

**NORTH RISK PARTNERS<sup>®</sup>**  
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**PAID LEAVE LAWS:  
 HOW TO NAVIGATE  
 THE COMPLEXITIES**

JANUARY 2025

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**PRESENTER**

**Janell Stanton**  
 HR Attorney  
 WAGNER, FALCONER & JUDD, LTD.

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**REMINDERS**

- Submit questions by using the questions box on the control panel.
- A short survey will pop-up when leaving the webinar.
- This webinar is approved for SHRM and HRCI credits.
- This session is being recorded and will be shared with you in a follow-up email.

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**HYPOTHETICAL PTO POLICY: APEX INNOVATIONS**

At Apex Innovations, we are committed to supporting the work-life balance of our team members through our Paid Time Off (PTO) policy. PTO is available exclusively to full-time employees and may be used for vacation, personal days, or illness. Employees are required to submit PTO requests to their supervisor at least two weeks in advance, and approval is contingent on business needs. While we strive to accommodate all requests, there may be instances where PTO cannot be granted due to operational requirements or scheduling conflicts. Employees are encouraged to plan their time off as early as possible to ensure their needs can be met.

The PTO policy is designed to align with our commitment to maintaining a productive and efficient workplace. Employees are responsible for managing their PTO balance responsibly and are encouraged to use their full balance of PTO during the current work year. Apex does not allow employees to carry over PTO balances from one year to the next.



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**HYPOTHETICAL PTO POLICY: APEX INNOVATIONS**

Apex Innovations has employees working in Minnesota, Illinois, and Colorado.

Are there any issues with Apex's PTO policy?

Yes, several. An employer's paid leave policy, like a paid time off (PTO) policy, must meet the ESST requirements "even if an employee chooses to use some or all PTO for vacation leave instead of ESST leave."



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**HYPOTHETICAL PTO POLICY: APEX INNOVATIONS**

At Apex Innovations, we are committed to supporting the work-life balance of our team members through our Paid Time Off (PTO) policy. PTO is available exclusively to full-time employees and may be used for vacation, personal days, or illness.

Colorado paid sick leave law defines employee as "any person . . . Performing labor or services for the benefit of an employer."

Minnesota paid sick leave is available to all employees, including temporary and part-time employees.

Illinois' Paid Leave for All Workers (PLFAW) applies to all employees.



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**HYPOTHETICAL PTO POLICY: APEX INNOVATIONS**

Employees are required to submit PTO requests to their supervisor at least two weeks in advance, and approval is contingent on business needs.

Colorado does not specify how much notice must be provided to use paid sick leave, amount of notice must be reasonable.

Minnesota and Illinois law only allow employers to require up to 7 days advance notice when the need for leave is foreseeable.



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**HYPOTHETICAL PTO POLICY: APEX INNOVATIONS**

... approval is contingent on business needs. While we strive to accommodate all requests, there may be instances where PTO cannot be granted due to operational requirements or scheduling conflicts. Employees are encouraged to plan their time off as early as possible to ensure their needs can be met.

None of the states where Apex operates allow an employer to deny sick leave to an employee provided the employee takes PTO for a reason that is covered by sick leave laws (other than Illinois, where employees can take leave for any reason). Employers cannot ask for documentation until the employee has been gone a certain number of days: Colorado (4 or more consecutive paid sick leave days); Minnesota (absences of more than 3 consecutive scheduled workdays); Illinois (**NEVER**).



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**HYPOTHETICAL PTO POLICY: APEX INNOVATIONS**

The PTO policy is designed to align with our commitment to maintaining a productive and efficient workplace. Employees are responsible for managing their PTO balance responsibly and are encouraged to use their full balance of PTO during the current work year. Apex does not allow employees to carry over PTO balances from one year to the next.

Colorado: Employees can carryover up to 48 hours of paid sick leave - law silent about whether carryover is required if employers frontload leave.

Minnesota: Carryover is required when an employee uses an accrual method. Carryover not required when frontloading leave.

Illinois: Employers must carryover unused PLFAW leave subject to a 40-hour annual usage cap. If they frontload leave, no carryover is required



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**PAID SICK LEAVE LAWS**

25 states and a host of cities/and counties, plus the District of Columbia and Puerto Rico have paid sick leave laws.

Two options to comply:

- PTO Policy**
  - Combines vacation, personal, and sick days into one bank of paid time off. Must comply with all paid sick leave law components
- Separate Vacation and Sick Time Banks**
  - Maintain two separate banks of paid time off, one for vacation, one for sick. More flexibility since far fewer laws regarding vacation, than paid sick leave.

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**PAID SICK LEAVE LAWS**

**How different are they?**


Arizona's paid sick leave law states that any adverse action taken within 90 days of an employee taking sick leave raises a presumption of retaliation.

Illinois law allows an employee to use PLFAW for any reason whatsoever and an employer cannot ask for documentation for the reasons why an employee uses the leave.

California's state-wide law caps sick time accrual at 80 hours - Michigan's annual cap is 40 hours.

Minnesota law allows an employer to satisfy their recordkeeping obligations by providing notice of sick times hours accrued and available on an earning statement or other electronic means. Minneapolis' ordinance requires that it be on an earning statement.

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**PAID SICK LEAVE LAWS**

**What's an employer to do?**

Decide your approach:

- Make one policy that is applicable to all employees regardless of where they work. Choose the most employee friendly provision of each law and apply for all.
- Make one policy that is applicable to most employees (those in non-PSL) states, and then make another policy that is applicable to those working in PSL states.
- Adopt specific policies for each jurisdiction with a PSL and where employees work and add them to your handbook as an addenda

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## PAID SICK LEAVE LAWS

**Things to keep in mind:**

- Combined PTO Policies: Ensure compliance with sick leave carryover and accrual requirements.
- Unlimited PTO Policies: Challenges with tracking usage and complying with mandatory sick leave laws.
- Accrual and Usage Caps: Avoid caps that conflict with local laws.
- Front-Loading PTO: Consider implications for mid-year terminations.
- Documentation Requirements: Be mindful of restrictions on verifying sick leave.
- Waiting Periods: Align waiting periods with local regulations.
- Notices and Recordkeeping: Comply with requirements to notify employees and maintain records.
- Part-Time/Temporary Employees: Address leave rights for all eligible employees.
- Retaliation Risks: Clearly distinguish protected and unprotected absences.
- Multistate Compliance: Tailor policies for varying jurisdictional requirements.

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## PAID FAMILY AND MEDICAL LEAVE

**Jurisdictions with Paid Family and Medical Leave:**

- California, Colorado, Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, Minnesota (yippee!), New Hampshire (opt-in), New Jersey, New York, Oregon, Rhode Island, and Washington
- San Francisco has also passed its own paid leave law

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## MN PFML

HF 2 went into effect on July 1, 2023, but benefits not available until January 1, 2026. Bill was called Family and Medical Benefit Insurance Program - which tells us a lot about how this program will run.

**Employer's Role:**

- Submit quarterly wage detail reports.
- Inform and educate your employees
- Submit paid leave premiums

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**QUARTERLY WAGE DETAIL REPORTS**

- Beginning October 31, 2024, Minnesota employers must report quarterly wage details to determine eligibility and benefits for Paid Leave launching in January 2026.
- Employers covered by Unemployment Insurance (UI) can use their existing UI account and reporting system.
- Employers with employees not covered by UI must create an account to submit wage details by October 31, 2024 through a Paid Leave Only account through the UI online system.

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**INFORM AND EDUCATE**

- Paid Leave supports employees during critical life moments and benefits employers with improved retention, morale, and productivity.
- By December 2025, employers must inform employees about their rights and benefits under Paid Leave.
- Minnesota Paid Leave will provide written materials, workplace notice posters, and other informational materials employers can use.

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**SUBMIT PAID LEAVE PREMIUMS**

- Paid Leave is funded by premiums collected from employers starting in 2026. Employers must submit quarterly payments through their UI account.
- Employers must pay at least 50% of the premium, with the option to cover up to 100%; the remainder can be deducted from employee paychecks.
- Premium deductions begin January 1, 2026, and the first payments, based on Q1 2026 wages, are due **April 30, 2026**.
- First premiums will be based on wages paid from January 1, 2026 to March 31, 2026.

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### SUBMIT PAID LEAVE PREMIUMS

- The premium rate for the program's first year, 2026, has not yet been set. It will be set each year, subject to a maximum set in state law, based on budgeting, etc. DEED will conduct a study each year for this purpose.
- Premiums are capped at the Old-Age, Survivors, and Disability Insurance (OASDI) limit.
- The rate is set for all employers annually and is not adjusted based on employees' utilization of the program.



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### WHO MUST COMPLY?

- PFML covers most Minnesota employers with one or more employees, with exceptions for employees of tribal nations, the federal government, and self-employed individuals.
- THERE IS NO SMALL EMPLOYER EXCEPTION
- Though small businesses with 30 or fewer employees will be eligible for reduced premiums and may be eligible for small business assistance.
- Employers can create their own plan; however, the plan must be approved by Minnesota Paid Leave. Employers can start to apply with the state for an equivalent plan exemption this spring, 2025.



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### PFML BENEFITS

- Benefits are paid by a state fund, not directly by the employer
- Payment is administered by, and employees apply for benefits from, the Family and Medical Benefits Division of DEED
- Employers must provide leave to employees after 90 calendar days of employment

Employees may take:

- A maximum of 12 weeks for a serious health condition AND
- A maximum of 12 weeks for bonding, family care, safety, or a qualifying exigency
  - Limited to an aggregate of 20 weeks of paid leave in a benefit year



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## HOW IS PFML DIFFERENT FROM FMLA

- The Family and Medical Leave Act (FMLA) is a federal program administered by the US Department of Labor's Wage and Hour Division. FMLA entitles eligible employees to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage. Minnesota Paid Leave and FMLA leave may be taken concurrently, but the requirements are different.
- Employers can require that leave taken under Paid Leave run concurrently with leave taken for the same purpose under FMLA.
- While employers administer FMLA, Minnesota Paid Leave will be administered in much the same way unemployment is.

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## PFML INTERACTION WITH OTHER LEAVE

- Employers can require that leave taken under Paid Leave run concurrently with leave taken for the same purpose under FMLA.
- Paid Leave does not replace the Minnesota Parental Leave Act (MPLA). However, employers may require that leave taken under Paid Leave run concurrently with leave taken for the same purpose under the MPLA.
- PFML and MN ESST are two different programs. The Earned Sick and Safe Time program is administered by the Department of Labor and Industry and began on January 1, 2024. Sick and safe time is paid time off employers must provide to employees in Minnesota for certain uses.

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## DON'T FORGET ABOUT LESSER-KNOWN PAID LEAVE LAWS

Several states require paid jury duty leave (either for the full duration of leave or partial) including Alabama, Colorado, Connecticut, Georgia, Louisiana, Massachusetts, Nebraska, New York, and Tennessee.

In California, reproductive loss leave and bereavement leave must be paid in some circumstances.

With certain exceptions, Rhode Island employees who work on Sundays and holidays must be paid 1.5 times their regular pay rate.

Indiana employees are entitled to premium rate payments for work performed on weekends, holidays, regular days of rest, or the 6<sup>th</sup> or 7<sup>th</sup> day of the workweek.

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**IMPLEMENTATION AND COMPLIANCE STRATEGIES**

- Audit current policies and practices
- Train HR and front-line leaders on legal obligations
- Leverage technology for tracking and reporting
- Pay attention to regular updates to keep pace with changing laws

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**QUESTIONS?**



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