



Webinar Series: Guidance on State and Local Paid Family Leave Laws

Part VIII: Comparing State PFML Laws and Mid-Year 2023 Legislative Updates

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Seyfarth Shaw LLP

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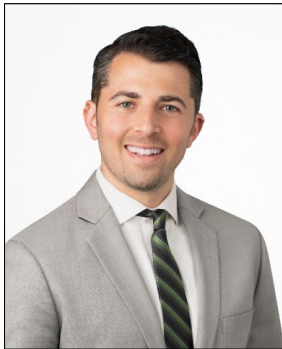
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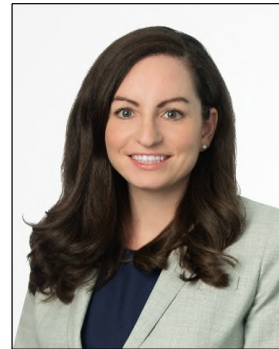
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Program Overview

- 01** Terminology and Historical Review
- 02** Minnesota and Maryland PFML Updates
- 03** PFL/PFML Comparisons
- 04** Final Thoughts
- 05** Questions

Terminology and Historical Review





Terminology

- **Statutory Unpaid Family and Medical Leave (FML):** Provides up to a specified number of weeks of unpaid job-protected leave for eligible employees who take leave for covered reasons, including their own illness, bonding with new child or to care for family member with a serious health condition.
- **Statutory Disability Insurance (SDI, TDI):** Provides partial wage replacement to employees who are temporarily disabled and unable to work because of non-occupational illness or accident.
- **Statutory Paid Family Leave (PFL):** Provides up to certain number of weeks of paid leave for eligible employees who take leave for family care related covered reasons, including bonding with a new child or to care for family member with a serious health condition. This time may also be job-protected in some jurisdictions.
- **Statutory Paid Family and Medical Leave (PFML):** Provides up to certain number of weeks of paid leave for eligible employees who take leave for covered reasons, including their own illness, bonding with a new child or to care for family member with a serious health condition. This time may also be job-protected in some jurisdictions.



Terminology continued

- **Statutory Paid Sick Leave Law (PSL):** Employees earn a certain amount of paid leave based on hours worked that can be used for various reasons, including sickness or preventive care for themselves or family members. Employees receive their full pay (with potential nuances) for PSL and they are paid by their employer for the time.
- **COVID Paid Leave / Public Health Emergency Leave (SPSL, EPSL, PHEL):** In certain jurisdictions, employees receive a lump sum of paid time off for COVID-19 specific reasons or broader public health emergency leave reasons.
- **Company-Provided/Voluntary Leave (STD, LTD, PPL, etc.):** Companies may choose to provide voluntary leave benefits to employees such as short-term disability or paid parental leave in order to attract or retain employees.



Paid Family and Medical Leave

- **Existing Mandatory SDI Laws – 5 States:**
 - CA, HI, NJ, NY & RI
- **Existing Mandatory PFML Laws – 12 States + DC**
 - Paid Family Leave - **CA, NJ, NY & RI**
 - Paid Family and Medical Leave – **CO** (benefits effective 2024), **CT, DC, DE** (benefits effective 2026), **MA, MD** (benefits effective 2026), **MN** (benefits effective 2026), **OR** (benefits effective 9/3/2023) & **WA**

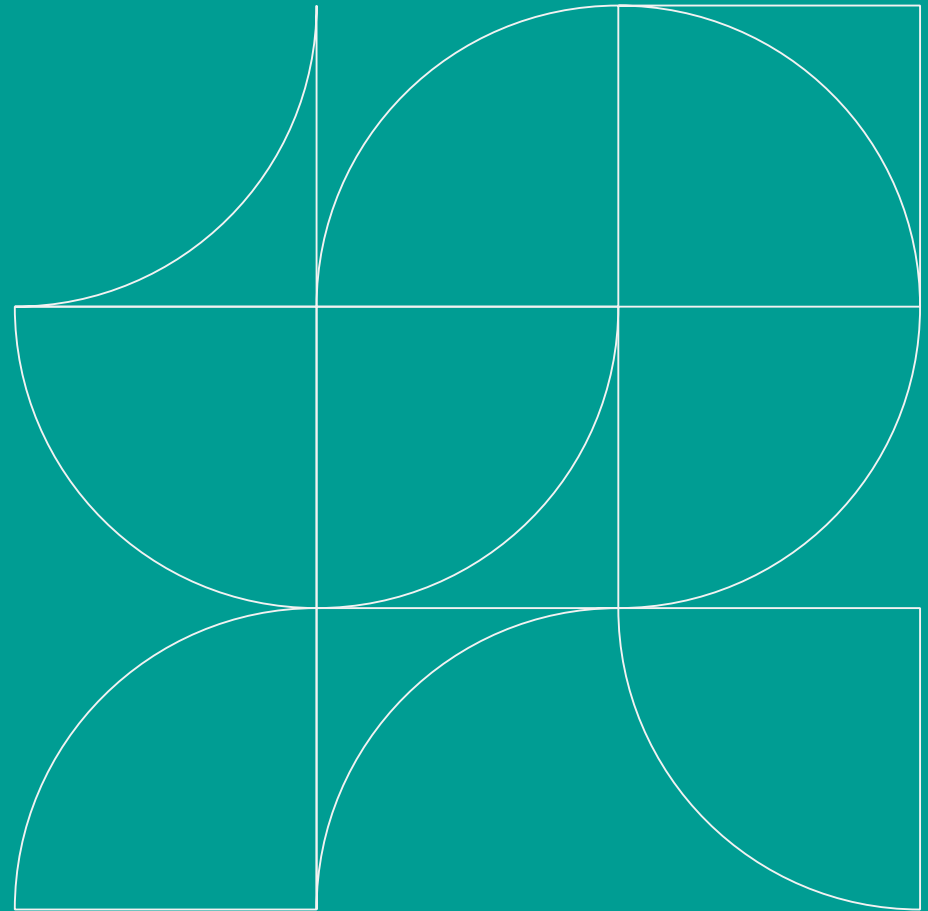


Paid Family and Medical Leave

A few new twists!

- **NH** and **VT** have instituted **Voluntary** PFML programs
 - NH (effective 1/1/2023)
 - VT (effective for state employees 7/1/2023; for other non-state government public employers 7/1/2024; for individual/private employer purchasers 7/1/2025)
- **VA** added **Family Leave Insurance** as a class of insurance
- **Are these signs of the direction that PFML benefits will take in the coming years?**

Minnesota and Maryland PFML Updates



Topics	Minnesota PFML Law
Effective Date	Effective in stages; employer recordkeeping requirements start on July 1, 2024. Employees may apply for benefits in Nov. 2025, and those benefits start on Jan. 1, 2026.
Maximum Length of Benefits	Total number of weeks EE may take for medical (i.e., EE own serious health condition) <u>or</u> all other covered leaves (see next slide) is lesser of (a) 12 weeks, OR (b) 12 weeks minus the number of weeks within the same benefit year that the employee received benefits for the other category of leave – plus 8 weeks. In other words, <u>max amount of combined leave time EE may take within the same benefit year is 20 weeks.</u>
Obtaining Benefits	Public program is administered by MN Department of Employment & Economic Development (DEED), similar to unemployment insurance. EEs apply through DEED, and DEED determines' eligibility for benefits and benefit amounts.
Covered Employer	Broad coverage. Any organization, entity, etc. having any individual in covered employment.
Covered Employees	Multiple components in eligibility determination, including financial eligibility test. Only seasonal employees are excluded from program coverage (and independent contractors as non-employees).

Topics	Minnesota PFML Law
Reasons for Use	<ul style="list-style-type: none"> • Serious health condition • Qualifying exigency • Safety Leave • Family care • Bonding • Medical care related to pregnancy

Topics	Minnesota PFML Law
Family Members	Broad. Includes “an individual who has a relationship with the applicant that creates an expectation and reliance that the applicant care for the individual, whether or not the applicant and the individual reside together.”
Reinstatement	Upon return from PFML, EE is entitled to be returned to the same position they held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. EE right to reinstatement is subject to some limitations similar to those imposed under FMLA.
Partial Wage Replacement	Program replaces wages on a progressive scale at 55% – 90% (average of 66%) of an employee’s regular pay, depending on the employee’s average typical workweek and weekly wage as calculated against state’s average weekly wage.
Premiums	Except for ER with approved private plan, premiums are paid quarterly on the taxable wages paid to each EE in covered employment. Beginning 1/1/26, the ER premium rate if participating in both the family and medical benefit programs is 0.7%. Premium rates are reduced for ERs participating in one of the two mandatory programs, so long as ER has approved private plan.

Topics	Minnesota PFML Law
Funding	Starting 1/1/26, employers must pay minimum of 50% of annual required PFML premiums. Employees, through payroll deduction, must pay remainder, subject to applicable wage and hour laws. Premiums are due on a quarterly basis.
Posting	<p><u>Must</u> post in a conspicuous place on each of its premises a notice (prepared by the Commissioner) providing notice of benefits in English and any other language that is the primary language of 5 or more employees or contractors of the workplace.</p> <p><u>Must</u> issue written notice (provided by DEED) – to each EE within 30 days from first day of employment, or 30 days before premium collection, whichever is later.</p> <p>Requirements begin 11/1/25.</p>
Wage Statements	Starting 1/1/26, wage statements must include any deductions for the employee-paid portion of the premium, and the amount paid by the employer based on the employee's wages.

Topics	Minnesota PFML Law
Recordkeeping	Starting 7/1/24, employers must keep accurate employee records for a period of not less than 4 years in addition to the current calendar year.
Relationship to Other Leaves	An employer <u>may require</u> leave taken under this statute to run concurrently with leave taken for the same purpose under the FMLA or MN Pregnancy and Parental Leave Act.
Private Plans	Employers' obligations under the law may be satisfied by the substitution of a private plan that provides paid family, paid medical, <u>or</u> paid family and medical benefits. Employers must apply through DEED.
Substitution of Vacation Pay, Sick Pay or PTO	<p>EEs <u>may</u> use vacation pay, sick pay, paid time off, or disability insurance in lieu of program benefits <u>if</u> the employee is concurrently eligible.</p> <p><u>But</u> ERs <u>cannot</u> compel an EE to exhaust accumulated sick, vacation, or PTO before or while taking leave under PFML Law.</p>

Maryland PFML Update

- **Delayed Implementation**

- Employee contributions – Delayed until 10/1/2024 (was 10/1/2023)
- Benefits becoming available to employees – Delayed until 1/1/2026 (was 1/1/2025)

- **Coordination of Benefits**

- Employees cannot be required to use or exhaust paid vacation, sick leave, or other paid time off under an employer policy before or while receiving MD PFML benefits (but employer and employee can agree to use such benefits to top off PFML).
- Employers can require coordination with separate employer-provided leave due to parental care, family care, or military leave or under a disability policy.

- **Contribution Split**

- 50/50 split between employees and employers.

- **Updated and New Definitions Under the Program**

- “Family member” now includes domestic partners.
- “Wages” are defined as hourly wage or salary; commission; compensatory pay; severance pay; standby pay; tip or gratuity; holiday or vacation pay; and any other paid leave, including sick leave (paid entirely by employers).

PFL/PFML Comparisons





Survey Question

Which of the following PFML topics do you find to be the **most complicated?**

- A. Employee Eligibility
- B. Qualifying Absences and Covered Family Members
- C. Length of Benefits
- D. Job Protection vs. Wage Replacement
- E. Coordination With Employer-Provided Benefits
- F. All of the above, plus all other PFML criteria not mentioned here. These laws are tricky!

Overview of Comparisons

There are many PFML law substantive topics. We will be taking a closer look at the following:

- Employer Coverage
- Employee Eligibility
- Qualifying Absences
- Covered Family Members
- Job Protection
- Program Administration (state vs. private vs. both)
- Funding
- Length of Benefits
- Amount of Pay
- Notice and Posting

Employer Coverage

FMLA - Employer Coverage Standard:

Employ no less than 50 employees for at least 20 workweeks in the current or preceding year.



PFML Laws - Employer Coverage Standard:

Most existing PFML laws apply to employers that have one or more employees in the relevant jurisdiction.

Employee Eligibility

Employee Eligibility Topics	Relevant PFML Locations
Wage Amount Threshold	CA, CO, CT, MA, MN, NJ, OR, RI
Length of Employment	DE, NY
Hours and/or Percentage of Time Worked	DC, DE, MD, WA
Contribution to PFML Program	CA, OR, RI
Submission of Claim for PFML Benefits	CA, DE, MN, OR
If Required, Use Certain Amount of PTO	CA
Lost Wages because of Absence for Qualifying Event / Unable to Perform Work	CA, MN
Meet Law's Administrative Requirements	DE

Other Eligibility Issues to Keep in Mind (location-specific):

- Base Period
- Alternative Base Period
- Whether the employee works in the state (or meets other nexus criteria)
- Former Employee Coverage
- Does Law Have Certain Disqualification Criteria

Telecommuter Employees—Select Examples Only

Jurisdiction	Telecommuter Considerations
Connecticut	<p>If the employee is not subject to state unemployment insurance obligations, the CT Paid Leave Authority will apply the same factors (in the same order of priority) that are used in the unemployment insurance context to determine if the employee “works in Connecticut” for the purpose of the CT Paid Leave Program:</p> <ul style="list-style-type: none">(a) Whether the services are <u>localized</u>.(b) If the services are not localized, whether there is a base of operations and whether some of the services are performed within the same state as the base of operations.(c) If the work is not localized and there is no base of operations: whether the employee performs some of the services and receives direction and control from a state(d) If and only if there is no place of direction and control, no localized services, and no base of operation: where the employee resides.

Telecommuter Employees—Select Examples Only (Con’t)

Jurisdiction	Telecommuter Considerations
New York	<p>To be eligible for New York Paid Family Leave an employee’s work must be localized in New York. Work is considered “localized” if it is (1) performed entirely in the state or (2) is performed in and outside of the state but that performed outside of the state is incidental to the employee's service in the state or is temporary or transitory in nature or consists of isolated transaction. The term "employment" includes an employee's entire service performed both within and without this state provided it is not localized in any state but some of the service is performed in this state, and</p> <ul style="list-style-type: none">(1) the employee's base of operations is in this state; or(2) if there is no base of operations in any state in which some part of the service is performed, the place from which such service is directed or controlled is in this state; or(3) if the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, the employee's residence is in this state.

Qualifying Events

Qualifying Event	Relevant PFML Locations
Bonding – Birth	All mandatory laws PFML Laws
Bonding – Adoption	All mandatory laws PFML Laws
Bonding – Foster Care Placement	All mandatory laws PFML Laws
Care of Family Member with Serious Health Condition	All mandatory laws PFML Laws
Own Serious Health Condition	CO, CT, DC, DE, MD, MA, MN, OR, WA
Qualifying Military Exigency	CA, CO, CT, DE, MD, MA, MN, NY, WA
Military Caregiver Leave	CT, MD, MA, MN
Bone Marrow and Organ Donation	CT
Safe Time	CO, CT, MN, NJ, OR
Bereavement Leave	WA
Pre-Natal Care	DC, MN
State of Emergency or Public Health Emergency Related Absences	NJ
COVID-Specific Absences	NY

Covered Family Members

Family Member	Relevant PFML Locations
Child	All mandatory laws
Parent	All mandatory laws
Parent-In-Law	CA, CO, CT, DC, MD, MA, MN, NJ, NY, OR, RI, WA
Spouse	All mandatory laws
Domestic Partner	CA, CO, DC, MD, MA, MN, NJ, NY, OR, RI, WA
Sibling	CA, CO, CT, DC, MD, MA, MN, NJ, NY, OR, WA
Grandparent	CA, CO, CT, DC, MD, MA, MN, NJ, NY, OR, RI, WA
Grandchild	CA, CO, CT, MD, MA, MN, NJ, NY, OR, WA

Covered Family Members continued

Family Member	Relevant PFML Locations
Sibling, Grandparent, and/or Grandchild of EE or EE's Spouse or Domestic Partner	MN, CO, OR
Child's Spouse and/or Domestic Partner	MN, OR, WA
Individual related to the employee by blood or affinity, whose close association with the employee is equivalent of a family relationship	CO, CT, NJ, OR
Individual who regularly resides in EE home or where the relationship creates an expectation that EE care for the person	WA
Individual who has a relationship with the eligible employee that creates "an expectation and reliance" that the employee will care for the individual, regardless of residence.	MN

Length of Benefits – “Family Leave”



Weeks of Benefit Per Year	Relevant PFML Locations
6 Weeks	DE* (family member serious health condition as of 2026), RI (as of 2023)
8 Weeks	CA
12 Weeks	CO (as of 2024), CT, DC, DE (bonding with new child) (as of 2026), MD (as of 2026), MA, MN (as of 2026), NJ, NY, OR (as of 9/3/2023), WA

***DE – Certain Absences Measured on 24-Month Basis:** Care of family member of with a serious health condition (SHC) is limited to a total 6 weeks in a 24-month period. In addition, employee is only eligible for one medical, family member SHC, or military exigency in 24-month period.

Length of Benefits – “Medical Leave”

Weeks of Benefit Per Year	Relevant PFML Locations
6 Weeks	DE* (as of 2026)
12 Weeks	CO (as of 2024), CT , DC , MD (as of 2026), MN (as of 2026), OR (as of 9/3/2023), WA
14 Weeks	CT (if incapacitated during pregnancy); OR (if limitations related to pregnancy, childbirth, or related medical condition) (as of 9/3/2023); WA (if incapacitated during pregnancy)
16 Weeks	CO (if pregnancy or childbirth complications) (as of 2024)
20 Weeks	MA
26 Weeks	NJ (via SDI program); NY (via SDI program)
30 Weeks	RI (via SDI program)
52 Weeks	CA (via SDI program)

***DE – Certain Absences Measured on 24-Month Basis:** EE “medical” leave for their own serious health condition (SHC) is limited to a total 6 weeks in a 24-month period. In addition, EE is only eligible for one medical, family member SHC, or military exigency in 24-month period.

Length of Benefits – Other Absences

- **California:** Qualifying Exigency: 8 Weeks / Year
- **Colorado:** Qualifying Exigency / Safe Leave: 12 Weeks / Year (as of 2024)
- **Connecticut:** Bone Marrow / Organ Donation; Qualifying Exigency: 12 weeks / Year
- **Connecticut:** Safe Leave: 12 Days / Year
- **Connecticut:** Military Caregiver: 26 Weeks / Year
- **Delaware:** Qualifying Exigency: 6 Weeks / 24-month period (as of 2026)
- **Washington, D.C.:** Pre-Natal Leave: 2 Weeks / Year
- **Maryland:** Qualifying Exigency: 12 Weeks / Year (as of 2026)
- **Massachusetts:** Qualifying Exigency: 12 Weeks / Year
- **Massachusetts:** Military Caregiver: 26 Weeks / Year
- **Minnesota:** Qualifying Exigency / Safe Leave / Military Caregiver: 12 weeks (as of 2026)
- **New Jersey:** Safe Leave / State of Emergency or Public Health Emergency Related Absences: 12 Weeks / Year
- **New York:** Qualifying Exigency / COVID-Specific Absences: 12 Weeks / Year
- **Oregon:** Safe Leave: 12 Weeks / Year (as of 9/3/2023)
- **Washington:** Bereavement Leave: 7 calendar days following death of family member
- **Washington:** Qualifying Exigency: 12 Weeks / Year

Length of Benefits – Combined Total

Weeks of Benefit Per Year	Relevant PFML Locations
12 Weeks	CO (as of 2024), CT, DC, DE (as of 2026), OR (as of 9/3/2023)
14 Weeks	CT (if incapacitated during pregnancy); DC (“parental leave” + “pre-natal leave” only); OR (if limitations related to pregnancy, childbirth, or related medical condition) (as of 9/3/2023)
16 Weeks	CO (if pregnancy or childbirth complications) (as of 2024); WA (if both “family” and “medical” covered events)
18 Weeks	WA (if both “family” and “medical” covered events + incapacitated during pregnancy)
20 Weeks	MN (as of 2026)
24 Weeks	MD (as of 2026)
26 Weeks	MA; NY (via SDI program)
30 Weeks	RI (via SDI program)
38 Weeks	NJ (via SDI program + PFL program)*
52 Weeks	CA (via SDI program)

Job Protection



Job Protection	Relevant PFML Locations
Law provides job protection without conditions	DE, MD, MA, NY (PFL), RI (PFL)
Law provides job protection with conditions that must be satisfied	CO, MN, OR, WA
Law does not provide protection	CA (PFL), CT, DC, NJ (PFL)

Who Administers the Program?

Program Administration	Relevant PFML Locations
State Only (i.e., No Private Plan)	DC, RI
State or Private Plan	CA, CT, CO, DE, MD, MA, MN, NJ, NY, OR, WA

Funding

Funding Mechanism	Relevant PFML Locations
Employee-Funded	CA (PFL), CT, NJ (PFL), NY (PFL), RI (PFL)
Employer-Funded	DC
Funding Split Between Employer and Employee	CO, DE, MD, MA, MN, OR, WA

Amount of Pay

State	Amount of Benefit Payments
CA (PFL)	<p>Percent of Wages: 60 and 70% of EE's average weekly wage (AWW) depending on income</p> <p>2023 Weekly Max: \$1,620.00</p>
CT	<p>Percent of Wages: 95% of EE' AWW up to 40x state min. wage, plus 60% of the AWW that is greater than 40x state min. wage up to the weekly maximum benefit</p> <p>Weekly Max as of 7/1/2022: \$840.00 (increasing to \$900 as of June 1, 2023)</p>
CO (Benefits begin 2024)	<p>Percent of Wages: 90% of EE's AWW up to 50% of the state AWW plus 50% of the AWW that is greater than 50% of the state AWW up to the weekly maximum benefit</p> <p>2024 Weekly Max: \$1,100.00</p>
DC	<p>Percent of Wages: 90% of EE's AWW up to 40x 150% of DC minimum wage and 50% of the AWW above 40x 150% of DC minimum wage</p> <p>Current Weekly Max: \$1,049.00</p>

Amount of Pay continued

State	Amount of Benefit Payments
DE (Benefits begin 2026)	Percent of Wages: 80% of a worker's AWW during the preceding 12 months 2026 Weekly Max: \$900.00
MD (Benefits begin 2026)	Percent of Wages: 90% of EE's AWW up to 65% of the state AWW and 50% of the AWW above 65% of the state AWW 2026 Weekly Max: \$1,000.00
MA	Percent of Wages: 80% of EE's AWW up to 50% of the state AWW and 50% of the AWW greater than 50% of the state AWW 2023 Weekly Max: \$1,129.82
MN (Benefits begin 2026)	Percent of Wages: 90% of EE's wages up to 50% of the state AWW plus 66% of wages that is greater than 50% of the state AWW but less than 100% of state AWW plus 55% of wages above 100% of state AWW 2026 Weekly Max: State AWW as calculated by State on or before 6/30 of each year
NJ (PFL)	Percent of Wages: 85% of a worker's AWW up to maximum weekly benefit amount 2023 Weekly Max: \$1,025.00

Amount of Pay continued

State	Amount of Benefit Payments
NY (PFL)	<p>Percent of Wages: 67% of employee's average weekly wage up to the maximum weekly benefit</p> <p>2023 Weekly Max: \$1,131.08</p>
OR (Benefits begin Sept. 2023)	<p>Percent of Wages: 100% of the employee's average weekly wage up to 65% of the state average weekly wage plus 50% of the average weekly wage over 65% of the state average weekly wage</p> <p>2023 Weekly Max: 120% of state average weekly wage</p>
RI (PFL)	<p>Percent of Wages: 4.62% of employee's wages in the highest quarter of the base period</p> <p>Weekly Max as of 7/1/2022: \$1,007.00</p>
WA	<p>Percent of Wages: 90% of the employee's average weekly wage up to 50% of the state average weekly wage plus 50% of the average weekly wage above 50% of the state average weekly wage up to the weekly maximum</p> <p>2023 Weekly Max: \$1,427.00</p>

Notice and Posting

When ER Must Provide PFML Notice to EE	Relevant PFML Locations
Upon hire or within certain number of days thereafter	CA, CO, CT, DC, DE, MD, MA, MN, NJ, OR
Annually	CT, DC, MD
When the employer is notified of employee's need for PFML qualifying event, or within a certain amount time after start of PFML absence (if applicable)	CA, CO, DC, DE, MD, NJ, NY, WA
Include notice or certain PFML-specific information in EE handbook	NY
Upon first request of the employee	NJ
Within certain number of days after new notice is issued by state	NJ
By a set date established as part of PFML program implementation	CO, MA, MN, OR
Upon assignment to remote work	OR

Posting: Most existing PFML laws require ERs to display model poster / notice in conspicuous location in the workplace.

CLE CODE

Final Thoughts



Additional PFML Topics

PFML laws are **more than** just the substantive topics covered in this section!

Select Other PFML Law Substantive Topics:

- Waiting Period
- Intermittent Leave
- Employee Notice
- Documentation / Certification
- Claim Process
- Continuation of Benefits
- Remitting Funds & Reporting
- Recordkeeping
- Private Plan Requirements
- Anti-Retaliation
- Confidentiality
- Coordination of Benefits
- Coordination with Other Laws

Future PFML Locations?



Mandatory Program

- Maine
- Michigan
- New Mexico

Voluntary Program

- South Dakota

Seyfarth Paid Family Leave Resources



If you're struggling with or have questions about the country's **Paid Family Leave "Patchwork"** here are some ways Seyfarth can help:

(A) PFL Survey: Seyfarth maintains a ***comprehensive PFL survey*** breaking down the specific requirements of ***each*** existing state and local PFL and PFML law.

For more information contact: paidleave@seyfarth.com

(B) Paid Leave Mailing List: Seyfarth regularly publishes Legal Updates and Blog Posts on PFL law developments.

You can sign up here:

<https://connect.seyfarth.com/9/7/landing-pages/subscription.asp>

Seyfarth Paid Family Leave Resources



(C) Webinar Series – Guidance on PFL: This webinar series is a great tool for you!

- Part 1 – MA, CT, DC and WA PFL updates
- Part 2 – CA, CO, NJ, NY and OR PFL updates
- Part 3 – Federal Paid Leave Prospects detailed review
- Part 4 – Federal + CT, DC, OR and NH PFL updates
- Part 5 – CT PFML detailed review
- Part 6 – DE, MD, DC, MA and CT PFL updates
- Part 7 – CO, OR and WA PFL updates
- Part 8 – Today!

Note: We also have a separate Webinar Series focused on Paid Sick Leave guidance.

(D) “Take It or Leave It” Podcast: In late 2021, Seyfarth launched a podcast focused exclusively on workplace leaves, absence management, and accommodations. Episodes streaming on Spotify, SoundCloud, and Apple Podcasts, and available on Seyfarth’s website.

More info at: <https://www.seyfarth.com/trends/take-it-or-leave-it-podcast.html>

Questions?



thank you

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