19 symptoms and was seeking a medical diagnosis.
- The employee needed to care for an individual whose school, senior care provider or childcare provider closed or was unavailable in response to a public health or other public official's recommendation.
- The employee was receiving a COVID-19 vaccine or experiencing symptoms related to the vaccine.

Employers could deny a healthcare provider's or emergency responder's request for SPSL to care for an individual whose school or senior care closed if granting the leave would have created a staffing shortfall.

**Notice, poster and recordkeeping.** Covered employers had to provide employees a notice in English and Spanish about their rights under the ordinance. The notice could be displayed in the workplace, posted online or emailed, as long as the method was calculated to reach all employees. Employers must keep a record of each employee's name, hours worked and pay rate for at least three years.

### **Millbrae, CA (expired)**

On March 9, 2021, the Millbrae City Council passed an emergency ordinance (No. 786) requiring grocery and drug store essential workers to receive \$5 per hour as hazard pay in addition to their regular hourly pay. The measure also required providing those workers up to four hours of paid leave to get vaccinated. Effective on enactment, the ordinance applied to grocery and drug store owners and operators with 750 or more employees nationwide. The ordinance had employer notice and poster requirements, as well as anti-retaliation provisions. The ordinance expired on July 7, 2021.

### **Oakland, CA**

The Oakland City Council has extended and modified the emergency supplemental paid sick leave (SPSL) ordinance (No. 20-0345) approved in May 2020, that requires employers to provide 80 hours of coronavirus-related paid sick leave. The updated legislation (21-0018) extends the requirement beyond the original Dec. 31, 2020, sunset date through the end of the city's COVID-19 emergency declaration, unless extended further. The ordinance contains anti-retaliation and anti-discrimination provisions enforced by the Department of Workplace and Employment Standards.

The city has updated the notice of employee rights under the emergency ordinance in multiple languages that employers must post in the workplace, distribute electronically, or place on a web-based or app-based platform that is calculated to reach all employees. The notice must be provided in all languages spoken by more than 10% of the employees. The city may update the FAQs about SPSL.

**Amount of paid leave.** The SPSL is available to any employee who has provided at least two hours of service within the city of Oakland since Feb. 3, 2020, for an employer of any size. Full-time employees receive 80 hours of paid leave, and other employees receive paid leave equivalent to their highest two-week average hours worked between Feb. 3 and March 4, 2020. The modified ordinance also requires paid leave for employees who worked fewer than 14 days between Jan. 1 and Jan. 21, 2021. These employees are entitled to paid sick leave equal to their hours worked in Oakland over the 14-day period. Leave is paid at the employee's regular rate of pay up to \$511 per day and \$5,110 in the aggregate.

**Permissible uses.** Employers must grant the emergency paid leave to any employee who cannot work or telework for one of these reasons:

- The employee needs to care for a family member who has been diagnosed with COVID-19 or has COVID-19 symptoms.
- The employee is at least 65 years old and has a specified health condition or a heightened risk of serious illness or death if exposed to COVID-19.
- The employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19.
- A healthcare provider has advised the employee to self-quarantine due to concerns related to COVID-19.
- The employee is experiencing COVID-19 symptoms and is seeking a medical diagnosis.
- The employee is caring for an individual subject to quarantine or isolation under a government order or a healthcare provider's advice.
- The employee is caring for a son or daughter whose school or place of care has closed or is unavailable due to COVID-19 precautions.
- The employee is experiencing any other substantially similar condition specified by federal agencies.

Employees can take leave in one-hour increments and on an intermittent basis, and an employer has limited rights to request documentation supporting the need for leave.

**Coordination with other paid sick leave.** An employee can use the emergency paid sick leave before any other leave provided by an employer or required by Oakland's nonemergency paid sick leave ordinance ([Mun. Code § 5.92.030](#)). An employer cannot require an employee to use any other leave before taking the emergency paid sick leave. However, an employer can credit any emergency paid sick leave hours taken under the federal FFCRA or the statewide supplemental paid sick leave laws against hours available under the local SPSL ordinance, as long as the leave was paid at the employee's regular rate of pay.

**Exemptions.** Employers (excluding certain franchisees) with fewer than 50 employees between Feb. 3 and March 4, 2020, are exempt from the ordinance. Employers of healthcare providers or emergency responders can elect to exempt those employees from the emergency ordinance's requirements, similar to what the FFCRA allows. Employers are exempt from the ordinance if:

- Between Feb. 3 and May 12, 2020, they provided immediate access to paid personal leave (including PTO, sick leave or vacation) on terms at least as generous as the emergency ordinance requires. This exemption applies only if the paid personal leave was in addition to any paid leave the employer had to provide under a collective bargaining agreement, policy or contract.

- After Feb. 3, 2020, they allowed employees to accrue at least 160 hours of paid personal leave, with at least 80 hours of leave available immediately after May 12, 2020 — even if the employee had fewer than 80 hours of accrued leave available before that date. For this exemption to apply, the paid personal leave must be available for the same reasons allowed in the emergency ordinance.

**Payout of accrued paid sick leave required (revised May 5, 2021).** Oakland's nonemergency paid sick leave ordinance requires employers to provide one hour of paid sick leave for every 30 hours worked up to a maximum of 72 leave hours per year. Until now, employers did not have to pay out accrued but unused nonemergency sick leave upon separation. However, while the emergency SPSL ordinance is in effect, employers with at least 50 employees must compensate laid-off employees for all accrued but unused paid nonemergency sick leave. No similar requirement entitles separating employees to payout of unused emergency paid sick leave.

## **Sacramento, CA (expired)**

Supplemental paid sick leave (SPSL) was included in the [Sacramento Worker Protection, Health and Safety Act](#) (Ordinance No. 2020-0026), originally effective July 15 through Dec. 31, 2020, but extended first through March 31, 2021, and again through June 30, 2021. Employers with 500 or more employees nationwide had to provide 80 hours of SPSL to full-time employees working within the city. For all other employees working within the city, the amount of SPSL was based on the average number of hours worked over a two-week period. Emergency responders and healthcare providers could be excluded.

**Permissible use.** An employee could use the leave if unable to work or telework for any of these reasons:

- The employee was subject to quarantine or isolation by federal, state or local order or was caring for a family member who was quarantined or isolated.
- A healthcare provider had advised the employee to self-quarantine due to COVID-19, or the employee was caring for a family member who had been advised to quarantine.
- The employee was older than age 65 or considered vulnerable due to a compromised immune system.
- The employee was experiencing COVID-19 symptoms and seeking a medical diagnosis.
- The employer or a specific work location had temporarily ceased operations due to a public health order or a public official's recommendation.
- The employee was caring for a minor child because a school or daycare facility had closed due to COVID-19.

**Rate of pay.** The SPSL pay rate was similar to what the federal FFCRA’s emergency paid sick leave requirements for smaller employers. Employees using the leave for themselves received their regular rate of pay up to \$511 per day and \$5,110 in the aggregate. When using leave to care for a family member, employees received two-thirds of their regular rate up to \$200 per day and \$2,000 in the aggregate. Employers did not have to pay out unused SPSL on termination. For continuing employees, unused SPSL expired when the ordinance sunset.

**Other leave.** SPSL under the Sacramento ordinance was in addition to any other paid sick leave, paid time off (PTO) or vacation available to an employee. An employer could not require an employee to use other accrued paid sick leave, PTO or vacation time before taking SPSL. However, employer-provided emergency paid sick leave for COVID-19 reasons provided since March 19, 2020, could count against SPSL requirements. In addition, supplemental paid leave for food-sector workers under California [Executive Order No. 51-20](#) could offset Sacramento’s SPSL.

## **Sacramento County, CA (expired)**

Sacramento County passed the Workers Protection, Health and Safety Act of 2020 ([Ordinance No. 1593](#)), providing COVID-19 paid leave to workers in [unincorporated areas](#) of the county. The ordinance was nearly identical to the one passed in July by the [Sacramento City Council](#). The Board of Supervisors [extended](#) the emergency measure — originally effective Oct. 16 through Dec. 31, 2020 — first through March 31, 2021 (Ordinance No. 2020-0047) and again through June 30, 2021

Employers with 500 or more employees nationwide had to provide full-time employees in the county 80 hours of supplemental paid sick leave (SPSL). Part-time employees were entitled to SPSL equal to their average hours worked over two weeks (calculated using the time worked in the six months before Oct. 1, 2020). The reasons for which employees could take SPSL and the pay rate during leave were identical to what the Sacramento city ordinance required. Emergency responders and healthcare providers could be excluded from SPSL entitlement.

Just like SPSL under the city ordinance, the county-required SPSL could be offset by emergency COVID-19 leave provided since March 19 and SPSL provided under California [Executive Order No. 51-20](#). Employers could require an employee to use other accrued paid sick leave, PTO or vacation before or instead of SPSL.

## **San Francisco, CA**

[Guidance](#) from San Francisco’s Office of Labor Standards Enforcement (OLSE) temporarily expands leave rights and waives documentation requirements under the city’s paid sick leave ordinance (PSLO). Employers also were encouraged to provide five additional days of paid sick leave — partly funded through the [Office of Economic and Workforce Development](#) — beyond current workplace policies.

## New paid sick leave rights

The PSLO requires employers to provide at least one hour of paid sick leave for every 30 hours worked to all employees working in the city. Employees may use accrued paid sick leave when they — or a family member — are ill, injured, receiving medical care (including preventive care) or treatment, seeking a diagnosis, or unable to work for other medical reasons. The new guidance requires covered employers to let employees use accrued sick leave for any of these additional reasons:

- The employee has to isolate or quarantine at the recommendation of a public health official or healthcare provider.
- The employee falls within the definition of a “vulnerable population” under guidelines issued by the San Francisco Department of Public Health. This category includes anyone who is age 60 or older or has certain health conditions like diabetes, a weakened immune system, or heart, lung or kidney disease.
- The employee’s business or a work location has temporarily ceased operations in response to a public health or other public official’s recommendation.
- The employee needs to care for a family member who is not sick but is in isolation or quarantine at a public health official’s or a healthcare provider’s requirement or recommendation.
- The employee needs to care for a family member whose school, child, or senior care provider or workplace has temporarily ceased operations in response to a public health or other public official’s recommendation.

Employers may not require a doctor’s note or other documentation for paid sick leave. These changes are effective only for the duration of the city’s novel coronavirus disease local health emergency.

## Additional paid sick leave incentive program (expired)

The Workers and Families First Program announced by the mayor offered incentives for businesses to provide an additional five days of sick leave pay to employees. All San Francisco businesses were eligible, with up to 20% of funds reserved for small businesses with 50 or fewer employees. As of April 5, 2020, the program had exhausted its funding, but businesses could sign up for a waiting list. However, the program has now closed and is no longer accepting applications.

Under the program, the city contributed up to one week (40 hours) at \$15.59 per hour (the San Francisco minimum wage), or \$623 a week, per employee toward paid sick leave. The employer had to pay the difference between the minimum wage and an employee’s full hourly wage.

The program was available only if an employee had exhausted available sick leave and was ineligible for or had exhausted federal or state supplemental sick leave, and the employer agreed to extend sick leave beyond current benefits.

## Emergency paid sick leave (expired)

Effective April 17, 2020, an emergency ordinance required private employers with 500 or more employees to provide paid sick leave during the COVID-19 local public health emergency. The amended Public Health Emergency Leave Ordinance (PHELO) provided emergency paid sick leave similar to the FFCRA's provisions, but for employees of larger employers not covered by the federal law. On Feb. 9, 2021, the board enacted another 60-day extension of the measure with minor amendments, including a prospective exception for certain nonprofit employers. The ordinance expired on April 12, 2021.

Under the ordinance, a full-time employee (as of Feb. 25, 2020) received 80 hours of emergency paid sick leave, and a part-timer (as of Feb. 25, 2020) received paid leave equal to the average number of hours worked in a two-week period over the six months ending Feb. 25, 2020. The leave had to be paid in the same manner as leave under the city's PSLO (Admin. Code § 12W.3(h)). Leave could be used if the employee:

- Belonged to a vulnerable population
- Was or had a family member subject to a federal, state, or local quarantine or isolation order, including a shelter-in-place order
- Was subject to or had a family member subject to a self-quarantine at the recommendation of a healthcare provider
- Had COVID-19 symptoms needing a medical diagnosis
- Had to care for a child whose school or care facility closed due to the public health emergency

The leave was in addition to any PTO the employer provided on or before April 17. An employer could not change any PTO policies on or after April 17, 2020, except to provide additional paid leave. However, an employer could reduce the PHELO-required leave by any paid leave hours (except previously accrued hours) taken on or after Feb. 25, 2020, for the same purposes. Unused leave did not have to be paid out at termination of employment. Retaliation for using the leave is prohibited.

Employers had to provide the official poster (available on the OLSE website) in a manner calculated to reach all employees. FAQs about the PHELO are also available on the OLSE website.

## San Jose, CA (expired)

An emergency ordinance (No. 30513), effective Jan. 1 through June 30, 2021, expanded the original San Jose emergency ordinance (No. 30390) that required private employers exempt from the FFCRA's mandate to provide emergency paid sick leave during the COVID-19 public health emergency. The revised ordinance required all employers to provide up to 80 hours of paid sick leave to full-time employees who had worked at least two hours in the city. Part-time employees had to receive sick leave equal to their average hours worked over a two-week period. The revised ordinance



also removed the previous limitation that restricted eligibility to employees who leave their residences to perform essential work (as defined by the Santa Clara County Public Health Officer).

An employee could use paid sick leave when unable to work (or telework) for any of these reasons:

- The employee was subject to a COVID-19 quarantine or isolation order from a federal, state, or local authority or was caring for someone quarantined or isolated due to COVID-19.
- The employee was self-quarantined or caring for someone self-quarantined due to COVID-19 at the advice of a healthcare provider
- The employee had COVID-19 symptoms and was seeking a medical diagnosis.
- The employee was caring for a minor child whose school or day care closed due to COVID-19.
- The employee was caring for a minor child whose childcare provider was unavailable due to COVID-19 precautions.

The amended emergency ordinance added a childcare provider's unavailability to the list of permissible uses of emergency paid sick leave.

The ordinance's pay requirements were similar the FFCRA's standards: Employees using sick leave for their own illness or quarantine had to receive their regular rate of pay up to \$511 a day and \$5,110 in aggregate. When using sick time to care for another person, employees had to receive two-thirds of their regular pay rate up to \$200 a day and \$2,000 in aggregate.

Employers already providing some combination of paid personal leave at least equivalent to the ordinance's requirements did not need to provide more paid leave. Employers that provided some but not an equivalent amount of paid leave had to make up the difference. It's not clear whether employers could credit previously provided FFCRA paid sick leave against the revised city ordinance requirement. The [Office of Equality Assurance](#) posted [FAQs](#) and an [opinion letter](#) on the ordinance.

## **San Mateo city, CA (expired)**

On March 1, 2021, the San Mateo City Council [adopted](#) an emergency ordinance ([No. 2021-8](#)) requiring grocery and drug store essential workers to receive \$5 per hour as hazard pay in addition to their regular hourly pay. The measure also required providing up to four hours of paid leave for those workers to get vaccinated. Effective on enactment, the ordinance applied to grocery and drug store owners and operators with 750 or more employees nationwide. The ordinance had employer [notice](#) and poster requirements, as well as anti-retaliation provisions. The city published [FAQs](#) about the ordinance. The ordinance expired July 13, 2021.

## San Mateo County, CA (expired)

Ordinance No. 20-506 required employers with 500 or more employees nationwide to provide supplemental paid sick leave (SPSL) to employees in unincorporated areas of the county. Full-time employees could take 80 hours of paid leave, while part-time employees could take the equivalent of their average hours worked in a two-week period. Employees using SPSL were paid at their regular rate, capped at \$511 per day and \$5,110 in the aggregate.

On Dec. 8, 2020, the Board of Supervisors extended the emergency COVID-19 paid sick leave ordinance — originally effective from July 8 through Dec. 31, 2020 — through June 30, 2021. The board also clarified that if federal, state or other local legislation requires employers to provide emergency paid sick leave for the same reasons to employees covered by the county ordinance, that leave will offset amounts required by the San Mateo County ordinance.

**Permissible use.** An employee could request SPSL when unable to work or telework for any of these reasons:

- The employee was or was caring for someone in isolation or self-quarantine to prevent the spread of COVID-19 at the advice of a healthcare provider or under a federal, state, or local order.
- The employee had or was caring for someone who had COVID-19 symptoms and was seeking a medical diagnosis.
- The employee needed to care for an individual whose school, childcare provider or senior care provider closed or was unavailable due to a public health or other public official's recommendation.

**Limitations for select employees.** Food-sector employees covered by California Executive Order No. 51-20 were excluded from SPSL entitlement. In addition, employers could limit the use of SPSL by healthcare providers, certain aviation security workers and emergency responders. Nevertheless, these employees were entitled to use SPSL if they could not work or telework either of these reasons:

- The employee was advised by a healthcare provider to isolate or self-quarantine to prevent the spread of COVID-19.
- The employee was experiencing COVID-19 symptoms, was seeking a medical diagnosis, and did not meet the Centers for Disease Control and Prevention (CDC) return-to-work criteria for healthcare personnel with confirmed or suspected COVID-19 infection.

**Other leave.** SPSL was in addition to any other paid sick leave available to the employee under the state's paid sick leave law, any PTO provided before March 16, 2020, and any other form of leave (vacation, sick or personal) provided by an employer policy. Employers could not require the use of other paid or unpaid leave, PTO or vacation time before or instead of taking SPSL. Nevertheless, the required SPSL hours could be offset by any emergency paid leave for COVID-19-related purposes voluntarily provided between March 17 and June 30, 2020, or any COVID-19-related supplemental paid leave provided pursuant to another jurisdiction's laws.

## Santa Rosa, CA (expired)

An urgency ordinance (No. 2020-006) adopted by the city council required private employers with more than 500 employees nationwide to provide up to 80 hours of paid sick leave to employees who worked at least two hours in the city. This temporary paid sick leave (PSL) requirement was effective July 7, 2020, through Dec. 31, 2020. On Feb. 2, 2021, the city council voted to replace the expired ordinance with a new PSL requirement (Ord. No. 2021-001) covering nearly all employers, with a limited exception for employers with fewer than 50 employees. The new ordinance provided paid leave similar to the original ordinance through Sept. 30, 2021, the date federal tax credits for FFCRA paid leave expired.

**Eligible employees.** The temporary paid sick leave was available only to employees who performed “allowed or essential work” — work activities and services permitted by orders of the Sonoma County Public Health Officer. Full-time employees were entitled to 80 hours of paid leave, while part-time employees were entitled to paid leave equivalent to their average hours worked over a two-week period.

**Pay rate for emergency leave.** Employees taking PSL initially received their regular pay rate up to \$511 per day and \$5,110 in the aggregate. Under the 2021 replacement ordinance, the emergency leave pay rate was similar to the federal FFCRA’s pay rate for emergency paid sick leave. Employees using the leave for themselves received their regular rate of pay up to \$511 per day and \$5,110 in the aggregate. When using leave to care for a family member, employees received two-thirds of their regular rate up to \$200 per day and \$2,000 in the aggregate. Employers do not need to pay out or make unused sick leave available after expires.

**Permissible uses.** An eligible employee could use PSL when unable to work for any of these reasons:

- The employee was subject to quarantine or isolation by federal, state or local order due to COVID-19.
- The employee was self-quarantining on the advice of a healthcare provider.
- The employee experienced symptoms of COVID-19 and was seeking medical diagnosis.
- The employee was caring for someone who was quarantined, isolated or otherwise unable to receive care due to COVID-19.
- The employee was caring for a minor child whose school or day care closed or whose childcare provider was unavailable due to COVID-19.

**Leave already provided.** The COVID-19-related PSL was in addition to any paid leave an employer normally provided. However, a covered employer that had already provided some combination of paid leave at least equivalent to the ordinance’s requirements was exempt. Any short period of pandemic-

related paid leave an employer had already provided in addition to normal paid leave could offset the ordinance's requirements. Employees using PSL could not be required to provide a written note from a healthcare provider.

## Sonoma County, CA (expired)

Originally effective Aug. 18, 2020, [Ordinance No. 6320](#) required employers with 500 or more employees locally or nationally to provide supplemental paid sick leave (SPSL) to employees in unincorporated areas of the county. The ordinance extended the FFCRA's emergency paid sick leave requirements to large employers, with no exemption for healthcare providers and emergency responders. The ordinance did not apply to federal, state or local government agencies.

On Jan. 26, 2021, the Board of Supervisors extended Ordinance No. 6320's 2020 year-end expiration date through June 30, 2021 ([Ordinance No. 6334](#)). On Feb. 9, 2021, the board expanded paid sick leave coverage to all employees in the unincorporated areas of the county — not just those working for employers with 500 or more employees — to close the coverage gap created by the FFCRA's expiration ([Ordinance No. 6336](#)). The stated goal was to encourage employees who are experiencing COVID-19 symptoms or caring for a family member with COVID-19 to stay at home. These amendments also created a limited exception for healthcare providers and emergency responders that the original ordinance omitted.

**June 2021 update.** On June 8, 2021, the board again extended the SPSL ordinance through Sept. 30, 2021 ([File 2021-0561](#)) and amended it. The amended ordinance required employers to provide full-time employees a new allotment of 80 SPSL hours for use from Jan. 1–Sept. 30, 2021, and a proportional amount for part-time employees. Employees could use SPSL for COVID-19 vaccine appointments or recovery if too ill to work or telework, in addition to the long-standing permitted uses noted below.

Employers could offset this new allotment with paid leave provided under the state's 2021 [supplemental paid sick leave law](#), the [Cal/OSHA exclusion pay requirements](#) or any voluntarily provided FFCRA paid leave. In addition, if an employee had at least 80 hours of accrued paid sick leave or 160 hours of combined of paid sick leave, vacation and time off as of June 8, 2021, the employer did not have to provide additional paid SPSL. If an employee had less than 80 hours of paid time off available, employers had to supplement with enough SPSL to correct the deficiency.

**Amount of SPSL.** Any employee of a covered employer who worked for more than two hours in the county's unincorporated areas was eligible for SPSL. Full-time employees normally scheduled 40 or more hours a week could take 80 hours of paid leave, while part-time employees could take the equivalent of their average hours worked in a two-week period (calculated over the previous six months). Employees on SPSL for any reason received their regular rate of pay, capped at \$511 per day and \$5,110 in the aggregate. Employers did not have to pay out unused SPSL.

**Permissible uses.** Employers had to grant SPSL on an employee's written request (including email or text message) when the employee could not work or telework for any of these reasons:

- The employee was or needed to care for an individual in isolation or quarantine to prevent the spread of COVID-19 on the advice of a healthcare provider or under a federal, state, or local order.
- The employee had or needed to care for an individual who had COVID-19 symptoms and was seeking a medical diagnosis.
- The employee needed to care for an individual whose school, senior care provider or childcare provider closed or was unavailable in response to a public health or other public official's recommendation.

**Notice requirement.** Covered employers had to post a notice of SPSL rights in English and Spanish in the workplace or on any intranet or app-based platform or provide the notice by email. The ordinance did not designate a county agency to publish a model, so employers were responsible for creating this notice.

**Other leave.** The SPSL was in addition to any other paid sick leave available to the employee under the state's [paid sick leave law](#), any PTO provided before March 16, 2020, and any other form of leave (vacation, sick or personal) provided under an employer policy. Employers could not require use of other paid or unpaid leave, PTO, or vacation time before or instead of taking SPSL. Nevertheless, employers could offset an employee's SPSL hours by any paid sick leave, vacation or other PTO available to the employee as of Aug. 18, 2020. For the offset to work, the employer had to provide enough SPSL so an employee had 80 hours of paid sick leave time available or 160 hours of combined paid leave (sick, vacation and PTO). Supplemental paid sick leave for food-sector employees covered by California [Executive Order No. 51-20](#) did not offset SPSL, and the ordinance had no exemption for unionized employees.

## South San Francisco, CA (expired)

In early March, the South San Francisco City Council [approved](#) an urgency ordinance ([No. 1618-2021](#)) amending the municipal code (Ch. 8.77) to require that grocery and drug store essential workers receive \$5 per hour as hazard pay per hour in addition to their regular hourly pay. The temporary amendment also required providing those workers up to four hours of paid leave to get vaccinated. The requirements applied to grocery and drug store owners and operators with 500 or more employees nationwide. The ordinance had employer [notice](#) and poster requirements, as well as anti-retaliation provisions. The ordinance was retroactive to Feb. 11, 2021, and expired on May 26, 2021.

## Colorado

The [Healthy Families and Workplaces Act](#) (HFWA) replaced the state's [Health Emergency Leave with Pay \(HELP\) rules](#) described below. In addition to a general accrued paid sick leave requirement

beginning in 2021, the law requires all employers in Colorado, regardless of industry or size, to provide up to 80 hours of supplemental paid sick leave (SPSL) during a public health emergency declared by the governor or a federal, state, or local health agency. Employers can count any unused accrued paid sick leave toward the supplemental requirement. Employees can use the SPSL until four weeks past the expiration of the public health emergency. The SPSL can be used:

- To self-isolate due to symptoms or a diagnosis of a communicable disease or the need to obtain preventive care, diagnosis, or treatment
- To care for a family member under the same circumstances
- To comply with the employer's or a health official's instructions to stay away from the workplace after exposure to a communicable disease or to care for a family member under the same circumstances
- To care for a child or family member whose childcare provider or school is unavailable or has closed due to a public health emergency
- To avoid potential workplace exposure when a health condition puts the employee at high risk of the communicable disease

Employees are eligible for one bank of SPSL during the public health emergency. Interpretive guidance ([Info. No. 6C](#)) provides additional information on the public health emergency paid leave provision (CO Rev. Stat. § 8-13.3-405) and its continuing application during the COVID-19 public health emergency.

### **2020 supplemental paid sick leave (expired)**

The HFWA required employers to provide COVID-related SPSL in 2020 to any employee not already covered by the FFCRA. This provision was effective July 14 to Dec. 31, 2020. Interpretive guidance ([Info. No. 6A](#)) from the Department of Labor and Employment (DLE) provided additional information, including the following:

- Employees could use the paid leave if they:
  - Had COVID-19 symptoms and were seeking a medical diagnosis
  - Had been ordered by a federal, state, or local government official or advised by a healthcare provider to quarantine or isolate due to a risk of COVID-19
  - Were caring for someone subject to COVID-19 precautions, whether an individual ordered to quarantine or isolate or a child whose school or place of care had closed or was unavailable
- Employees could take up to two weeks (80 hours) of paid leave at their regular rate for their own COVID-19 symptoms, quarantine or isolation. Leave to care for someone else was paid at two-thirds of the employee's regular rate.

- Paid leave already provided under federal law, state law or employer policy in 2020 for the specified COVID-19 reasons could offset the HFWA-required amounts.
- Employer policies providing at least as generous paid leave for the specified COVID-related reasons satisfied the law's requirements.
- Paid leave was not available to laid-off or furloughed workers or employees whose business permanently or temporarily closed for reasons other than a government quarantine or isolation order.
- Employers had to notify employees about their emergency leave rights under HFWA (providing [Info. No. 6A](#) satisfied this requirement) and display an [informational poster](#) provided by the Division of Labor Standards and Statistics.

**HELP rules.** From March 11 to July 14, 2020, the HELP rules — including the [March 26](#), [April 3](#) and [April 27](#) amendments — required certain employers to provide paid sick leave for quarantine or isolation orders and COVID-19 testing. The 2020 effective dates for covered businesses were:

- March 11: Leisure, hospitality, food service, childcare, education and home healthcare industries; nursing homes; and community living facilities
- March 26: Retail establishments that sell groceries
- April 3: Employers in the food and beverage manufacturing industries
- April 27: All retail establishments; real estate sales and leasing businesses; offices and office work; elective medical, dental and health services; and personal care services (including hair, beauty, spas, massage, tattoos, pet care or substantially similar services)

These employers had to provide up to two weeks (maximum 80 hours over 14 calendar days) of sick leave paid at 2/3 of the regular pay rate to an employee who either:

- Had flulike symptoms or respiratory illness symptoms and needed to undergo COVID-19 testing
- Had been instructed by a healthcare provider or an authorized government official to quarantine or isolate due to the risk of having COVID-19

Paid sick leave ended if an employee received a negative COVID-19 test result after being asymptomatic for 72 hours, but no earlier than seven calendar days (10 calendar days for healthcare workers).

The rules did not require additional paid leave if an employer's existing paid leave policy met the HELP requirements. However, an employee who had exhausted paid leave under the employer's policy and then qualified for paid leave under the HELP rules was entitled to the HELP leave. When an employer was subject to federal or local law in addition to the HELP rules, the law providing the most generous employee benefits or job protections applied.

The amended rules expired on enactment of the HFWA, but the DLE will continue investigate complaints of violations while the rules were in effect.

## **Cook County, Illinois (added Oct. 8, 2021)**

Employers in Cook County (including Chicago) that require COVID-19 vaccinations must pay employees for their time to get vaccinated. Under the [Vaccination Rights for Employees and Employer Obligations](#) ordinance, effective July 1, 2021, employers cannot require workers to obtain voluntary or required vaccines outside of work hours and must pay for up to four hours per dose for appointments occurring during a workday or shift. Employees of employers *not requiring vaccination* can use accrued paid sick leave or paid time off to get vaccinated. Employers cannot discriminate or take adverse action against an employee for exercising the right to get vaccinated.

A county [website](#) provides a [COVID-19 vaccination rights and obligations poster](#). The website also has FAQs on the new ordinance and the county's earned sick leave ordinance that took effect in 2017.

## **Maryland (expired for COVID-19 emergency)**

Effective June 1, 2021, the Maryland Essential Workers' Protection Act ([HB 581](#), 2021 Ch. 736) required "essential employers" to provide public health emergency leave (PHEL) to "essential workers" for COVID-19-related reasons. The paid leave is in addition to any other paid leave required by state law. But employers do not have to provide PHEL unless state or federal funding is available to cover their associated costs. When funding is available, essential employers will need to provide PHEL only during a declared emergency. Maryland's COVID-19 state of emergency [ended](#) July 1, 2021.

When funding becomes available during a declared emergency, essential employers will have to provide up to 112 hours of paid PHEL to essential workers who need leave for certain reasons related to the public health emergency:

- To isolate after getting diagnosed with, awaiting test results for, or seeking medical or preventive care for a communicable disease related to the emergency
- To isolate or care for a family member in isolation after a public health official or other health professional determines the employee's or family member's symptoms or exposure to a communicable disease related to the emergency merits staying out the workplace or the community to avoid jeopardizing the health of others
- To care for a family member diagnosed a communicable disease related to the emergency
- To care for a child or other family member whose care provider is unavailable or whose facility or school has physically closed due to the emergency

An "essential worker" is defined as anyone who (i) performs a duty or work responsibility during an emergency that cannot be performed remotely or is required to be at the worksite, and (ii) provides services that the essential employer determines to be essential or critical to its operations. An



“essential employer” is anyone employing an “essential worker” in industries and sectors that the governor or a federal or state agency has identified as critical to remain in operation during the emergency.

## Massachusetts (updated Oct. 8, 2021)

Effective May 28, 2021, Massachusetts law ([2021 Ch. 16, HB 3702](#)) requires employers to provide COVID-19 emergency paid sick leave. Employers will be reimbursed leave costs from a newly established \$75 million COVID-19 Emergency Paid Sick Leave Fund. The law had been set to expire Sept. 30, but the governor signed an extension on Sept. 29 ([2021 Ch. 55, HB 4127](#)). Under the extension, emergency paid leave must be available to employees until the earlier of April 1, 2022, the emergency fund’s exhaustion, or a notice from state regulators that the emergency fund will soon be exhausted. The law extending the emergency paid leave also expands the list of permissible leave uses to include caring for a family member who is getting a COVID-19 vaccine or recovering from the side effects.

The Executive Office of Labor and Workforce Development posted [guidance](#) for employers, including [FAQs](#), a [sample leave request form](#), and an updated [notice](#) that employers must provide to employees and [post](#) in a conspicuous location at the workplace.

**Amount of emergency leave.** An employee who works 40 hours or more per week must receive 40 hours of COVID-19 emergency paid sick leave. Employees who work fewer hours must receive COVID-19 emergency paid sick leave equal to their average number of regularly scheduled weekly workhours over a 14-day period. For employees with irregular schedules, employers need to provide one week of leave using the employee’s weekly work schedule over the six months immediately before the leave. If the employee has worked for the employer less than six months, then leave must equal to the average number of weekly hours the employee was reasonably expected to work when hired. Employees may take leave on an intermittent basis and in hourly increments. Employees who can telework aren’t entitled to emergency paid sick leave.

**Pay during emergency leave.** Pay up to a cap of \$850 per week and employment benefits must continue during the employee’s leave. Benefits include, but are not limited to, group life, health and disability insurance; sick leave; annual or vacation leave; education benefits; and pensions.

**Employer reimbursement.** An “eligible employer” that provides COVID-19 emergency paid sick leave will be reimbursed (up to the \$850 weekly maximum per employee) from the COVID-19 Emergency Paid Sick Leave Fund by submitting an application designed by state regulators. The application must supply detailed information about the leave and supporting documentation, including the employee’s written leave request to the employer giving the date(s) and reason for leave, plus additional documentation if leave is due to a quarantine order or self-quarantine advice. Eligible employers will receive reimbursement within 30 business days of submitting the application. Any employer-paid sick leave wages eligible for the FFCRA tax credit are not eligible for reimbursement from the state’s COVID-19 Emergency Paid Sick Leave Fund. Implementing regulations may be forthcoming.

**Permissible uses.** Emergency paid sick leave must be available to an employee for the following COVID-19-related reasons:

- An employee's need to (i) self-isolate and self-care after a COVID-19 diagnosis; (ii) seek or obtain medical diagnosis, care or treatment for COVID-19 symptoms; or (iii) obtain COVID-19 immunization or recovering from an injury, disability, illness or condition related to such immunization
- An employee's need to care for a family member who (i) is self-isolating due to a COVID-19 diagnosis; (ii) needs medical diagnosis, care or treatment for COVID-19 symptoms; or (iii) is obtaining COVID-19 immunization or recovering from an injury, a disability, an illness or a condition related to such immunization
- A quarantine order or a determination by a public official or health authority with jurisdiction, the employee's employer, or a healthcare provider that the employee's presence on the job or in the community would jeopardize the health of others because of the employee's COVID-19 exposure or symptoms, regardless of whether the employee has been diagnosed with COVID-19
- An employee's need to care for a family member subject to a quarantine order or a determination by a public official or health authority with jurisdiction, the family member's employer, or a healthcare provider that the family member's presence on the job or in the community would jeopardize the health of others because of the family member's COVID-19 exposure, regardless of whether the family member has been diagnosed with COVID-19
- An employee's inability to telework due to a COVID-19 diagnosis and symptoms

**Employee notice and documentation.** Employees needing COVID-19 emergency paid sick leave must notify the employer as soon as practicable or foreseeable. After the first workday an employee receives COVID-19 emergency paid sick leave, an employer may require the employee to follow reasonable notice procedures to continue receiving the paid sick leave. Employers must treat all health information related to the emergency leave as confidential medical information and keep it in a separate file from other personnel information.

**Coordination with other leave.** An employer that has a separate COVID-19 sick leave policy providing leave for the same purposes, under the same conditions and in an amount sufficient to meet the law's requirements does not need to provide additional COVID-19 emergency paid sick leave. Employers may reduce the required amount of emergency paid sick leave by the amount of wages or wage replacement that an employee receives for the same period under any other government program or law. However, the emergency leave cannot be reduced by other job-protected paid or unpaid time off required under the state's earned sick time law, any existing employer policy or program, a collectively bargained agreement, or federal law. Nonetheless, the COVID-19 emergency paid sick leave may be reduced if the aggregate amount would exceed the employee's average weekly wage. An employer cannot require an employee to use other paid leave before taking the COVID-19 emergency paid sick leave, unless federal law requires otherwise.

**Anti-retaliation provisions.** Employers are prohibited from interfering with, retraining or denying an employee's ability to take emergency paid sick leave. Employers also are barred from taking any adverse action against employees for exercising their rights or supporting the rights of another employee under the law.

## Michigan (expired)

Michigan's Executive Order No. 2020-36 required individuals in close contact with someone who tested positive for COVID-19 or displayed one or more of the principal symptoms of COVID-19 to remain home. Employers had to let employees use any accrued time under the state's paid sick leave mandate (the Paid Medical Leave Act). The order prohibited discharge, discipline or other retaliation against employees who stayed home because they were ill, had close contacts who were sick, or were at particular risk of infecting others with COVID-19.

The initial executive order was replaced by Executive Order No. 2020-166, which was subsequently replaced by Executive Order No. 2020-172. The last order cited additional legal authority and updated CDC guidance on the proper period of self-quarantine after a diagnosis of or the onset of symptoms associated with COVID-19. The order also contained an updated a list of the disease's primary symptoms. The order, like the original, was in effect until the end of the declared states of emergency and disaster.

Michigan's Paid Medical Leave Act (PMLA), first effective March 29, 2019, requires covered employers to provide one hour of paid sick leave for every 35 hours worked, capped at 40 leave hours per year. Under the executive order, employees ordered to stay home had to be treated as if they were taking sick leave under the PMLA. If the employee required to stay home had no paid leave accruals, the leave could be unpaid.

The original executive order permitted leave to end if an employee received a negative COVID-19 test result, but otherwise required leave to extend until seven days after the employee first noticed symptoms or tested positive for COVID-19 and three days after the employee's symptoms resolved. Under the last executive order, leave ended only after 24 hours had passed since the resolution of fever without the use of fever-reducing medications, 10 days had passed since symptoms first appeared or since the employee took the test that yielded the positive result, and other symptoms had improved. For employees with potential exposure to the virus, leave had to last until either the symptomatic contact received a negative COVID-19 test or 14 days passed since the last close contact with a sick or symptomatic individual.

## Nevada (added June 14, 2021)

Effective June 9, 2021, state law (SB 209) requires employers with at least 50 employees in the state to provide up to four hours of paid leave for employees getting a two-shot COVID-19 vaccine or two hours of paid leave for a one-dose vaccine. This vaccine-related paid time is in addition to the regularly accruing paid time off (PTO) required by state law (NV Rev. Stat. § 608.0197). However,

unlike the PTO requirement, paid vaccine leave extends to temporary, seasonal or on-call employees. Employers providing COVID-19 vaccines on site during regular work hours and employers in their first two years of operation are exempt. The COVID vaccine paid leave requirement expires on Dec. 31, 2023.

Employees must give their employers 12 hours advance notice about their need for vaccine leave. The law contains anti-discrimination and anti-retaliation provisions, as well as recordkeeping requirements. The [Office of the Labor Commissioner](#) has published a health and safety [bulletin](#) describing the leave benefit that employers must post in a conspicuous location in each workplace.

In addition, amendments to the state's existing PTO law require employers to let employees use paid leave for caregiving, preventive care, medical care, diagnosis or treatment, and any other personal health-related needs. This permanent amendment to the PTO mandate took effect June 9, 2021.

## New Jersey

Emergency legislation ([2020 Ch. 9](#), AB 3848) prohibits employers in the state from terminating or refusing to reinstate an employee who requests or takes time off from work because of a licensed medical professional's written recommendation that the employee has or is likely to have an infectious disease. The law took effect March 20, 2020, and continues for the duration of the COVID-19 pandemic and state of emergency declared by [Executive Order No. 103](#) and extended in June 2021 by [Executive Order 244](#). Violations could lead to reinstatement orders, fines up to \$2,500 per instance and employee-initiated court action.

Two laws (2020 Chs. [17](#) and [23](#), SB 2304 and SB 2374), amend New Jersey's [paid sick leave \(PSL\) law](#) to allow use of accrued sick time during a governor-declared state of emergency, extend job protections under the [Family Leave Act \(FLA\)](#), and expand the use of [temporary disability insurance \(TDI\)](#) and [family leave insurance \(FLI\)](#) for reasons related to communicable diseases. The amendments, effective March 25, 2020, are not specific to the COVID-19 pandemic and do not have an expiration date.

**PSL.** Employees can use accrued PSL for a public health emergency that closes down their workplace or their child's school or day care facility. Employees also can use earned PSL to care for themselves or a family member. With the amendments, employees can now use accrued PSL if their workplace or child's school or day care has closed due to an emergency declaration or if they are subject to or need to care for a family member who is subject to a recommendation or an order to quarantine or isolate.

**FLA, TDI and FLI.** Under the amendments, FLA job protections are available when a communicable disease epidemic requires an employee to care for a child whose school or childcare has closed. FLA protections and FLI benefits are available to employees caring a family member quarantined because of a communicable disease or suspected exposure to the disease. Employees may also be eligible for TDI without a waiting period if they have been advised to isolate or quarantine due to suspected

exposure to a communicable disease or if they need in-home care or treatment because their presence in the community may jeopardize the health of others. Employers can require certifications, subject to certain restrictions.

[COVID-19 FAQs for employees](#) from New Jersey's Department of Labor and Workforce Development provide more information.

## New York

New York passed its first COVID-19-related emergency paid leave in March 2020 and temporarily expanded the state's existing paid family leave (PFL) and disability benefit programs. In March 2021, the state passed a law requiring paid leave for employees to receive COVID-19 vaccines.

### **Paid leave for vaccines (updated March 23, 2021)**

Legislation (2021 Ch. 77, [A03354](#)) effective March 12, 2021, through Dec. 31, 2022, requires all employers to provide sufficient paid leave, not to exceed four hours per injection, for employees to receive COVID-19 vaccinations. Employees may take more paid leave for vaccinations if required by a collective bargaining agreement or employer policy. The leave must be provided at the employee's regular rate of pay and is in addition to any other paid leave available to an employee, including under the state's [paid sick leave \(PSL\) law](#) and the temporary PSL provisions described below. As written, the law does not appear to require retroactive paid leave for employees who received a COVID-19 vaccine before March 12, 2021.

### **Temporary PSL**

Effective March 18, 2020, New York emergency legislation (2020 Ch. 25, [SB 8091](#)) provides temporary paid leave for employees subject to a mandatory or precautionary quarantine or isolation order due to COVID-19. This includes COVID-19-related orders from the state, the state Health Department, a local board of health or any authorized government entity. The law also expands the state's existing PFL and disability benefit programs to certain employees. New York City's and Westchester County's paid sick time mandates are not preempted by the temporary state law entitlements.

In addition, [amended](#) PFL regulations (NY Comp. Codes R. & Regs tit. 12 § [355.9](#)) clarify that employees may take family leave to care for a family member diagnosed with COVID-19. Coordination of New York's and federal FFCRA leave is complicated.

The state's emergency quarantine leave law is unrelated to the paid sick leave law (2020 Ch. 56, [Part J](#) of [AB 9506-A](#)). The paid sick leave measure, effective Sept. 30, 2020, requires employers to provide up to 56 hours of paid sick leave per year. For more details, see [New York passes paid sick leave mandate](#) (April 9, 2020).

**Employer-directed isolation requires paid leave.** According to [guidance](#) published by the state Department of Labor on Jan. 20, 2021, if an employer requires an employee who is not otherwise subject to a mandatory or precautionary order of quarantine or isolation to remain out of work due to exposure or potential exposure to COVID-19 — regardless of whether the exposure or potential exposure occurred at the workplace — the employer must continue to pay the employee. Paid leave at the employee’s regular rate of pay continues until the employee is permitted to return to work or becomes subject to a mandatory or precautionary order of quarantine or isolation. If the employee becomes subject to a mandatory or precautionary order of quarantine or isolation, the employee is entitled to emergency paid sick leave as required by the COVID-19 sick leave law.

**Up to three rounds of emergency leave available.** The January 2021 guidance also indicates that emergency paid leave is available for up to three orders of quarantine or isolation. The second and third instances qualify for emergency paid leave only if based on a positive COVID-19 test supported by documentation from a licensed medical provider or testing facility. Supporting documentation is not required if the employer provides the test.

**Amount of emergency leave.** The emergency paid sick leave is in addition to any employer-provided PSL already available to employees. The state Department of Labor has authority to issue related [guidance](#) and investigate [complaints](#). Leave requirements vary by employer size on Jan. 1, 2020, as follows:

- Private employers with 100 or more employees and all public employers must provide at least 14 days of paid sick leave.
- Employers with 11 to 99 employees must provide at least five days of paid sick leave and then grant unpaid leave through the end of the quarantine/isolation period. Employers with up to 10 employees and a net income greater than \$1 million are subject to the same requirement.
- Small employers with up to 10 employees and net income not exceeding \$1 million must provide unpaid sick leave for the entire period of quarantine/isolation.

Although the legislation doesn’t specify how to count employees, the [Workers’ Compensation Board](#) has confirmed that workforce size includes all employees nationwide on Jan. 1, 2020. While quarantine/isolation, employees of employers with fewer than 100 employees are eligible for PFL and disability benefits after exhausting any paid sick days provided under this emergency legislation.

**Expanded PFL and disability benefits.** For employers with fewer than 100 employees, a combination of expanded PFL entitlement and disability benefits provides wage replacement to employees unable to work due to a mandatory or precautionary quarantine/isolation order. Regardless of employer size, expanded PFL is available to employees needing to care for a minor child who is subject to a mandatory or precautionary quarantine/isolation order. Disability benefits also are available without a waiting period to employees unable to work because of a quarantine or an isolation order.

Benefits from both programs are available on the first day of unpaid leave and can be received concurrently. In 2021, a maximum \$971.61 PFL benefit is available per week. The weekly benefit available under the emergency disability benefit expansion is the difference between the maximum weekly PFL benefit and the employee's total average weekly wage, up to a \$2,884.62 maximum per week. The expanded benefits under the PFL and disability programs are temporary for leave taken due to COVID-19.

**Teleworkers not eligible.** An employee who is asymptomatic or has not been diagnosed and is physically able to work while quarantined or isolated is not eligible for the COVID-related paid sick leave or expanded PFL and disability benefits.

**Personal travel may affect eligibility.** The COVID-19-related paid sick leave and expanded PFL and disability benefits may not be available to employees who are subject to quarantine or isolation orders because of personal travel to a level-two or higher country as designated by the CDC. If employees had advance notice of the travel limitations, they can use employer-provided accrued paid leave or take unpaid sick leave during the travel-related quarantine/isolation order, but they don't qualify for benefits under this law. The same applies for employees voluntarily traveling to a state subject to the governor's travel advisory who must get tested and quarantine on return under Executive Order No. 205 (see COVID-19 FAQs).

**Job protection.** Employees returning to work after COVID-19-related leave must be restored to the position held before the leave, with the same pay and terms and conditions of employment. Discrimination and retaliation against employees who take leave is prohibited.

**Quarantine or isolation orders.** The COVID-related paid leave and benefits are available to an employee subject to a "mandatory or precautionary order of quarantine or isolation." This includes any such order related to COVID-19 from the state, the state Health Department, a local board of health or any authorized government entity. The state has provided guidance to local health departments on when quarantine or isolation orders are appropriate. The state departments of health and labor provided guidance in May and June on the availability of COVID-19 sick leave for healthcare employees without the need for an order of quarantine or isolation.

**Coordination with federal COVID-19 emergency leave benefits.** The COVID-related paid sick leave, PFL and disability benefits are only available to the extent they exceed the federal FFCRA paid leave. An employee eligible under both laws can claim any additional leave and benefits available under New York's law that exceed what the federal law allows. Additional guidance from New York on coordinating these various mandates would be welcome. New York private employers with 500 or more employees are not subject to the federal law's paid leave mandates but do have to comply with New York's laws.

**Guidance.** New York regulators have issued FAQs and employer guidance on the emergency COVID-19 paid sick leave, PFL, and disability benefits.

## Philadelphia, PA (expired)

The statewide proclamation of disaster emergency ended on June 19, 2021, resulting in the sunsetting of the 2021 public health emergency leave (PHEL) ordinance on June 26, 2021.

**2021 PHEL.** As of March 29, 2021, employers with employees working in Philadelphia had to provide paid COVID-19-related sick leave. The 2021 PHEL ordinance replaced the prior version that expired on Dec. 31, 2020 (see below). The new ordinance required employers with 50 or more employees to provide up to 80 hours of paid leave. The required paid leave was in addition to any paid leave provided under existing employer policies and was not reduced by any pandemic-related paid leave provided in 2020. Employers had to notify employees about the new leave rights by April 13. The ordinance was effective until one week after the governor's proclamation of disaster emergency related to COVID-19 expired.

**Eligible employees.** PHEL-eligible employees included anyone employed for at least 90 days who (i) worked within Philadelphia, (ii) normally worked within Philadelphia but is currently teleworking because of COVID-19, or (iii) worked from multiple locations but spends at least 51% of work time in Philadelphia. Leave was paid at the employee's regular rate of pay or the minimum wage, whichever is greater. Employees working 40 hours or more per week were entitled to 80 hours of PHEL. Employees working fewer hours were entitled to paid leave equal to their average hours scheduled or worked (whichever is greater) in a 14-day period. Employees with variable schedules were entitled to their average daily hours scheduled (including leave time) over the past 90 days multiplied by 14.

**Permissible use.** An eligible employee could use PHEL when unable to work for any of these reasons:

- A public official, a public health authority, a healthcare provider or an employer determined the employee's presence would jeopardize the health of others because the employee had been exposed to COVID-19 or was exhibiting symptoms of COVID-19.
- The employee needed to care for a family member after a public official, a public health authority, a healthcare provider or an employer determined the family member's presence would jeopardize the health of others because the family member had been exposed to COVID-19 or was exhibiting symptoms of COVID-19.
- The employee needed to self-isolate or care for a family member who was isolating because of a COVID-19 diagnosis or symptoms or was seeking a diagnosis, care, or treatment related to COVID-19 symptoms.
- The employee needed to care for a child whose school or place of care had closed or whose childcare provider was unavailable due to precautions taken in response to the public health emergency.
- The employee needed to obtain a COVID-19 vaccination or recover from an injury, a disability, an illness, or a condition related to the vaccination.



**Coordination with other paid leave benefits.** PHEL was in addition to all other employer-provided paid leave benefits and was not reduced by any paid leave an employee previously received, including any public health emergency leave provided in 2020. An employer could not require an employee to use other paid leave before using PHEL, unless state or federal law required otherwise. However, employers already providing at least 160 hours of paid leave in 2021 that could be used for the same purposes and under the same conditions as PHEL did not have to provide additional paid time off.

Employers could substitute any COVID-19 paid leave required by state or federal law to the extent the leaves coincided and concurrent use was permitted. Likewise, employers could substitute leave provided by an employer policy adopted on or after March 6, 2020, that provides paid time specifically for COVID-19 reasons in 2021. In both cases, employers had to provide additional 2021 PHEL if the ordinance's requirements exceeded the paid leave required by state or federal law or provided by the employer's policy.

**Teleworking provision.** Employers did not have to provide PHEL to teleworkers if existing employer policies provide at least 80 hours of paid leave in 2021 that employees could use for the same purposes and under the same conditions as PHEL.

## 2020 PHEL (expired)

An [amendment](#) (No. 200303) to Philadelphia's paid sick leave ordinance — the [Promoting Healthy Families and Workplaces](#) (discussed [later](#)) — provided paid PHEL, effective Sept. 17 through Dec. 31, 2020. In addition to the PHEL requirements discussed below, the ordinance contained notice, poster, recordkeeping, job protection and anti-retaliation provisions. A city [webpage](#) provides a form for filing a complaint about violations.

The amendment required employers to provide up to 112 hours of paid sick leave during the COVID-19 pandemic to Philadelphia workers (including transportation, food-delivery network and home care workers) who didn't qualify for FFCRA emergency leave. The city's paid PHEL was available to workers who needed to care for:

- Themselves or a family member experiencing COVID-19 symptoms and seeking a medical diagnosis
- Themselves or a family member when advised to self-quarantine by a healthcare provider
- Themselves or a family member during a quarantine or an isolation order from the federal, state, or local government
- A child whose school or care provider had closed or was unavailable due to precautions related to the public health emergency

Workers were eligible for paid PHEL if they worked at least 40 hours during a year within the boundaries of the city. The PHEL amendment extended to workers of large employers exempt from

the federal FFCRA and to healthcare providers or emergency responders excluded from the FFCRA's emergency paid leave by smaller employers subject to the federal law. The leave was only available to workers who could not work or telework.

**Amount of leave and pay rate.** Covered individuals working at least 40 hours per week were entitled to the greater of 80 hours or the average hours worked in a 14-day period, up to a maximum of 112 hours of paid PHEL. Covered individuals working fewer than 40 hours per week were entitled to paid leave equal to their wages and hours in an average 14-day period. Special rules applied to workers with varying schedules. Pay during PHEL was equal to the worker's regular rate (but no less than minimum wage) and with the same benefits, including healthcare benefits. If a covered individual was laid off or terminated due to the public health emergency but rehired within six months of separation, the employee's unused PHEL and unused accrued paid sick time had to be reinstated.

**Concurrent use of other emergency leave.** Employers could require PHEL to run concurrently with other paid emergency or sick leave for a public health emergency that the employer had to provide under a federal or state law, unless concurrent use was otherwise prohibited. Covered employers had to provide any additional public health emergency leave mandated by the city ordinance that exceeded the requirements of other federal or state laws.

**Coordination with existing paid leave policy.** Covered employers did not have to provide additional paid leave if their existing policy provided paid sick leave for the same purposes, under the same conditions, and in amounts that satisfied or exceeded the city's PHEL ordinance.

**Future public health emergency leave uncertain.** The amendment provided for PHEL during (and for one month after) future public health emergencies declared by a federal, state or local official. However, the amendment sunset on Dec. 31, 2020, making this provision moot.

### **Additional compensation for healthcare employees**

On Sept. 9, 2020, an [amendment](#) (No. 200306) to Philadelphia's Promoting Healthy Families and Workplaces ordinance took effect, providing lost wages and medical expenses to healthcare professionals who contract a communicable disease during a pandemic or epidemic affecting the city. Healthcare employers (including but not limited to hospitals, nursing homes and home healthcare providers) must make these benefits available to healthcare employees — including pool employees — who worked at least 40 hours in the three months prior to contracting the disease.

### **Pittsburgh, PA (updated Aug. 9, 2021)**

The end of the statewide [proclamation](#) of disaster emergency on June 19, 2021, caused the original Pittsburgh temporary emergency ordinance to sunset on June 26, 2021. A new temporary COVID-19 paid sick leave ordinance ([File No. 2021-1721](#)), effective on July 29, 2021, mirrors the original ordinance and is effective until at least July 29, 2022. Besides the permissible uses identified in the original ordinance, covered employees can now use the emergency paid leave when unable to work

or telework because the employee or family member needs to get a vaccination or a vaccine booster. Employees can use the paid leave for reasons related to COVID-19 or a variant. It is unclear if employers must provide a new allotment of leave to employees who used all leave available in 2021 under the prior ordinance. Additional guidance may come from the [Mayor's Office of Equity](#).

**Original ordinance.** Effective Dec. 9, 2020, a Pittsburgh temporary emergency ordinance ([No. 2020-0927](#)) amended the city's [Paid Sick Days Act](#) (Ch. 626) to require that employers with 50 or more employees provide paid sick leave for COVID-19-related reasons, regardless of and in addition to any accrued paid sick days. The ordinance didn't specify whether to count employees working in Pittsburgh or working anywhere. Employers had to make the maximum required amount of paid COVID-19-related sick time available to employees after 90 days of employment. Employees working in the city — including those teleworking due to the pandemic — could use the COVID-19 sick time until one week after the official termination or suspension of the public health emergency. The requirement to provide COVID-19 emergency paid sick leave ended when the disaster declaration in Pennsylvania or Pittsburgh expired, whichever occurred first.

**Paid sick time.** Employees working 40 or more hours per week were entitled to at least 80 hours of COVID-19 sick time. All other employees had to receive an amount equal to their scheduled work time in a 14-day period. COVID-19 sick time was in addition to any paid leave or sick time provided by the employer or required by the city's Paid Sick Days Act. Employees could choose to use the COVID-19 sick time before any accrued paid sick leave. Employers could not require the use of other paid leave before COVID-19 sick time, unless state or federal law required otherwise.

**Permissible uses.** Employees could use COVID-19 sick time when unable to work or telework because they were subject to or needed to care for a family member who was subject to the following:

- A determination by a public official, a public health authority, a healthcare provider or an employer that the individual's presence on the job or in the community would jeopardize the health of others because the individual had been exposed to COVID-19 or had symptoms of a communicable disease, regardless of whether the individual had been diagnosed with COVID-19
- The need to self-isolate due to a COVID-19 diagnosis or symptoms or to seek or obtain medical diagnosis, care, or treatment for symptoms of an illness related to COVID-19

**Coordination with other leave.** Employers could substitute COVID-19 paid leave provided by an emergency paid leave policy adopted after March 13, 2020, or required by a federal or state law to meet the city's requirements, if concurrent use is permitted. But employers had to provide additional COVID-19 paid sick leave if the city's requirements exceeded the amount provided by the employer's emergency policy or required by the federal or state law.

## Washington

Under Gov. Jay Inslee's [Proclamation 20-67](#), food production workers not covered by the FFCRA or other federal or state sick leave programs can take emergency supplemental paid sick leave (SPSL)

for COVID-19-related reasons. Covered employers include orchards, fields, dairies, fruit and vegetable packing warehouses, meat and seafood processors and packers, agricultural operations (with few exceptions), and farm labor contractors. Food production employers could not operate between Aug. 18 and Nov. 13, 2020, unless they provided this paid leave.

Full-time employees can take up to 80 hours of SPSL at a rate equal to \$430 for 40 hours or a maximum of \$860 for 80 hours. Part-time employees receive paid leave equal to their total number of hours normally scheduled during a two-week period.

Covered workers are entitled to paid leave when:

- Subject to a federal, state, or local quarantine or isolation order related to COVID-19
- Advised by a healthcare official or provider to self-quarantine or self-isolate due to COVID-19 concerns or a positive diagnosis
- Prohibited from working due to health concerns related to potential transmission of COVID-19
- Experiencing COVID-19 symptoms and seeking a medical diagnosis

The order expires when the governor's public emergency proclamation ([No. 20-25, as amended](#)) expires.

## **Seattle, WA (updated May 24, 2021)**

[FAQs](#) from Seattle's Office of Labor Standards (OLS) clarify how the city's [Paid Sick and Safe Time Ordinance](#) (PSST) applies during the COVID-19 public emergency and detail the city's related [amendments](#). The ordinance requires employers with one or more employees working in the city to provide paid leave so employees can care for themselves or a family member who has a physical or mental health condition, a medical appointment or a critical safety issue. Under the original ordinance, employees also could use accrued paid leave when a public official closes their place of business or their child's school or place of care for health reasons.

An OLS [bulletin](#) issued May 20, 2021, informs Seattle employers that workers can use PSST leave to attend a vaccine appointment for themselves or family members during work hours. A [flyer](#) is posted to the OLS website, in addition to an updated [model PSST policy](#) incorporating the 2020 amendments. Employers must provide each employee written notice of their PSST policies and procedures.

**Amendments.** Amendments adopted March 16, 2020, require employers to allow the use of accrued paid sick leave if a family member's place of care or school is closed and remove the requirement that the closure occur for a health-related reason subject to a public official's order. In addition, employers with 250 or more full-time-equivalent employees must allow the use of PSST when their place of business is closed for any health or safety reason. The guidance also covers mandatory use of PSST,

including for employees returning from a different country, exhausted accruals, paid leave donation and other issues.

**Emergency rule.** On April 8, 2020, the OLS adopted an emergency rule that barred employers from requiring employees on PSST leave during the civil emergency to provide documentation from a healthcare provider. The agency said such a requirement would be “an unreasonable burden for workers and our healthcare system.” The rule expired June 7, 2020.

**Gig workers.** Effective July 13, 2020, gig workers for transportation and food delivery network companies can access PSST under an emergency COVID-19 city ordinance (No. 126091). Eligible gig workers who work in Seattle at least once in the 90 calendar days before taking the leave can receive their average daily compensation for PSST used in 24-hour increments for any covered reason, including:

- They need to care for their own or a family member’s physical or mental health condition, including keeping a doctor’s appointment.
- They need to care for themselves, a family member or a household member for reasons related to domestic violence, sexual assault or stalking.
- Their family member’s school or place of care has closed.
- Their company reduces, suspends or discontinues operations for health- or safety-related reasons.

The ordinance applies to companies like Lyft, Uber, Grubhub, Postmates, DoorDash and Instacart that hire 250 or more gig workers worldwide. Covered entities have the option of calculating accrued PSST retroactively (one day for every 30 days worked in whole or in part in Seattle since Oct. 1, 2019) or simply providing five days of PSST on July 13, 2020, and beginning accruals prospectively. Companies had to report the option chosen to the OLS in writing by July 27, 2020. The ordinance providing PSST for gig workers automatically expires three years after the mayor-declared civil emergency or the COVID-19 public health emergency ends, or on Dec. 31, 2023, whichever is latest.

## Washington, DC

A Washington, DC, emergency act expanded the city’s existing Accrued Sick and Safe Leave Act to provide emergency leave during the COVID-19 emergency (the public health emergency together with the public emergency). Although the city’s public health emergency ended July 24, 2021, the mayor extended the public emergency until Oct. 8, 2021, continuing the employer obligation to provide emergency paid leave.

Beginning April 10, 2020, an employer (other than a healthcare provider) with between 50 and 499 employees had to provide paid leave for the same purposes covered by the federal FFCRA’s emergency paid sick leave provision:

- A federal, state, or local quarantine or an isolation order
- A self-quarantine recommendation from a healthcare provider
- COVID-19 symptoms needing a medical diagnosis
- The need to care for an individual in quarantine or isolation or experiencing COVID-19 symptoms
- The need to care for a child whose school or care facility has closed for COVID-19 reasons

Paid leave extended to employees who have worked for at least 15 days before the leave request. Full-time employees working in the city received up to 80 hours of paid leave, and part-time employees got paid leave equal to their usual number of hours worked in a two-week period. The leave must be paid at 100% of the employee's regular rate (as opposed to the two-thirds rate in some cases under the FFCRA), but no lower than minimum wage and with no cap.

**Coordination with other leave.** An omnibus COVID-related bill enacted on June 8, 2020, amended the coordination of the emergency paid sick leave with other available paid leave. Employees could only use the emergency paid leave concurrently with or after exhausting any other paid leave available under federal or the city's law or the employer's policies. An employer could reduce the pay required for emergency sick leave by the amount of pay an employee concurrently received under another leave law or policy. If an employee took emergency paid leave after exhausting other paid leave, the employee's emergency leave entitlement could be reduced by the paid leave hours already taken.

**Legislative update.** The Coronavirus Support Temporary Amendment Act of 2020 (D.C. Law 23-130), effective Oct. 9, 2020, through the end of the city's declared COVID-19 public health emergency, repealed the emergency act but carried over the emergency paid leave provisions (see section 105, paid public health emergency leave), so employer obligations did not change.

## 3

# COVID-19 guidance for existing paid leave benefits

## California (added May 5, 2021)

In March 2021, the Department of Industrial Relations published [COVID-19 testing and vaccine FAQs](#) addressing three common employee questions. First, if an employer requires an employee to get tested or vaccinated, the employer must pay the employee for the time, including travel time, spent to comply and cannot require the employee to use paid leave. The time spent waiting for COVID-19 test results does not have to be compensated, but employees may be able to use paid leave while waiting for the results. Employees also may be able to use paid leave for voluntarily getting tested or vaccinated. Second, employers requiring COVID testing or vaccination must pay for the cost, including travel cost, if testing and vaccination is not made available at the worksite. Third, employees are entitled to reasonable accommodations for disabilities or sincerely held religious beliefs and may have anti-retaliation protections when using paid sick leave to get vaccinated.

## Connecticut

The Connecticut Department of Labor has published [COVID-19 FAQs](#) for workers and employers that address a number of topics, including the use of accrued paid sick leave during the pandemic. The state's paid sick leave law requires employers with 50 or more employees to provide up to 40 hours of paid leave per year. Employees can use this paid leave for their own or their child's or spouse's illness or medical care. According to the FAQs, which the department plans to update regularly, paid sick leave will cover certain absences related to COVID-19.

## Illinois (updated March 23, 2021)

In March 2021, the Illinois Department of Labor issued employer guidance titled "[Compensation, paid leave and the COVID-19 vaccine.](#)" The guidance is divided into three sections:

- **Mandatory vaccine programs.** If an employer requires employees to get vaccinated, an employee's time spent obtaining the vaccine is likely compensable, even if it isn't during work hours. Employers should combine mandatory vaccination with paid leave for employees to receive required doses of the COVID-19 vaccine or compensate employees for the time spent to get the vaccine.
- **Optional vaccine programs.** Employees who voluntarily get the vaccine should be allowed to use sick leave, vacation time or other PTO for both doses. Employers should also consider offering

flextime for employees to become vaccinated without having to take unpaid time. Alternatively, employers should allow employees to take unpaid time off.

- **Vaccine requirements for employees' family members.** The [Employee Sick Leave Act \(ESLA\)](#) entitles employees to use employer-provided sick leave benefits for absences due to a family member's medical appointments. A COVID-19 vaccine appointment qualifies as a medical appointment under the ESLA if the employer allows employees to use sick leave benefits to get vaccinations. Those employers should let employees use sick leave benefits to take a qualifying family member to receive the COVID-19 vaccine.

To encourage employees to obtain the COVID-19 vaccine, the state DOL recommends that employers review their leave and vaccination policies and revise them to provide leave, time and flexibility.

## Chicago, IL (added May 5, 2021)

On April 22, 2021, the Chicago City Council [passed](#) an ordinance ([No. 2021-1219](#)) prohibiting adverse action against employees and independent contractors for taking time off to get vaccinated. Employers must allow workers to use any available paid sick leave, accrued or other paid time off to voluntarily get the vaccine. If the employer requires the vaccine, each worker must receive up to four paid hours per dose for vaccine appointments during work hours.

Employers violating the ordinance risk administrative action and a fine of between \$1,000 and \$5,000. In addition, workers wrongfully retaliated against have the right to bring a civil action, seeking reinstatement, treble damages, litigation costs and attorney's fees. The [Office of Labor Standards](#) has published a [poster](#) summarizing the ordinance.

The ordinance took effect upon passage. The measure will remain in effect until the Chicago Commissioner of Public Health makes a written determination that the public health threat posed by COVID-19 has diminished enough that the ordinance can safely be repealed.

## Massachusetts

[FAQs](#) from the Massachusetts attorney general clarify employee rights and employer obligations under the state's existing paid sick leave law in the context of COVID-19. Massachusetts employers must provide up to 40 hours of accrued paid sick time each year for employees to use — to take care of themselves or family members or to comply with a required or recommended quarantine. The state's sick leave law does not cover absences caused by school, childcare or work closures due to a public health emergency. Nevertheless, employers are encouraged to allow liberal use of earned sick time — and vacation or PTO — during the pandemic to support full compliance with the recommendations of health professionals.

**Vaccines (added May 5, 2021).** Updated FAQs issued March 23, 2021, address employee and employer questions about COVID-19 vaccines. Massachusetts employers can require employees to get vaccinated but must make reasonable accommodations for disabilities and sincerely held religious



beliefs. If an employer requires employees to receive the vaccine at a specific location or on a specific date, their time (including travel time) getting the vaccine is compensable. If the employer, however, is only requiring proof of vaccination and does not mandate when, where and how employees obtain it, the time is likely not compensable. Employees can use earned sick leave to recover from any side effects from the vaccine.

## Minnesota

No state law requires employers to provide paid sick leave. However, a Minnesota Department of Labor [fact sheet](#) notes that when employers provide paid sick time for an employee's own illness, they generally must allow an employee to use sick leave to care for an ill minor child, an adult child, a spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent or step-parent.

In addition, employers with employees in [Duluth](#), [Minneapolis](#) or [St. Paul](#) must provide paid sick leave that can be accrued over time or front-loaded at the start of the year. Specifics differ for each ordinance. Each city has provided FAQs for employers to clarify how these ordinances apply to COVID-19-related absences.

**[Duluth FAQs.](#)** Employees in Duluth can use accrued paid sick time to seek coronavirus screening or treatment, care for symptoms or infection, and undergo testing or quarantine after close personal contact with an infected or symptomatic person. Employees can use sick leave to care for themselves or a covered family member. The ordinance doesn't cover use of paid sick time when a family member's school or childcare facility has closed or when the employee's workplace has closed by order of a public official due to the virus. However, the FAQs note that an employer can allow the use of paid sick leave for reasons not covered by the ordinance.

**[Minneapolis FAQs.](#)** Employees in Minneapolis can take accrued sick leave for absences related to coronavirus symptoms, testing or infection. Employees can use paid sick time to care for themselves or a family member. They also can use paid sick time when a family member's school or childcare facility has closed or when the employee's workplace has closed by order of a public official due to the virus. Preemptive closures or self-quarantine are not covered uses under the ordinance.

**[St. Paul FAQs.](#)** Employees in St. Paul can use accrued sick leave if their workplace has closed or they need to care for a child whose school or place of care has closed because of COVID-19. Employees at greater risk of severe COVID-19 complications can use sick leave for preventive care related to an underlying medical condition. Employers, at their discretion, can provide more paid leave if an employee has exhausted all accrued sick leave. An employer cannot *require* an employee to telecommute or work from home instead of taking paid sick leave, but an employer can offer the choice.

## Nevada

Nevada's Office of the Labor Commissioner has issued COVID-19 [guidance](#) on the state's new paid leave law ([2019 Ch. 592](#)). An employer cannot require employees to use accrued paid sick leave when unable to work due to a mandatory government quarantine, but employees can choose to use paid or other applicable leave. The Office of the Labor Commissioner's [website](#) that features links to COVID-19 resources for employers, including a summary of the federal COVID-19 paid leave requirements.

## New York (added June 14, 2021)

On May 27, 2021, the state Department of Labor issued [guidance](#) reminding employers that employees can use paid sick leave to recover from COVID-19 vaccine side effects. New York's [paid sick leave law](#) requires employers with five or more employees or net income of more than \$1 million to provide paid sick leave. The paid sick leave requirement is addition to the state laws providing COVID-19 [emergency paid sick time](#) and [COVID-19 vaccination paid leave](#).

## Oregon

Oregon's sick leave law requires employers to provide employees at least one hour of paid sick time for every 30 hours worked. The state's Bureau of Labor and Industries has published [FAQs](#) for employers and employees about sick time and the coronavirus. Employees can use accrued sick time when a public health emergency closes their place of work or when they have to care for child whose school or childcare center has closed due to the public health emergency. Employees also can use paid sick leave to care for their own illness or an ill family member (including parents, grandparents and grandchildren).

**Vaccines (added May 5, 2021).** The bureau has also published [FAQs](#) for employer and employees about COVID vaccinations and the workplace. Most Oregon employers can require workers to receive a COVID-19 vaccine but must accommodate workers with a disability or a sincerely held religious belief that inhibits their ability to get vaccinated. In addition, some employees in Oregon are exempt from such a requirement, including:

- Licensed or certified healthcare providers
- Employees of a healthcare facility
- Employees of a licensed healthcare provider or a clinical laboratory
- Firefighters, law enforcement officers, corrections officers, or parole and probation officers

In addition, an individual employment contract or collective bargaining agreement may prohibit an employer from requiring workers to get vaccinated.

Oregon law requires employers to pay for time spent by an employee waiting for and receiving the vaccine at the worksite during normal work hours. Employees do not have to get paid if they choose to get a required vaccination outside of work hours and off premises. An employee choosing to get a required vaccination off the worksite but during work hours can use any available sick leave.

Employers can offer financial incentives for workers to get vaccinated but must provide equal pay for workers who cannot get a vaccination because of a religious conviction or a disability.

## Philadelphia, PA

Supplemental regulations, effective during the COVID-19 public health emergency, allow expanded use of accrued leave under the city's paid sick leave law. Employees may use accrued leave to undergo a COVID-19 evaluation and a two-week self-quarantine if they have symptoms of the virus, had direct contact with an infected individual or have recently traveled in a high-risk country. Self-quarantine may also apply to employees considered high-risk by a medical professional.

Additional leave rights extend to employees caring for family members at home due to COVID-19-related travel restrictions or closures, such as a school's or day care provider's closure or a state-ordered business closure. The regulations also detail what documentation an employer may require, such as public statements from government officials or a signed employee statement of existing symptoms or need to stay home. Employers can't require a note from a health professional, consistent with CDC guidance.

## Rhode Island

The Department of Labor and Training has issued a workplace fact sheet on COVID-19, reminding workers that they may be eligible for temporary disability or family caregiver insurance benefits if they or their family members have been affected by COVID-19. The state is waiving the seven-day minimum claim period for COVID-19 claims and the need for medical certification if a worker is under quarantine.

## Vermont

Vermont's paid sick time law requires employers to provide up to 40 hours of accrued paid leave every year. COVID-19 FAQs from the state's Department of Labor remind employers and employees that accrued paid sick leave can be used by employees who have COVID-19 or need to care for a sick family member. Under the law, employees can also use accrued sick time when a family member's school or business is closed for public health or safety reasons.

## Washington

The Department of Labor & Industries has posted answers to common questions on paid sick leave and COVID-19. Employees can use paid sick leave if a public official closes their place of business or their child's school or place of care due to COVID-19. Employees can also use PTO for these

purposes if paid sick leave is part of the PTO program. However, employers cannot require employees to use to their paid sick leave to cover virus-related absences. The employee can choose when to use accrued paid sick leave.

### **PFML temporary amendments**

The state has temporarily amended ([2021 Ch. 109](#), [HB 1073](#)) the hours-worked eligibility criteria for paid leave under the state's paid family and medical leave (PFML) program. The amendment makes it easier for workers to qualify for PFML, even if they missed work in 2020 or 2021 due the pandemic.

The program typically requires employees to have worked 820 hours in either (i) the first four of the last five completed calendar quarters or (ii) the last four completed calendar quarters immediately preceding the leave. For leaves beginning anytime in 2021 through March 31, 2022, employees who can't satisfy the hours-worked criteria will still be eligible for paid leave if they worked 820 hours in either (i) 2019 or (ii) the second, third and fourth quarters of 2019 and the first quarter of 2020. The temporary change does not apply to workers who voluntarily separated from employment for reasons unrelated to COVID-19 or were terminated due to misconduct.

Employers with 150 or fewer employees may be eligible for a one-time grant to alleviate the cost of having an employee on leave due to relaxed eligibility criteria. Eligible employers can use a \$3,000 grant to hire a temporary worker to replace the absent employee. Alternatively, employers can receive a \$1,000 grant to reimburse wage-related costs from having the employee on leave. The grants are not available to employers with private PFML plans. The legislation took effect on April 21, 2021, and will expire June 30, 2023.

## 4

# Related resources

### Non-Mercer resources

- [OSHA COVID-19 Healthcare ETS webpage](#)
- [Interim final rule, Occupational Exposure to COVID-19; Emergency Temporary Standard \(Fed. Reg, June 21, 2021\)](#)
- [Centers for Disease Control and Prevention resource page](#)
- [Pub. L. No. 117-2, the American Rescue Plan Act of 2021 \(Congress, March 11, 2021\)](#)
- [Pub. L. No: 116-260, the Consolidated Appropriations Act, 2021 \(Congress, Dec. 27, 2020\)](#)
- [Pub. L. No. 116-127, the Families First Coronavirus Response Act \(Congress, March 18, 2020\)](#)
- Arizona: [FAQs about COVID-19 and earned paid sick time](#) (Industrial Commission, April 7, 2020)
- California: [Executive Order 8-21](#) (June 11, 2021)
- California: [COVID-19 prevention emergency temporary standards](#) (DIR, revised June 17, 2021)
- California: [2021 Ch. 13, SB 95](#) (Legislature, March 19, 2021)
- California: [2021 COVID-19 SPSL FAQs](#) (DIR, March 2021)
- California: [2021 COVID-19 SPSL poster](#) (DIR, March 2021)
- California: [COVID-19 Testing and Vaccine FAQs](#) (DIR, March 2021)
- California: [COVID-19 prevention emergency temporary standards resources](#) (DIR)
- California: [COVID-19 emergency temporary standards FAQs](#) (DIR)
- California: [COVID-19 SPSL leave posters in English and Spanish](#) (Labor Commissioner)
- California: [COVID-19 website for employers and employees](#) (EDD)
- California: [PSL FAQs](#) (DIR)
- California: [2020 Ch. 45, AB 1867](#) (Legislature, Sept. 9, 2020)

- California: [Executive Order No. 51-20](#) (Governor's Office, April 16, 2020)
- California: [FAQs on labor laws related to COVID-19](#) (Labor Commissioner's Office, April 7, 2020)
- California: [Executive Order No. 25-20](#) (Governor's Office, March 12, 2020)
- California: [Healthy Workplaces, Healthy Families Act of 2014](#) (CA Lab. Code §§ 245–249)
- Dale City, CA: [Ordinance No. 1445](#) (City Council, March 8, 2021)
- Long Beach, CA: [COVID-19 SPSL Ordinance No. 20-0017](#) (City Council, June 9, 2020)
- Los Angeles, CA: [Vaccine paid sick leave due to COVID-19](#) (Mayor, June 24, 2021)
- Los Angeles, CA: [Emergency order on SPSL due to COVID-19](#) (Mayor's Office, revised June 24, 2021)
- Los Angeles, CA: [COVID-19 SPSL rules and regulations](#) (Office of Wage Standards, Feb. 11, 2021)
- Los Angeles, CA: [COVID-19 SPSL guidance](#) (Office of Wage Standards, June 11, 2020)
- Los Angeles, CA: [COVID-19 SPSL rules and regulations](#) (Office of Wage Standards, May 26, 2020)
- Los Angeles, CA: [Emergency order on COVID-19 SPSL](#) (Mayor's Office, April 7, 2020)
- Los Angeles, CA: [COVID-19 SPSL Ordinance No. 20-0147-S39](#) (City Council, March 25, 2020)
- Los Angeles County, CA: [Urgency Ordinance No. 2021-0039U](#) (Board of Supervisors, Aug. 10, 2021)
- Los Angeles County, CA: [COVID-19 Vaccine Ordinance \(No. 2021-0024U\)](#) (Board of Supervisors, May 18, 2021)
- Los Angeles County, CA: [COVID-19 SPSL Ordinance, amended](#) (Board of Supervisors, Jan. 26, 2021)
- Los Angeles County, CA: [COVID-19 SPSL Ordinance](#) (Board of Supervisors, April 28, 2020)
- Marin County, CA: [COVID-19 SPSL Ordinance](#) (Board of Supervisors, June 8, 2021)
- Millbrae, CA: [Ordinance No. 786](#) (City Council, March 9, 2021)
- Oakland, CA: [Ordinance No. 21-0018](#) (City Council, Jan. 19, 2021)
- Oakland, CA: [FAQs on COVID-19 emergency paid sick leave ordinance](#), (Office of the City Attorney, July 22, 2020)

- Oakland, CA: [Emergency paid sick leave posters](#) (Contracts and Compliance Division, June 19, 2020)
- Oakland, CA: [Ordinance No. 20-0345](#) (City Council, May 12, 2020)
- Sacramento County, CA: [Ordinance No. 2020-0047](#), extending the county's Worker Protection, Health and Safety Act (Board of Supervisors, Dec. 15, 2020)
- Sacramento County, CA: [Ordinance No. 1593](#), the Worker Protection, Health, and Safety Act of 2020 (Board of Supervisors, Sept. 1, 2020)
- Sacramento, CA: [Ordinance No. 2020-01470](#), extending SPSL in the city's Worker Protection, Health and Safety Act (City Council, Dec. 15, 2020)
- Sacramento: [Ordinance No. 2020-0026](#), the Worker Protection, Health and Safety Act (City Council, June 30, 2020)
- San Francisco, CA: [Paid sick leave ordinance webpage](#)
- San Francisco, CA: [Draft meeting minutes](#) (Board of Supervisors, Feb. 9, 2021)
- San Francisco, CA: [Ordinance No. 270-20](#) (Board of Supervisors, Dec. 15, 2020)
- San Francisco, CA: [PHELO FAQs](#) (April 2, 2021)
- San Francisco, CA: [Ordinance No. 200355](#) (April 17, 2020)
- San Francisco, CA: [Ordinance No. 200313](#) (Board of Supervisors, April 17, 2020)
- San Francisco, CA: [Guide to reimbursement under the Workers and Families First Program](#) (City and county government, April 8, 2020)
- San Francisco, CA: [Workers and Families First paid sick leave program FAQs](#) (Office of Economic & Workforce Development, March 30, 2020)
- San Francisco, CA: [Paid sick leave & the coronavirus](#) (OLSE, March 24, 2020)
- San Francisco, CA: [Workers and Families First Program](#) (Mayor's Office, March 16, 2020)
- San Jose, CA: [Urgency COVID-19 Paid Sick Leave Ordinance website](#) (Office of Equality Assurance)
- San Jose, CA: [COVID-19 paid sick leave urgency ordinance, revised](#) (City Clerk's Office, Jan. 5, 2021)
- San Jose, CA: [COVID-19 paid sick leave FAQs](#) (Office of Equality Assurance)
- San Jose, CA: [Ordinance No. 30390](#) (City Clerk's Office, April 7, 2020)

- San Mateo, CA: [Ordinance No. 2021-8](#) (City Council, March 1, 2021)
- San Mateo County, CA: [Ordinance No. 20-930](#) (Board of Supervisors, Dec. 8, 2020)
- San Mateo County, CA: [Ordinance No. 20-506](#) (Board of Supervisors, July 7, 2020)
- Santa Rosa, CA: [Urgency ordinance extending paid sick leave requirements](#) (City Council, Feb. 2, 2021)
- Santa Rosa, CA: [Ordinance No. 2020-006](#) (City Council, July 7, 2020)
- Sonoma County, CA: [File 2021-0561](#) (Board of Supervisors, June 8, 2021)
- Sonoma County, CA: [File No. 2021-0075](#), Adoption of local COVID-19 paid sick leave ordinance applicable to all employees in the unincorporated areas of the country (Board of Supervisors, Feb. 9, 2021)
- Sonoma County, CA: [File No. 2021-0035](#), Potential extension of Urgency Paid Sick Leave Ordinance (Board of Supervisors, Jan. 26, 2021)
- Sonoma County, CA: [Ordinance No. 6320](#), Urgency Paid Sick Leave Ordinance (Board of Supervisors, Aug. 18, 2020)
- South San Francisco, CA: [Ordinance No. 1618-2021](#) (City Council, March 3, 2021)
- Colorado: [Info. No. 6A](#), Paid leave under the HFWA (Department of Labor and Employment (DLE), August 2020)
- Colorado: [2020 Ch. 205](#), the Healthy Families and Workplaces Act (HFWA) (Legislature, July 14, 2020)
- Colorado: [Health Emergency Leave with Pay \(HELP\) webpage](#) (DLE, July 14, 2020)
- Colorado: [Health emergency leave with pay \(HELP\) rules](#) (DLE, March 11, 2020, as amended on March 16, April 3, and April 27, 2020)
- Connecticut: [COVID-19 FAQs for workers and employers](#) (Labor Department, June 17, 2020)
- Illinois: [Employer guidance: Compensation, paid leave, and the COVID-19 vaccine](#) (Labor Department, March 2021)
- Chicago, IL: [Supplement Ordinance No. 2021-1219](#) (City Council, April 23, 2021)
- Cook County, IL: [COVID-19 Vaccination Rights for Employees and Employer Obligations ordinance](#) (Board of Commissioners, June 24, 2021)
- Maryland: [2021 Ch. 736](#), Essential Workers' Protection Act (Legislature, June 1, 2021)



- Massachusetts: [2021 Ch. 55, HB 4127](#) (Legislature, Sept. 29, 2021)
- Massachusetts: [COVID-19 emergency paid sick leave — workplace poster](#) (Executive Office of Labor and Workforce Development, June 7, 2021)
- Massachusetts: [COVID-19 emergency paid sick leave — notice to employees](#) (Executive Office of Labor and Workforce Development, June 4, 2021)
- Massachusetts: [2021 Ch. 16, House Bill 3702](#) (Legislature, May 28, 2021)
- Massachusetts: [FAQs about COVID-19](#) (Attorney General's Office)
- Michigan: [Executive Order No. 2020-172](#) (Governor's Office, Aug. 27, 2020)
- Michigan: [Executive Order No. 2020-166](#) (Governor's Office, Aug. 7, 2020)
- Michigan: [Executive Order No. 2020-36](#) (Governor's Office, April 3, 2020)
- Michigan: [Paid Medical Leave Act FAQs](#) (Bureau of Employment Relations, Feb. 25, 2019)
- Minnesota: [Worker protections related to COVID-19](#) (Department of Labor and Industry, May 28, 2020)
- Duluth, MN: [Earned Sick and Safe Time and COVID-19 FAQs](#) (City Clerk, March 17, 2020)
- Minneapolis, MN: [COVID-19 and the sick and safe time ordinance FAQs](#) (Department of Civil Rights, March 18, 2020)
- Nevada: [SB 209](#) (Legislature, June 9, 2021)
- Nevada: [Office of Labor Commissioner website](#)
- Nevada: [COVID-19 and paid leave guidance](#) (Labor Commissioner's Office, March 11, 2020)
- New Jersey: [COVID-19 FAQs for employees](#) (Department of Labor & Workforce Development)
- New Jersey: [2020 Ch. 23, SB 2373](#) (Legislature, April 14, 2020)
- New Jersey: [2020 Ch. 17 \(SB 2304\)](#) (Legislature, March 25, 2020)
- New Jersey: [2020 Ch. 9 \(AB 3848\)](#) (Legislature, March 20, 2020)
- New Jersey: [Executive Order No. 103](#) (Governor's Office, March 9, 2020)
- New York: [Guidance on use of paid sick leave for COVID-19 vaccine recovery time](#) (Labor Department, May 27, 2021)
- New York: [2021 Ch. 77, A03354](#) (Assembly, March 12, 2021)

- New York: [Guidance on use of COVID-19 sick leave](#) (Labor Department, Jan. 20, 2021)
- New York: [New paid leave for COVID-19](#) (Workers' Compensation Board)
- New York: [Guidance on use of COVID-19 sick leave for healthcare employers](#) (Departments of Health and Labor, June 25, 2020)
- New York: [Guidance on use of COVID-19 sick leave for healthcare employers](#) (Departments of Health and Labor, May 17, 2020)
- New York: 2020 Ch. 25 ([SB 8091](#)), Emergency COVID-19 paid sick leave law (Senate, March 18, 2020)
- Oregon: [COVID-19 vaccinations and the workplace](#) (Bureau of Labor and Industries)
- Oregon: [COVID-19 FAQs for employers and employees](#) (Wage and Hour Division)
- Philadelphia, PA: [COVID-19 pandemic paid sick leave resources](#) (Department of Labor, April 5, 2021)
- Philadelphia, PA: [Public health emergency leave ordinance](#) (City Council, March 29, 2021)
- Philadelphia, PA: [Paid sick leave public health emergency amendment](#), No. 200303 (City Council, Sept. 17, 2020)
- Philadelphia, PA: [PSL pandemic amendment for healthcare and pool employees](#), No. 200306 (City Council, Sept. 9, 2020)
- Philadelphia, PA: [Supplemental emergency regulation on COVID-19 and Ch. 9-4100 of the Philadelphia Code](#) (Mayor's Office of Labor, March 16, 2020)
- Philadelphia, PA: [Paid sick leave resources](#) (City government, Feb. 13, 2020)
- Philadelphia, PA: [City Code Ch. 9-4100, the Promoting Healthy Families and Workplaces \(2015 Ord. No. 141026\)](#) (City Council, Feb. 12, 2015)
- Pittsburgh, PA: [Temporary emergency COVID-19 paid sick leave](#) (City Council, July 27, 2021)
- Pittsburgh, PA: [COVID-19 emergency paid sick FAQs](#)
- Pittsburgh, PA: [Temporary emergency COVID-19 paid sick leave](#) (City Council, Dec. 8, 2020)
- Rhode Island: [COVID-19 workplace fact sheet](#) (Department of Labor and Training, March 25, 2020)
- Vermont: [COVID-19 FAQs for employer and employees](#) (Department of Labor, March 19, 2020)
- Vermont: [Earned sick time law FAQs](#) (Department of Labor, Oct. 22, 2019)

- Washington: [Proclamation 20-25.14](#) (July 1, 2021)
- Washington: [2021 Ch. 109, HB 1073](#) (April 21, 2021)
- Washington: [Proclamation 20-67](#) (Governor's Office, Aug. 13, 2020)
- Washington: [Paid sick leave and COVID-19 webpage](#) (Department of Labor & Industries)
- Seattle, WA: [Paid sick and safe time webpage](#) (Office of Labor Standards)
- Seattle, WA: [Paid sick and safe time for gig workers ordinance](#) (City Council, June 12, 2020)
- Seattle, WA: [Emergency Human Rights Rule 70-080](#) (Office of Labor Standards, April 8, 2020)
- Seattle, WA: [Paid sick and safe time amendments](#) (City Council, March 16, 2020)
- Washington, DC: [Mayor's Order 2021-096](#) (July 24, 2021)
- Washington, DC: [Coronavirus Support Temporary Amendment Act of 2020 \(D.C. Law 23-130\)](#)
- Washington, DC: [Act 23-328, Coronavirus Support Congressional Review Emergency Amendment Act of 2020](#) (City Council, June 8, 2020)
- Washington, DC: [Act 23-286, COVID-19 Response Supplemental Emergency Amendment Act of 2020](#) (City Council, April 10, 2020)
- Washington, DC: [§ 32–531.01 et seq.](#) (City Council, April 10, 2020)

## **Mercer Law & Policy resources**

- [Roundup: Coronavirus \(COVID-19\) updated resources for employers](#) (regularly updated)
- [Tracking federal COVID-19 laws affecting employee benefits, jobs](#) (March 30, 2021)
- [COBRA help, dependent care items in COVID-19 bill near enactment](#) (March 10, 2021)
- [Paid sick leave mandates continue to expand at state level](#) (Feb. 8, 2021)
- [2021 state paid family and medical leave contributions and benefits](#) (Jan. 20, 2021)
- [DOL and IRS issue guidance on COVID-19 emergency paid leave](#) (Jan. 15, 2021)
- [Colorado enacts paid sick leave law, emergency leave requirements](#) (Aug. 19, 2020)
- [Virus aid legislation includes cost-sharing curbs, new leave rights](#) (March 18, 2020)
- [New California laws affect health insurance, leave, other HR policies](#) (Feb. 19, 2020)
- [New California laws affect health insurance, leave, other HR policies](#) (Feb. 19, 2020)

## Other Mercer resources

- [Navigating coronavirus](#) (regularly updated)
- [Paid leave: Five considerations for a second COVID wave and beyond](#) (Aug. 20, 2020)
- [Paid leave: Five things to consider as COVID cases rise](#) (Aug. 13, 2020)
- [Designing a COVID-19 emergency leave policy: Four key considerations](#) (March 17, 2020)
- [Update: Rapid action plan on paid leave during the pandemic](#) (March 12, 2020)
- [COVID-19 and paid leave: Three scenarios to plan for](#) (March 5, 2020)

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