

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

Part IV: Spotlighting Federal, Connecticut, Washington D.C., Oregon, and New Hampshire Paid Family Leave Developments

October 12, 2021

Seyfarth Shaw LLP

"Seyfarth" refers to Seyfarth Shaw LLP (an Illinois limited liability partnership). ©2021 Seyfarth Shaw LLP. All rights reserved. Private and Confidential



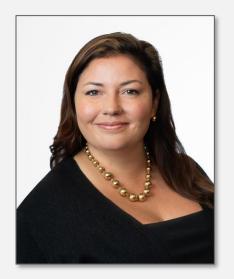
## Legal Disclaimer

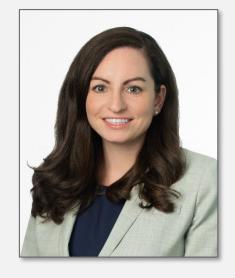
This presentation has been prepared by Seyfarth Shaw LLP for informational purposes only. The material discussed during this webinar should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The content is intended for general information purposes only, and you are urged to consult a lawyer concerning your own situation and any specific legal questions you may have.

Seyfarth Shaw LLP

"Seyfarth" refers to Seyfarth Shaw LLP (an Illinois limited liability partnership). ©2021 Seyfarth Shaw LLP. All rights reserved. Private and Confidential

## **Joining You Today**









Christina Duszlak Associate Boston cduszlak@seyfarth.com Stan Hill Partner Atlanta shill@seyfarth.com

Joshua Seidman Partner New York jseidman@seyfarth.com

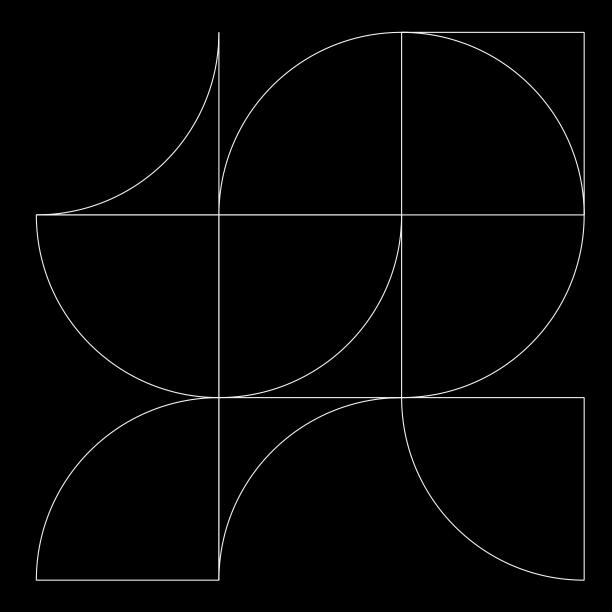


Megan Toth Associate Chicago mtoth@seyfarth.com



01	Nationwide Paid Family Leave Overview
02	Federal Paid Family Leave Update – Proposed Legislation
03	State Paid Family Medical Leave Updates – DC, CT, MA, NH, RI, WA, and OR
04	Practical Considerations for Implementing a Compliant Paid Family Leave Policy/Plan

## Nationwide Paid Family Leave Overview

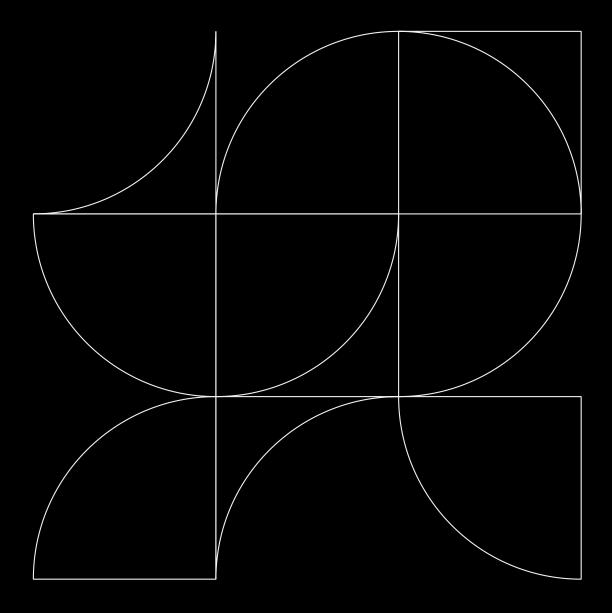


#### **Paid Family Leave Laws Overview**

- Existing PFL Laws: 12 TOTAL LAWS
  - 10 States + DC
    - CA, NJ, <u>RI</u>, NY, <u>WA, DC, MA, CT, OR</u>, CO, & <u>NH</u>
  - 1 Municipality
    - San Francisco, CA



## Federal Paid Family Leave Update – Proposed Legislation





#### **American Families Plan**

- President Biden's 4/28/21 statement & speech to Congress: he aims to "create a national comprehensive paid family and medical leave program."
  - Partial wage replacement for FMLA-covered reasons **plus** sexual assault/domestic violence safe time **plus** 3 days annual bereavement leave.
  - -Guaranteed twelve weeks of paid leave by year 10 of the program
  - Up to \$4,000 a month, with a minimum of twothirds of average weekly wages replaced, rising to 80 percent for the lowest wage workers.



#### **Building Back Better Act (BBBA)**

- Building Back Better Act: new social and education spending programs.
  - -Seeks to amend Social Security Act by providing universal paid family and medical leave.
- September 9-15, 2021: House Ways & Means Committee began to mark-up portions of BBBA.
- Senate/House funding negotiations ongoing.
  - -Funding reductions might in turn reduce length or amount of paid leave benefit, delay effective date



#### Likelihood of BBBA Passage

- Procedural hurdle:
  - 50+ votes if passed through budget reconciliation
  - 60+ votes to invoke cloture (end debate) otherwise in Senate – effectively a barrier to simple majority passage
- BBBA being drafted to meet reconciliation instructions in the fiscal year (FY) 2022 budget resolution **no employer mandates.**
- Political climate has never been more favorable for universal paid family leave.



## **BBBA – Overview**

- Aims to provide "universal paid family and medical leave benefits" for up to 12 weeks per year, effective July 2023.
  - Funded by Treasury Department for workers who do not already have paid leave through employers
  - Employers offering comparable paid family & medical leave to receive subsidy of up to 90% of projected national average cost (defined by Treasury, TBD)
    - Compare BEFA: subsidy of 40% of benefits actually paid, up to 40% of federally defined benefit amounts
  - Comparable existing state leave programs to receive federal funding



## **BBBA – Eligible Individuals**

- All workers can qualify, including self-employed, parttime, gig economy workers.
- Paid leave entitlement extends to all individuals who:
  - (1) file an application for benefits (which includes an FMLA-style medical certification),
  - (2) has "or anticipates having" 4 or more qualifying caregiving hours in the period from 90 days before the application is filed until 180 days after the application is filed, and
  - (3) has wages or self-employment income during the calendar quarter that ends at least 4 months prior to the start of the benefit period.
- No 12 months / 1250 hours worked rules, like with unpaid FMLA.



## **BBBA – Qualifying Reasons**

- Tracks FMLA-qualifying reasons (e.g., one's own serious health condition, caregiving for another, birth, adoption, military deployment)
  - Expands qualifying family member to include siblings, grandparents, grandchildren, spouses of family members, and any relationship equivalent to a family relationship as to be defined by regulations.
- Bereavement Leave (for spouse, parent, or child only): Capped at 3 full workdays.



## **BBBA – Caregiving**

- Caregiving: any activity performed without wages or compensation (e.g., PTO, vacation, sick leave) that would qualify for FMLA leave.
- Minimum creditable increment: 4 hours of caregiving per week (but can be taken intermittently, daily)
  - Compare BEFA where caregiving was measured in full 8-hour days or more than 4 hours each day for two calendar days.
- If employee reports less than 4 caregiving hours in the week, no PFML is owed.
  - Incentivizes extended absences and leave abuse.



#### **BBBA – Paid Leave Entitlements**

- After 1 week waiting period, weekly benefit amount is based upon worker's average weekly earnings over past 8 quarters:
  - 85% of first \$290 average weekly earnings
  - 75% of average weekly earnings between \$290 and \$659
  - 55% of average weekly earnings between \$659 and \$1,385
  - 25% of averages weekly earnings between \$1,385 and \$1,923
  - 5% of average weekly earnings between \$1,923 and \$4,808
- Wage indexing starting in 2024.



# **BBBA – Interplay with PTO, Sick, Vacation**

- If employee receives PTO, vacation, or sick leave, federal benefits do not apply to that time.
- Employers can't require employees to burn off federal paid leave concurrently with PTO, vacation, or sick leave.
  - This is unlike FMLA, which permits employers to require concurrent use.
- Employees can choose to "top off" federal PFL benefits with employer provided PTO, vacation, sick leave, up to regular rate of pay.
- Employees may choose to cover 1-week waiting period with PTO, vacation, or sick leave (as applicable).



#### **BBBA – Procedures**

- Employee to provide at least 7 days advance notice of need for leave where practicable.
  - No apparent consequences in law for failing to do so.
- Eligible individual must fill out monthly benefit claim report, to specify the caregiving days during the month on which payment is sought. Must be filed within 60 days after end of month.
- Eligibity determinations to be made by Secretary of Treasury within 15 days after application has been filed, and within 15 days of filing monthly benefit claim report. Payment to be made within 15 days of benefit determination.
- Medical certification not required to claim monthly benefits self-certification permitted.



## **BBBA – Employer Subsidy**

- Employer can receive subsidy (partial reimbursement of costs of plan) if, among other things, employer adopts a written policy that:
  - PFML offered for all qualifying reasons (including intermittent use)
  - PFML is paid at rates meeting or exceeding federal minimum
  - PFML is not treated as sick leave, PTO, paid vacation, or wages
  - PFML is not reimbursed under any state PFML program
  - Prohibits PFML discrimination or retaliation
  - Guarantees reinstatement after PFML
  - Continues health insurance during PFML
  - Provides employee right to appeal internally and then to Treasury



### **BBBA – Employer Subsidy**

- Subsidy amount depends upon type of plan:
  - Insured plan: Subsidy is 90% of national average cost
  - Employer-funded plan: Subsidy is lesser of (a) amount of benefits actually paid, or (b) national average multiplied by number of weeks of leave paid by employer across all its employees (regardless of those employees' wages and dollar amounts of PFML actually paid).
- Subsidy is diluted for self-funded employers with higher-than-average compensated employees.
- Deadline to apply for subsidy: 90 days in advance of any benefits being paid (i.e., 3/31/23).



#### **BBBA – Small Business Employee Replacement Grants**

- Businesses with fewer than 50 employees can apply for grant to cover replacement costs of worker taking at least 4 weeks of PFML.
- Replacement costs must exceed cost of the on-leave employee's regular salary or wages (*i.e.*, overtime to other employees or a more expensive temporary worker).
- Limited to one granted per employee per year, and no more than 10 total
- Grant amount: 2.5 times average weekly wage in that state.



## What's Not In BBBA

- No employer mandate
  - Doesn't require employer to provide PFML or do anything new
  - Leave entitlement does give employees an incentive not to work
- No private right of action
  - Employee may still bring FMLA, ADA, state law claims
- Employer might be denied or reduced reimbursement if audited by Treasury or subject to multiple successful PFML denial appeals
  - No civil or criminal penalties for violating anti-discrimination provision or wrongly denying benefits; fines and imprisonment if false statements made in application to Treasury for payments
- No preemption of any laws or state PFML programs
- BBBA is purely a government entitlement (i.e., spending) program



## **BBBA v. FMLA – "Care" Now Pays**

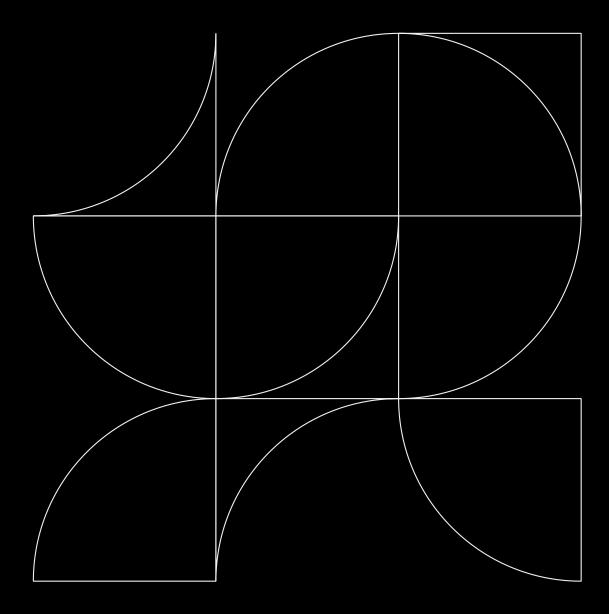
- Come to work 1 hr late or leave work 1 hr early every day to "check in" on aging relative **and get paid**?
  - Relative "may" need help preparing meals, dressing, bathing, etc. before daily caregiver arrives.
- Drive down to Florida (the beach) for a few weeks to "care for" aging relative who is "recovering" from surgery – and get paid?
- Moonlight, relax by the pool, or play golf every afternoon in the summer when your back pain, anxiety, etc. "flares up" such that you can't work – and get paid?
- Leave work at 3:00 pm every day to pick up child with "serious health condition" from school, care for child until end of workday – and get paid?



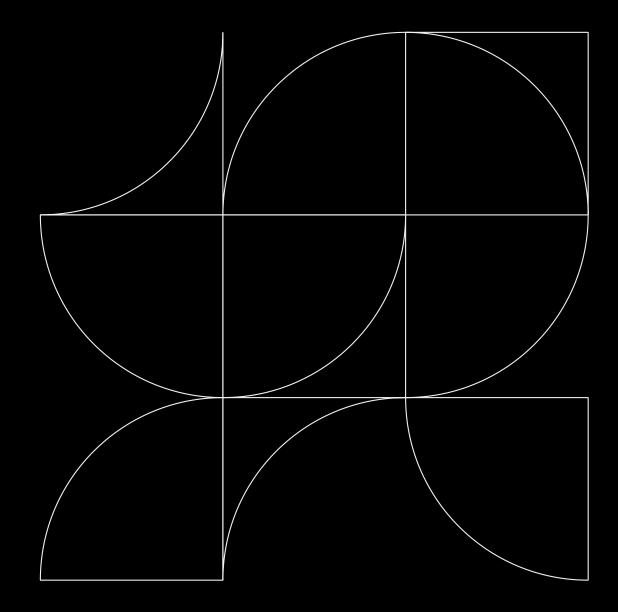
#### What Should Employers Do

- Monitor legislative activity closely.
- Provide feedback to your industry association, chamber of commerce, and other legislative advocates.
- Be prepared to consider whether or not to apply for subsidy.

# State Paid Family Medical Leave Updates



# Washington, D.C. Paid Family Leave



# The Basics (Pre-Amendments) – D.C. Paid Family Leave

- What is it?
  - Up to (1) *Eight weeks* of paid parental leave, (2) *six weeks* of paid family leave, and (3) *two weeks* of paid medical leave <u>per year</u> for employees in DC
    - <u>Maximum of eight weeks of PFL per year</u> regardless of number of qualifying events
  - different than paid sick leave required under ASSLA
  - no separate job protection provisions (but an anti-retaliation provision)
- System is run similar to unemployment whereby employees file a claim for paid leave benefits
  - Payments under the act are funded by 0.62% payroll tax
  - No employee deductions permitted

#### DC OPFL CLAIMS (as of May 25, 2021)

PFL CLAIM TYPE	Claims since 7/1/20
Parental Leave	7,010
Medical Leave	2,364
Family Leave	684
<b>Total Claims Received</b>	10,058

#### Key Dates– D.C. Paid Family Leave Amendments

- October 1, 2021 Amendments Took Effect
  - Universal Paid Leave Emergency Amendment Act of 2021
    - Embedded in Emergency Budget Support Act
    - Identical Permanent Legislation is under Congressional Review
- ~ November 1, 2022 Issuance of Rules
  - Legislation indicates that Mayor "shall issue" rules within 30 days of 10/1/21
- February 1, 2022 Deadline for Posting New Notice
  - Template expected "late fall"

#### Posting and Notice Requirements

#### Posting

- Physical poster at each worksite
- Send posters to remote or telework employees
- Notice must be provided:
  - At the time of hire
  - Annually (e.g., email blast)
  - At the time employer becomes aware that PFL may be needed

\*\*Employer's Burden to Prove Notice

#### Expanded Leave Benefits– D.C. Paid Family Leave Amendments

Туре	Pre-Amendments/ Minimum Leave Availability	Current Leave Availability	Maximum Leave Availability (Subject to Annual Reevaluation)
Medical	2 weeks	6 weeks	12 weeks
Family	6 weeks	6 weeks	12 weeks
Parental	8 weeks	8 weeks	12 weeks
Pre-Natal	NA	2 weeks	2 weeks

#### **Expanded Leave Benefits– D.C. Paid Family Leave Amendments**

- Expanded Categories of Leave
  - Pre-Natal: routine and specialty appointments, exams, and treatments associated with a pregnancy provided by a health care provider
  - Additional Medical Leave events miscarriage and stillbirth
- Temporary Elimination of Waiting Period
  - Applies to claims filed after 10/1/21 through 365 days after the declared public health emergency ends
- Temporary Change to Calculation of Benefits
  - look at 4 highest earning quarters out of the prior 10 quarters to calculate average weekly wage
    - previously lookback was prior 5 quarters

#### Expanded Leave Benefits– D.C. Paid Family Leave Amendments

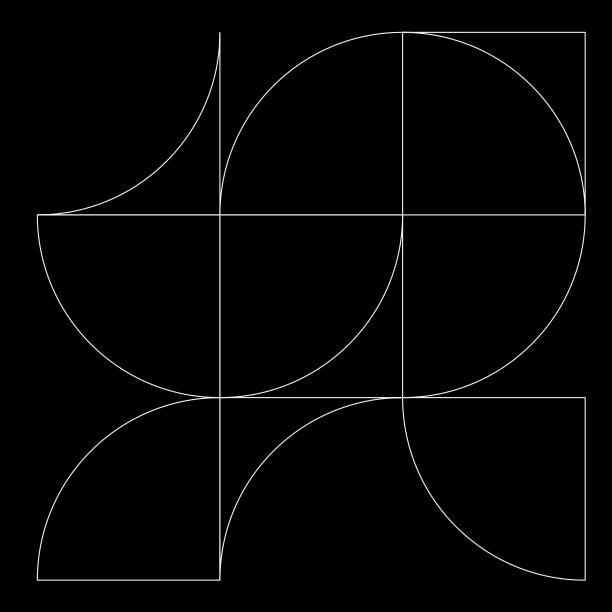
- Expansion of Maximum Leave
  - previously 8 week limitation per 52-week period regardless of # of events
  - now can take both maximum pre-natal and maximum parental leave
- Increased Opportunities for Retroactive Benefit Applications
  - apply within 30-day of qualifying event (subject to waiver)
    - physical or mental incapacity
    - demonstrable inability to reasonably access means to file leave
    - lack of knowledge due to employer failure to provide required notices
- Elimination of PFL Benefit Offsets by STD Insurers
  - does not apply to self-insured employers or third-party administrators
  - provides for civil action against insurer in event of violation

#### Expanded DC FMLA Coverage– D.C. Paid Family Leave Amendments

#### Employee Eligibility Expanded

- been employed by the same employer for 12 consecutive or non-consecutive months, inclusive of holiday, sick or personal leave granted by the employer, in the past 7 years preceding date on which leave is to commence
- worked at least 1,000 hours for employer during that same 12-month time period
- for COVID-19 leave: individual employed for at least 30 days prior to request for leave

# Connecticut Paid Family Medical Leave



#### **Overview Connecticut Paid Family and Medical Leave (PFML)**

- Impact on CT Family and Medical Leave Act (CFMLA): The CT PFML Act amends the CFMLA
- Employee Premium Withholdings Started: January 1, 2021
- Remit Contributions to the State: Quarterly.
- PFML Benefits Begin: January 1, 2022
- Notice Requirements Begin: July 1, 2022

## **Overview (Continued)**

- As of 1/1, PFML and CFMLA cover ERs with 1+ EE (some narrow exemptions)
- Employee eligibility slightly different between PFML and CFMLA
   CFMLA: Employee must be employed for at least 3 months
- Broad reasons for use
  - CFMLA and FMLA reasons (SHC, Care for a Family Member SHC, Military Caregiver, Military Exigency)
  - Organ or Bone Marrow Donor
  - Safe Time (PFML)
- Covered family members broader than FMLA
  - An individual related to the employee by blood or whose close association to the employee is the equivalent of those family relationships

## **Overview (Continued)**

- EE funded program: 0.5% of wages subject to social security tax
- ER are required to "deduct and withhold" the contributions from employee wages.
- Maximum benefit amount tied to state minimum wage.
  - In 2022, benefits will be capped at between approximately \$780-\$840 per week.
  - In 2023, maximum benefits will top off at approximately \$900 per week.
- An employee may supplement PFML with other forms of paid time off, up to 100% of the employee's pay.
- Covered employees may not receive PFML compensation at the same time they are receiving Unemployment Compensation, Worker's Compensation, or any of the other state or federal benefit that provides wage replacement.
- An employer may <u>require</u>, or the <u>employee may choose</u>, to substitute accrued paid time off (i.e., accrued paid vacation leave, personal leave, or medical or sick leave )for any part of the 12-week period long as employees are allowed to retain at least two weeks of leave in their banks.

### **Employees Working In CT and Another State**

- Subject to CT unemployment insurance obligations → the employee is covered under the CT PFML
- Not subject to CT unemployment insurance obligations → the same factors that are used in the unemployment insurance context to determine if the employee "works in Connecticut" for the purpose will apply (in order of priority):
  - Whether the services are localized.
  - 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.
  - 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
  - If and only if there is no place of direction and control, no localized services, and no base of operation: where the employee resides.

#### Amount of Leave – Connecticut PFML and CFMLA

#### **PFML** – <u>As of January 1, 2022</u>

 Length of Benefits: <u>12 weeks</u> of paid family and medical leave benefits in a 12-month period PLUS <u>2 additional weeks</u> of PFML benefits available for a serious health condition resulting in incapacitation that occurs during a pregnancy

#### CFMLA

- Current: 16 weeks of unpaid leave in a 24-month period
- As of January 1, 2022: Same as PFML

## **CFMLA: 2021 Leave Carrying Over Into 2022**

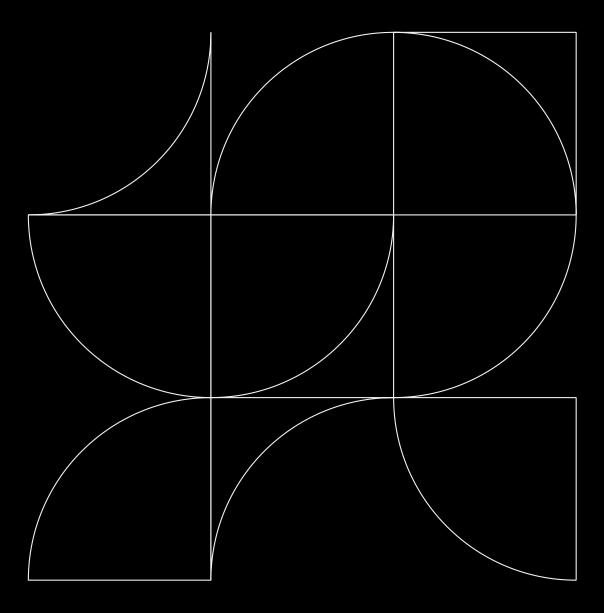
- The duration of the CFMLA leave is capped at 12 weeks in the applicable 12month period as of January 1, 2022, even if the employee was approved for, and commenced, 16 weeks of CFMLA leave in 2021.
- Generally, in 2022, the employer can look back over the "applicable 12 month period to see if the employee has used any leave to determine if they have time available.
  - Rolling Back
  - First Day of Leave Going Forward
  - Calendar Year
  - Fixed Year

#### Notice and Other Requirements – Connecticut PFML

#### • Notice:

- Employer must provide written notice to employees regarding certain PFML rights
  (a) upon hire, and (b) annually thereafter
- Certain topics must be included in written notice
- Posting: No specific requirement
- Register Your Company: ctpaidleave.org
- Remitting Contributions to the State
- Create a PFML/CFMLA Policy

# Massachusetts Paid Family Medical Leave



#### Massachusetts PFML Overview: Leave Allotment and Qualifying Reasons

- Up to 20 weeks of paid, job-protected medical leave for the employee's own serious health condition (effective 1/1/21); and
- Up to 12 weeks of paid, job-protected family leave (effective 1/1/21 for all but one type of leave)
  - to care for a family member with a serious health condition (effective 7/1/21);
  - to bond with the worker's child during the first 12 months after birth or the first 12 months after the placement of the child for adoption or foster care with the worker;
  - because of any qualifying exigency arising out of the fact that a family member is on active duty or has been notified of an impending call or order to active duty in the Armed Forces; or
  - in order to care for a family member who is a covered servicemember with a serious injury or illness incurred or aggravated in the line of duty (for this particular reason, up to 26 weeks of leave may be taken in a benefit year).
- The law sets a maximum aggregate of 26 weeks of paid leave per benefit year.

Leave to Care for a Family Member with a Serious Health Condition: Effective July 1, 2021

- Previous leave taken to care for a family member under another program will not reduce the 12-week allotment under PFML.
- However, if a worker took family leave to bond with a child and/or to care for a family members who is an active service member between January 1 and June 30, 2021, and that family leave qualified under MA PFML Law, that leave will reduce the employee's PFML family leave allotment.

#### Substituting Accrued Paid Leave – Public Plan

During the 7-day waiting period, the employee can use accrued paid leave from the employer with **no** impact to their PFML benefits.

If the employee is taking continuous PFML, the employee can only use PTO in a single, <u>continuous</u> block of time at **either the start or end of their leave**.

#### Maximum Weekly Benefit Amount Increase

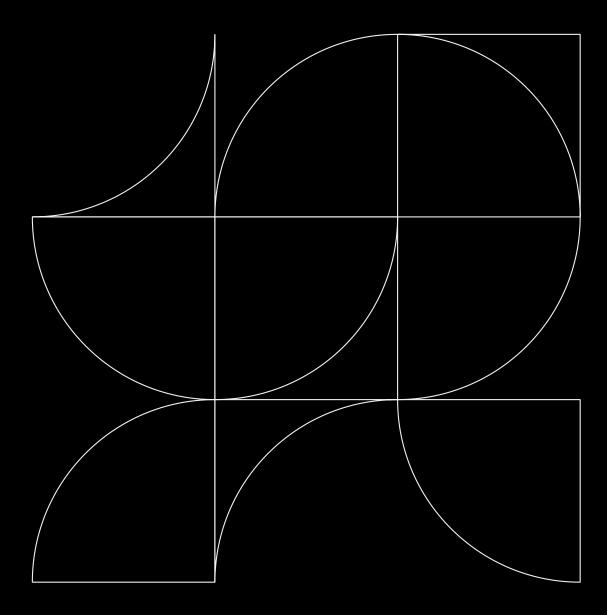
- As of January 1, 2022, the maximum weekly PFML benefit that eligible employees may receive will be \$1,084.31 per week.
  - The benefit amount has increased from \$850 per week in 2021.

## Annual Update to Contribution Rates (1/1/2022)

- Employers with Fewer than 25 Covered Individuals:
  - Must remit:
    - an effective contribution rate of 0.344% of eligible wages.
  - May withhold:
    - up to **0.12%** of eligible wages for an employee's family leave contribution.
    - **0.224%** of eligible wages for an employee's medical leave contribution.
  - Unlike larger employers, there is no employer share of medical leave.

- Employers with **25 or More** Covered Individuals:
  - Must remit:
    - a contribution of **0.68%** of eligible wages.
  - May withhold:
    - up to 0.12% of eligible wages for an employee's family leave contribution.
    - up to 0.224% of eligible wages for an employee's medical leave contribution.
  - Must contribute:
    - the remaining **0.336%** of eligible wages for medical leave (employer share).

# New Hampshire's Granite State Paid Family Leave Plan



### **Granite State Paid Family Leave Plan Overview**

- The Law allows employers in the state to <u>voluntarily</u> buy "advantageously priced" family and medical leave insurance (FMLI).
- Deadline for New Hampshire to issue requests for proposals for independent benefit vendor: March 31, 2022.
- FMLI coverage will start January 1, 2023.
- The <u>maximum</u> duration of wage replacement is 6 weeks per year with no minimum required.
- Eligible employees will receive 60% of their average weekly wage, capped at Social Security taxable wage.
- There will be a tax credit equal to 50% of the premium paid by a sponsoring employer.
- Job Protection and Anti-Retaliation provisions consistent with the FMLA.

## Eligibility

- Private Employers may choose to offer FMLI coverage if they have 50+ employees or individuals may purchase coverage through a purchasing pool.
  - The employer may choose to provide coverage at no cost, on a contribution basis, or on a partial contribution basis.
- Employers with 50+ employees who choose to sponsor coverage for their employees will contract directly with the winning bidder.
- Individuals who work for employers who do not meet the minimum requirements (and who do not offer an equivalent FMLI benefit) will be able to contract indirectly with the winner through a purchasing pool.

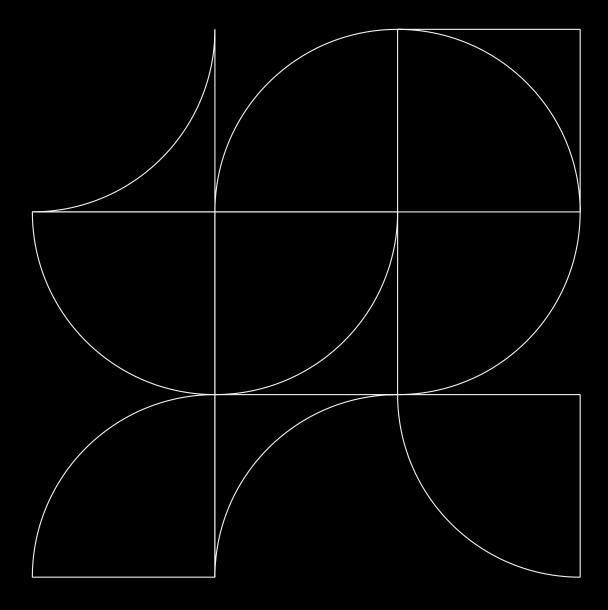
## **Qualifying Event (Reason for Use)**

- The act provides for family and medical leave from work because of:
  - The birth and care of a newborn child of the employee within one year of birth;
  - The placement with the employee of a child for adoption or foster care and care of the child within one year of placement;
  - A serious health condition of a child, parent, or spouse of the employee; or
  - A qualifying exigency arising from the fact that an employee's spouse, child, or parent is a covered military member on active duty, or caring for a covered service-member with a serious illness or injury if the employee is the servicemember's spouse, child, parent, or next of kin.
  - Employees who opt-in to the program via the purchasing pool may use leave in connection with their own serious health condition that is not related to employment if their employer does not offer Short Term Disability insurance.

#### **Covered Family Members and Other Persons**

- Child (same as the FMLA);
- Parent (biological, adoptive, or foster or step parent as well as the legal guardian of the child or child's spouse or domestic partner);
- Grandparent (biological, adoptive, foster, or step grandparent)
- Spouse or domestic partner; and
- Next of kin (limited to military caregiver leave).

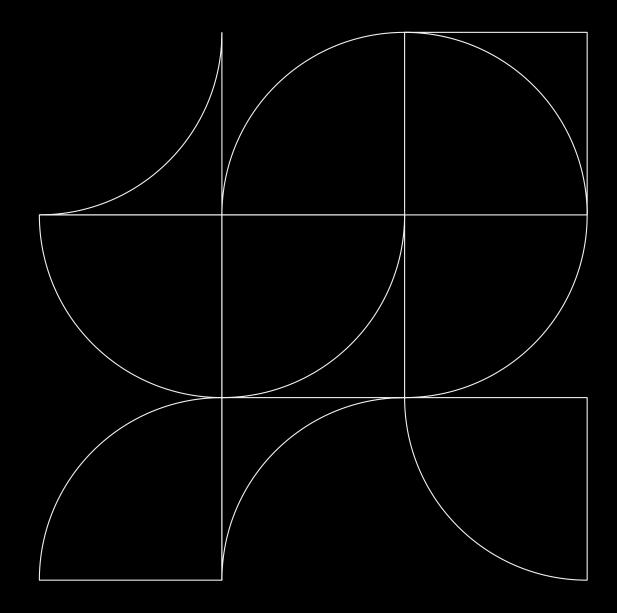
## Rhode Island Temporary Caregivers Insurance Update



#### RI Temporary Caregiver Insurance—Additional Weeks of Leave SB 688—Sub A

- Signed by the Governor on <u>July 6, 2021</u>.
- Increases the amount of leave employees are eligible to receive in a benefit year:
  - Currently  $\rightarrow$  4 weeks
  - January 1, 2022  $\rightarrow$  5 weeks
  - January 1, 2023  $\rightarrow$  6 weeks

# Washington Paid Family Medical Leave Updates



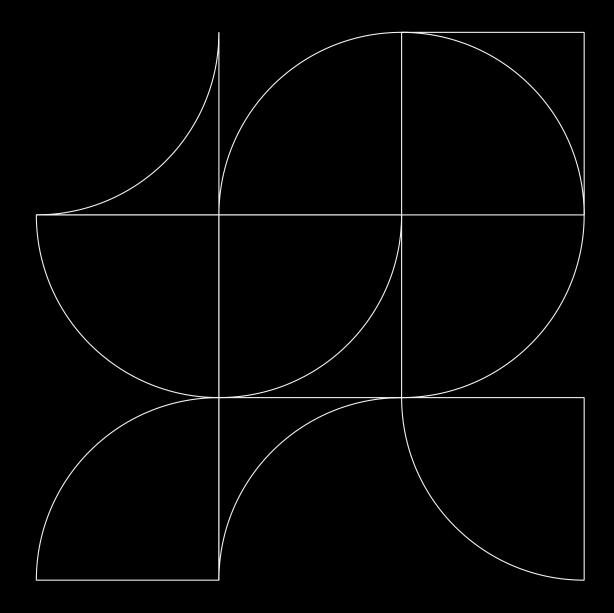
## WA PFML—Expanded Family Members

- Previously:
  - "Family Member"
    - Only included child, grandchild, parent, sibling, or spouse of an employee.

#### • Now:

- Any individual who regularly resides in the employee's home or where the relationship creates an expectation that the employee cares for the person and that individual depends on the employee for care.
- Does not include: An individual who simply resides in the same home with no expectation that the employee care for the individual.

# Oregon Paid Family Medical Leave



#### **Oregon PFML - Relevant Dates**

- Enacted: 2019
- Rules to Be Issued Before: September 1, 2021 September 1, 2022
- Payroll Contributions Begin: January 1, 2022 January 1, 2023
- Written Notice to Employees: January 1, 2022 January 1, 2023
- PFML Benefits Begin: January 1, 2023 September 3, 2023

#### Oregon PFML – Amount of Leave

**12 weeks** of **PFMLI** per benefit year for leave taken for family leave, medical leave or safe leave.

**16 weeks** maximum combined PFMLI and unpaid OFLA

**2 weeks** of benefits for limitations related to pregnancy, childbirth or a related medical condition, including but not limited to lactation.

\* total time cannot exceed 18 weeks

#### Oregon PFML – Amount of Pay

- If EE's average weekly wage is 65% or less than the state average weekly wage = weekly benefit is 100% of EE's average weekly wage.
- If EE's average weekly wage is more than
  65% of the state average weekly wage = EE's weekly benefit is the sum of:
  - (A) 65% of the state avg. weekly wage +
  - (B) 50% of the employee's avg. weekly wage that is greater than 65% of the state avg. weekly wage.
- The maximum weekly benefit amount will be 120% of the state average weekly wage. The minimum weekly benefit amount will be 5% of the state average weekly wage.

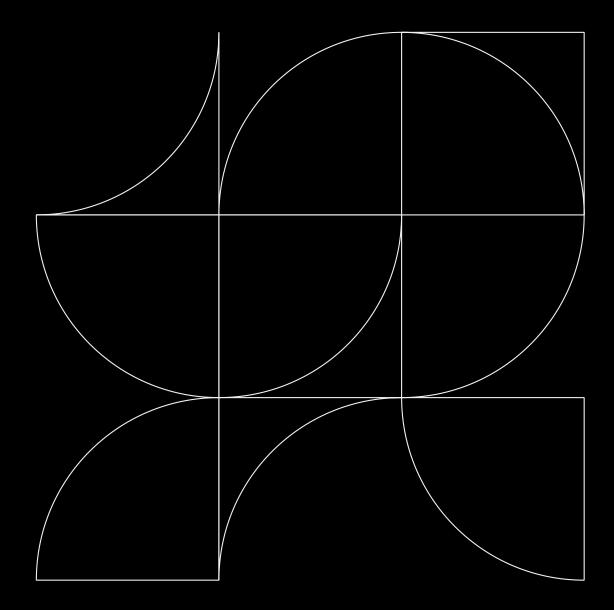
#### Oregon PFML – Reasons for Leave

- Medical Leave: For the employees own serious health condition.
- Family Care Leave: (a) bonding with newly born or newly adopted child; and (b) to care for a family member with a serious health condition.
- Safe Leave: for various reasons if the employee is a victim of domestic violence, sexual assault, harassment or stalking
- NOT Bereavement or Family Military Leave

#### **Oregon PFML – Miscellaneous**

- Employer Contributions: Starting January 1, 2023
  - 40% of the total rate determined by the director / deduct 60% of the total rate from employee.
- Notice Requirement: Effective January 1, 2023 (no poster requirement)
- Reinstatement/Job Protection: Job protected if EE employed for 90 days; exception for small employers (<25 EEs).</li>
- **Private Plans**: Must be approved by Director of the Department and meet minimum requirements.

Practical **Considerations for** Implementing a **Compliant Paid Family Leave Policy/Plan** 



#### **Practical Considerations**

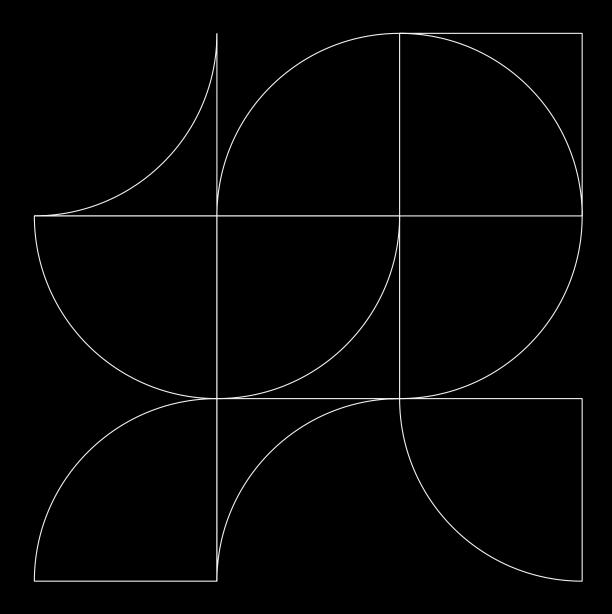
#### Coordination of Paid Family Leave and Other Benefits

- Family Medical Leave Act (FMLA)
- State FML Laws
- Short Term Disability
- Other Employer Policies (i.e., parental leave, caregiver leave, etc.)

#### Written Policies and Plans

- PFL "Plan" vs. PFL "Policy"
- Private Plans

## Seyfarth Paid Family Leave Resources



#### 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) <u>PFL Survey</u>: 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) <u>Paid Leave Mailing List</u>: Seyfarth regularly publishes Legal Updates and Blog Posts on PFL law developments.

You can sign up here: https://connect.seyfarth.com/9/7/landingpages/subscription.asp

# **Questions?**

# Thank You!