THE CURRENT STATE OF NORTH AMERICAN WORKFORCE COMPLIANCE: 2026 REPORT

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2025 LEAVE RIGHTS AND EMPLOYEE PROTECTIONS CREATE ADDITIONAL CONCERNS FOR NORTH AMERICAN EMPLOYERS IN 2026

In 2025, U.S. and Canadian employers saw the passage of many new employee leave rights and other protections. These changes cover a wide range of issues that are sure to cause compliance concerns for employers. Here are examples of these new laws:

United States

- Effective January 1, 2026, **California Leave for Qualified Acts of Violence** will expand to include time off to attend judicial proceedings for employees who are crime victims or a family member of a crime victim.
- **California Paid Family Leave** benefits will expand to cover employees taking time off work to care for a seriously ill "designated person," effective July 1, 2028. A designated person is defined as any care recipient related by blood or whose association with the individual is equal to a family relationship.
- Effective January 1, 2026, **California Paid Safe Leave under the Healthy Workplace Healthy Families Act** will be broadened by allowing employees to use leave to attend a range of legal proceedings when they or a family member is a victim of certain crimes.
- The new **Illinois Neonatal Intensive Care Leave Act** will provide unpaid leave to employees with a child in a neonatal intensive care unit (NICU), effective June 1, 2026.
- **An amendment to the Illinois Military Leave Act** requiring employers to provide up to 40 hours of yearly paid leave to employees serving on a military funeral honors detail took effect August 1, 2025.

- **Colorado amended its Family and Medical Leave Insurance program** to provide up to 12 additional weeks of paid family and medical leave for any employee whose child is receiving inpatient care in a NICU unit, effective January 1, 2026.
- **Minnesota changed its meal and rest break requirements**, effective January 1, 2026, to allow employees a rest break of at least 15 minutes or enough time to use the nearest convenient restroom, whichever is longer, within every four consecutive hours of work. Additionally, employers must grant employees working six or more consecutive hours a meal break of at least 30 minutes.
- Effective January 1, 2026, the state of Washington amended its **Leave for Victims of Domestic Violence, Sexual Assault and Stalking** to provide time off and safety accommodations to employees who are victims of a hate crime or have a family member who is a victim.
- Effective February 22, 2026, New York City expands the benefits employees receive under its **Earned Safe and Sick Time Act**, including additional leave time and new leave uses.

Canada

- Effective January 1, 2026, amendments to the **Saskatchewan Employment Act** will extend various leave provisions, allow employers to use a calendar day rather than a 24-consecutive hour period to determine scheduling and overtime provisions and limit the circumstances when employers can request sick notes from workers.
- A new **Long-Term Illness Leave** came into force in Ontario on June 19, 2025. This leave provides eligible employees with unpaid, job-protected leave of up to 27 weeks in a 52-week period due to serious medical conditions.
- In Ontario, **Placement of a Child Leave** is a new unpaid leave of up to 16 weeks for employees who have worked for their employer for at least 13 weeks. This leave is for the placement or arrival of a child into the employee's care through adoption or surrogacy and will take effect upon proclamation by the Lieutenant Governor.

In 2026, employers should expect continued growth in types of paid leave, workplace protections relating to pregnancy and neonatal intensive care leaves, and amended sick leave and injury-related leave laws. They should also plan for continued fine tuning of wage and hour rules favorable to workers. In short, workplaces will prioritize employee well-being, focus on flexible work schedules and provide other personal benefits within a supporting environment.

This 2026 report covers monthly updates and insights for the past year to help North American employers better understand some of 2025's most significant compliance changes and requirements and to help plan successful 2026 workplace strategies. Remember, those who are best prepared for these changes and properly adapt to them will be best positioned for meeting employee expectations and achieving operational success.

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QUEBEC PLACES LIMITS ON USING MEDICAL DOCUMENTATION TO SUPPORT EMPLOYEE ABSENCES

January 7, 2025

Legislative changes in Canadian provinces such as Quebec are prompting shifts in how businesses manage employee absences. With the introduction of Quebec Bill 68, which aims to reduce the administrative burden on physicians by altering absence documentation requirements, employers face the challenge of adjusting their practices according to new legal standards. Leveraging advanced workforce absence software and employee management software becomes crucial to ensuring compliance and enhancing operational efficiency.

Due to Quebec's notable shortage of family doctors, the Royal Assent was received by Quebec Bill 68 on October 9, 2024 (an Act mainly to reduce physician's administrative burden). This legislative change, in effect as of January 1, 2025, significantly reforms how employers will handle employee absences by preventing the requirement for medical documentation to support certain short-term absences. The government estimates that the measures included in Quebec Bill 68 will free up approximately 600,000 doctor appointment slots each year, making them available for patients needing medical attention.

This shift highlights an increase in healthcare accessibility and efficiency, providing relief to an overburdened system. The two sections within Bill 68 that most affect Quebec employers are new protections for absences due to sickness and family obligation leave. As you review your process and guidelines for managing employee absences, carefully review the legislative language within Bill 68.

The new legislation impacts employers in several areas, including:

1. **Absences due to sickness and other personal emergencies:** Previously, the Quebec "Act Respecting Labour Standards" allowed employers to request that employees provide medical documentation for absences due to illness, accidents, organ and tissue donation for transplant, or situations involving domestic or sexual violence and criminal offenses. Under the new regulations of Bill 68, employers may not request documentation attesting to the reasons for the absence during the first three absences of three consecutive days or less each year.

2. **Family Obligation Leave:** Employees are entitled to up to ten days of leave per year for obligations related to the care, health or education of a child or a spouse's child, or due to the health of a relative for whom the employee acts as a caregiver. While employers formerly could request medical certification under certain conditions, Bill 68 now prohibits requesting medical certificates for these family-related absences, though other reasonable documentation might still be required.

As these legislative changes take effect, Quebec employers must thoroughly review and update their policies, practices and union contracts that previously mandated medical certificates or other documentation to support employee absences. Non-compliance with Bill 68 can result in severe penalties. This trend of curbing the use of medical documentation to justify employee absences is catching on, as seen with new legislation in Ontario prohibiting the request of a doctor's note for up to three unpaid sick days under the Ontario Employment Standards Act.

The passing of Bill 68 signifies a move toward easing the administrative workload on healthcare professionals and realigning workforce management practices with contemporary health policy goals. As similar legislative shifts are becoming more widespread, the essential nature of workforce absence software and comprehensive employee management software is underscored. These tools offer a pathway to compliance with new laws and streamline absence management operations, enhancing overall workplace flexibility and support. By staying proactive and knowledgeable on advanced software solutions to improve your absence management processes, organizations can successfully support compliance through changing governmental regulations.

✓ 2026 implications

Employers in Quebec must comply with the new requirements introduced by Bill 68, effective January 1, 2025, which limits when medical documentation can be required for employee absences. Under this law, employers cannot demand medical proof for the first three absences of three days or less each year, and new restrictions apply to family obligation leave as well. Employers should review and update absence policies, communicate changes to staff and ensure all practices align with Bill 68 to avoid penalties.

IMPORTANT LEGAL UPDATE FOR ONTARIO EMPLOYERS

February 4, 2025

Recent legislative changes in Ontario, Canada, have introduced new legal requirements that Ontario employers should be aware of and begin conforming their compliance policies to. Some of these regulations have already taken place or will go into force on different dates over the next two years. I have highlighted five new requirements in this article.

1. **Medical certifications:** As of October 28, 2024, employers are prohibited from asking employees to provide a medical certificate from a qualified health care practitioner (e.g., a doctor's note) as evidence supporting an employee's entitlement to three days of unpaid sick leave under section 50 of the Employment Standards Act (ESA). Employers retain the right to require employees to produce documentation or information to support their entitlement to sick leave if it is not a medical certificate. The maximum fine for an individual violating the ESA or for failing to comply with an order, directive or other ESA requirement has doubled from $50,000 to $100,000.

2. **Long-Term Illness Leave:** Employees experiencing serious medical conditions will be able to take up to 27 weeks of unpaid Long-Term Illness Leave with proper medical certification beginning June 19, 2025. If a medical certificate sets out a disability period of fewer than 27 weeks (about six months), however, the employee will be entitled to take leave only for the number of weeks indicated on the certificate. Eligibility for long-term illness leave requires 13 consecutive weeks of employment with the same employer.

3 **Employee information:** Starting July 1, 2025, employers with 25 or more employees will have to provide employees with certain information before or soon after the employee begins their employment. This information includes the employer's legal name, its business or operating name, and complete contact information. Employers will also have to provide information about where the employee will first work, their expected work hours, their initial compensation and their pay day and pay period.

4 **Job posting requirements:** Effective January 1, 2026, Ontario employers with 25 or more employees must disclose in publicly advertised job postings all expected compensation (e.g., salary, commissions, bonuses) or the range of expected compensation. Any posted compensation range must not exceed an amount equivalent to $50,000. Nevertheless, compensation information need not be provided for a position with an expected compensation equivalent to or more than $200,000 annually. Job postings also cannot require Canadian work experience. Additionally, if an employer who publicly advertises a job posting uses artificial intelligence (AI) to screen, assess or select applicants, the employer must include a statement in the posting disclosing the use of AI for these reasons. Finally, employers must retain copies of publicly advertised job postings and any related application forms for three years after public access to the posting ends.

5 **Placement of Child Leave:** A new leave, Placement of Child Leave, will allow employees who have been employed by an employer for at least 13 consecutive weeks to use up to 16 weeks (about three months) of unpaid leave if they are taking a child into their custody, care and control through adoption or surrogacy. An employer may require employees who take this leave to provide reasonable evidence of their entitlement to the leave. Placement of Child Leave will come into force on a date to be set.

As Ontario continues to update legislative regulations, employers must take active steps to align their operations with the new legal standards. Implementing comprehensive workforce solutions like workforce compliance software and employee management software can define processes to help update employee guides and forms and train relevant staff when new regulations are passed.

It is important for Ontario employers to review and update their employee handbook and policies to cover new requirements. Human resources staff and other key personnel should be trained in these areas to ensure compliance with the new laws listed above. Also, update your document retention practices to include publicly advertised job postings, related application forms and information provided to applicants. Remember, this is a period of rapid change in Ontario requiring employers to be alert for other employment law changes taking place in the province.

✓ 2026 implications

Ontario employers must prepare for several new employment law requirements being phased in from October 2024 through 2026. Key changes include restrictions on requesting medical certificates for short-term sick leave, expanded long-term illness leave entitlements, new obligations to provide detailed employment information to new hires, and updated job posting standards, such as compensation disclosures and transparency about AI use in hiring. A new Placement of Child Leave will also be available for adoptive and surrogate parents.

INTERPLAY BETWEEN THE FMLA AND OTHER LAWS AND RULES (US)

March 4, 2025

The Family and Medical Leave Act ("FMLA") is a federal law providing eligible employees of covered employers with up to 12 weeks of unpaid, job-protected leave in a chosen 12-month period for specified family and medical reasons. However, many other federal and state laws have their provisions relating to family and medical leave, as do employer policies and collective bargaining agreements. This often leads to complicated interactions between the various provisions employers should know about and provide clear guidance to their employees.

Below are seven laws or rules that might affect how an employee uses their FMLA leave:

1. **Americans With Disabilities Act:** The federal Americans With Disabilities Act ("ADA") prohibits employers from discriminating against applicants and employees who are qualified individuals with a disability. If an employee is a qualified individual with a disability as defined in the ADA, the employer must provide the employee with reasonable accommodations that enable them to perform the essential functions of their job, absent undue hardship. Unpaid leave is a form of ADA reasonable accommodation that employers may run concurrently with FMLA leave if the disability also constitutes a serious health condition under the FMLA.

2. **Pregnancy Discrimination Act:** The Federal Pregnancy Discrimination Act of 1978 (PDA) prohibits workplace discrimination based on an employee's pregnancy, childbirth or related medical conditions. This prohibition requires employers to provide pregnant employees with the same benefits, including leave, that are provided to other employees with short-term disabilities. The PDA, however, does not require workers to be

employed for a particular amount of time to be protected as the FMLA does. Consequently, employees employed for fewer than 12 months are ineligible for FMLA leave. Still, they may be entitled to maternity leave if the employer grants short-term disability leave to similarly situated workers with short-term disabilities.

3 **State and local family and medical leave laws:** It is common for state and local governments to pass family and medical leave laws that provide similar employee leave rights to those of the FMLA. When an employee's time-off request qualifies for FMLA leave and leave under state or local law, the employer can run the leaves concurrently. This means the absence will simultaneously count against the employee's FMLA and state or local leave entitlements.

4 **Fair Labor Standards Act:** The Fair Labor Standards Act (FLSA) partially regulates employee minimum wage and overtime requirements under federal law. Ordinarily, employers cannot reduce an exempt employee's pay for partial-day absences because it could cause the employee to lose the exemption and be owed for prior overtime hours. However, an exception to this rule is that employers may deduct hours taken as intermittent or reduced schedule FMLA leave from an exempt employee's compensation, without affecting their FLSA exempt status.

5 **Uniformed Services Employment and Reemployment Rights Act:** The Uniformed Services Employment and Reemployment Rights Act ("USERRA") protects the employment and reemployment rights of uniformed service members who leave their jobs to perform covered military duty. Among other things, USERRA requires returning service members to receive all employment benefits and rights they would have obtained if they had not reported for military service and had remained continuously employed. Consequently, to determine FMLA eligibility for a returning service member, the months and hours the service member would have worked during USERRA leave must be combined with the months and hours worked.

6 **Workers' compensation:** An employee's on-the-job injury qualifying for workers' compensation leave may also qualify as an FMLA serious health condition entitling the employee to FMLA leave. In this instance, employers may require the workers' compensation leave to run concurrently with the FMLA leave.

7 **Employer policies and collective bargaining agreements:** If an employer has policies or a collective bargaining agreement (CBA) providing more generous protection than afforded by the FMLA, the employer must abide by the more generous terms of the policies or CBA. Furthermore, employer policies and CBA provisions may not be used to reduce a worker's FMLA rights.

The FMLA and other laws and rules provide important benefits and safeguards for workers. By better understanding the interplay between these laws and rules, employers will have a more efficient leave program and improve profitability.

On the other hand, failing to understand the relation between the FMLA and other laws and how they may work together can cost an employer significantly in terms of lawsuits and penalties if they are not compliant. Employers seeking to navigate the complex requirements of federal, state and local employee protection laws can benefit significantly from implementing workforce compliance software to automate compliance with federal, state and local regulations.

✓ 2026 implications

Employers must comply with the FMLA and its interaction with various federal, state and local laws, as well as internal policies and collective bargaining agreements. Key overlapping laws include the ADA, the Pregnancy Discrimination Act, state and local leave laws, the FLSA, the USERRA and workers' compensation rules, each with unique implications for FMLA eligibility and leave administration. Employers should coordinate leave policies, provide clear guidance to workers and honor the most generous protections available.

MICHIGAN'S EARNED SICK TIME ACT TAKES EFFECT

April 1, 2025

After extended litigation and many last-minute changes, Michigan's Earned Sick Time Act ("ESTA" or "Act") finally took effect on February 21, 2025, replacing the Michigan Paid Medical Leave Act. Leave disputes with employees are among the top issues resulting in protracted and expensive lawsuits against employers. So, here is an overview of some key ESTA time off provisions employers should know about to stay compliant and avoid costly legal fees and penalties.

Who is covered under the new law and how time is accrued:

- **Covered employers**

  Michigan employers with one or more employees, excluding the U.S. government, are covered by ESTA. An employer is considered a "small business" under ESTA for coverage purposes if it has 10 or fewer employees. All employees of an employer within the U.S. and its territories are counted in determining the total number of employees.

  Employers with over 10 employees needed to comply with ESTA starting February 21, 2025. Small businesses, however, have until October 1, 2025, to comply with the Act. If a small business did not employ any employees on or before February 21, 2025, the business does not need to comply with ESTA requirements until three years after the employer first hires a worker.

- **Eligible employees**

  An ESTA-eligible employee is an individual working in Michigan for a covered employer, including full-time, part-time, temporary, seasonal, exempt, nonexempt and remote employees. However, workers employed by the U.S. government, railway workers, unpaid interns and trainees, and individuals employed under the Youth Employment Standards Act are examples of employees excluded from the Act's coverage.

If employees are covered by a collective bargaining agreement on February 21, 2025, and the collective bargaining agreement conflicts with ESTA, the Act's requirements apply commencing on the agreement's stated expiration date.

- **Leave accrual and use**

  Workers accrue one hour of earned sick time for every 30 hours worked. Employees may use up to 72 hours of accrued leave in a year, but for small businesses, the yearly limit on leave use is 40 hours. Earned sick time may be taken in one-hour increments, or the smallest increment the employer uses to track other absences.

  Incorporating workforce absence software into your organization's digital infrastructure can significantly streamline how leave accrual and use are managed, helping your operations stay aligned with ESTA's requirements.

  If employers use the accrual method, they may create a policy for employees hired on or after February 21, 2025, requiring them to wait up to 120 days before being eligible to use accrued sick time.

- **Leave carryover**

  Employees may carry over unused sick time from year to year. Employers, however, may limit leave use to 40 hours per year for employees of small businesses and 72 hours per year for all other qualifying employers.

- **Frontloading as an alternative to the accrual method**

  Alternatively, instead of employees accruing time off, employers may frontload at least 40 hours of earned sick time for employees of small businesses and 72 hours for other employees at the beginning of the year for immediate use (or on a prorated basis when the employee is hired during the benefit year). If an employer frontloads leave, it need not carry over unused sick time to the next year.

  To frontload sick time for part-time employees, employers must provide the worker with a written estimate of the number of hours the employee is expected to work that year, an amount of earned sick time equal to one hour for every 30 hours expected to be worked that year, and verify each year that the number of hours frontloaded met or exceeded the amount the employee would have received if the accrual method was used. If a part-time employee works more than the hours indicated in the written notice, the employer must provide the part-time worker with additional earned sick time in line with accrual requirements.

- **Pay rate while on leave**

  Earned sick time may be paid in one-hour increments or the smallest increment the employer uses to account for other absences. The wage an employer must pay when earned sick time is used is the greater of the employee's normal hourly wage or base wage or the Michigan minimum wage. Employers are not required to include overtime, holiday pay, bonuses, commissions, supplemental pay, tips, piece rates or gratuities in calculating an employee's normal hourly wage or base wage.

- **Existing leave policies**

  An employer's existing paid time off policy may be used for time off under ESTA if the existing policy can be used under the same terms and conditions as ESTA and accrues time off at an equal or greater rate.

- **Earned sick time uses**

  Employees may use earned sick time for the following purposes:

  - The employee's or covered family member's physical or mental health condition, including medical diagnosis, treatment and preventative care
  - Where the employee or covered family member is a victim of domestic violence or sexual assault and needs time off for these reasons:

    1. Medical care or psychological or other counseling for physical or psychological injury or disability
    2. To obtain services from a victim services organization
    3. To relocate for safety reasons
    4. To obtain legal services
    5. To participate in any civil or criminal proceedings related to or resulting from the domestic violence or sexual assault

  - For meetings at their child's school or place of care relating to the child's health or disability or the effects of domestic violence or sexual assault on the child.
  - The closing of the employee's business or their child's school or place of care by order of a public official due to a public health emergency
  - When it is determined by a proper health authority or by a health care provider that the employee's or family member's presence in the community would jeopardize the health of others because of the employee's or family member's exposure to a communicable disease.

If employers have not already done so, they should immediately add a new paid sick leave policy to their employee handbook that complies with ESTA and seek assistance from legal counsel, if necessary, to draft the policy. Employers should determine whether ESTA requirements affect their duty to provide leave under any federal law, state law, company policy or collective bargaining agreement. You should also institute procedures to properly track accrual, use and carryover of earned sick time. Investing in comprehensive workforce software solutions can help organizations automate their procedures when updating workforce compliance with evolving federal and state regulations like ESTA.

✓ 2026 implications

Michigan's Earned Sick Time Act (ESTA), effective February 21, 2025, replaces the Michigan Paid Medical Leave Act and introduces new requirements for employers. Covered employers must provide eligible employees with one hour of sick time for every 30 hours worked, with annual use capped at 72 hours (40 hours for small businesses). Employers can use an accrual or frontloading method for leave, with specific carryover and usage rules. To meet compliance standards, employers should update policies and tracking systems to meet ESTA's detailed requirements and minimize legal risk.

WORKPLACE ACCOMMODATION RIGHTS IN THE US

May 1, 2025

A reasonable accommodation is any change to a job, the work environment, or how things are normally done in the workplace that enables employees or applicants to have an equal opportunity of successfully performing their position's duties or getting a job. The number of employees requesting reasonable accommodation has been rising in recent years, so to avoid costly litigation and liability, it's important for employers to understand this legal obligation fully and continually update their workforce compliance policies.

Here is where reasonable accommodation rights commonly come into play for employees:

Disability accommodations

Under the Americans with Disabilities Act and the laws of most states, covered employers must provide reasonable accommodations to qualified individuals with a disability to help them apply for a position, perform the essential functions of their job and enjoy equal benefits and privileges of employment. Reasonable accommodation examples include unpaid leaves, part-time or modified work schedules, facility enhancements, modifying equipment, ensuring computer software is accessible, adjusting policies, tests, training materials and providing readers and interpreters.

A collaborative dialogue, also known as the interactive process, must take place between the employer and an employee with a disability to determine if reasonable accommodation is needed and, if it is, what accommodation should be granted. Accommodation need not be provided if it creates undue hardship for the employer (e.g., a significant difficulty or expense).

Pregnancy accommodations

The federal Pregnant Workers Fairness Act and a growing number of state and city laws require covered employers to grant reasonable accommodation for a qualified employee's or applicant's known limitations relating to, arising out of, or affected by pregnancy, childbirth or related medical conditions. Examples of possible reasonable accommodations for pregnancy include leave for doctor appointments and medical treatment; changing a work schedule; additional or longer breaks to eat, drink, rest or use the restroom; temporary reassignment; telework; or light duty work. An employer does not have to provide reasonable accommodation for pregnancy and related conditions if it causes the employer undue hardship.

Religious accommodations

Federal law prohibits employment discrimination based on an employee's or applicant's religion, including failing to accommodate their sincerely held religious beliefs or practices, unless the accommodation imposes undue hardship on the employer. "Religion" is broadly defined to encompass traditional religions such as Christianity, Judaism, Islam and less common or newly formed religions. Religious practices may be held by an employee even if they are not consistently observed or are different from the commonly followed beliefs of the employee's religion.

Religious accommodation examples include excluding an employee from the company's grooming and dress code requirements, a schedule change to attend church services, providing an employee with a day off on the sabbath, or excusing an atheist employee from a religious invocation at the start of a company meeting.

Courts and government agencies increasingly require employers to accommodate the disabilities, pregnancies and religious beliefs of their workers. Consequently, employers should review and, if necessary, revise their policies to maintain compliance with expanding employee accommodation rights. Implementing employee management software can help your organization track accommodation requests and maintain documentation. Using software to automate the review of compliance policies can help your organization adhere to these laws and create a more inclusive work environment.

✓ 2026 implications

The ADA and similar laws require accommodations such as modified schedules, equipment or leaves for qualified employees with disabilities, while the PWFA and related laws mandate accommodations for pregnancy and childbirth-related limitations. Religious accommodations may involve adjustments to dress codes, schedules or workplace practices. Employers should engage in an interactive process with employees to determine appropriate accommodations unless doing so would cause undue hardship.

SEVEN WARNING SIGNS OF POTENTIAL FMLA ABUSE IN THE US

June 3, 2025

The federal Family and Medical Leave Act of 1993 ("FMLA") generally provides eligible employees of covered employers with up to 12 weeks of unpaid, job-protected leave in a selected 12-month period for specified family and medical reasons. Like many laws, unfortunately, the FMLA is subject to abuse. Although the FMLA has been law for 30 years, many human resource (HR) professionals and managers still struggle with workforce compliance which can expose their company to risks.

FMLA abuse occurs when employees misuse the FMLA by taking leave for purposes not covered by the law, misrepresenting medical conditions, taking excessive leave, not following FMLA rules, fraudulently requesting leave and other wrongful means.

Leave abuse disrupts workplace production and undercuts the trust between workers and management, leading to unprofitable business results. As an employer, it is important to recognize telltale signs of FMLA abuse and take steps to ensure that this policy is being used appropriately.

Here are seven signs that FMLA abuse may be occurring in your company:

1. **When leave is commonly taken before or after weekends or holidays**

   When employees frequently request FMLA leave that extends their holidays or weekends, it may indicate they are using their leave as vacation time rather than for covered medical or family needs.

2. **Leave requests follow soon after employee discipline**

   Employees may suddenly request FMLA leave after being reprimanded for a workplace rule violation to avoid further discipline that may be forthcoming. The employee may also use this fraudulent leave to find new employment.

3 **Multiple employees using a single doctor to support FMLA absences**

When numerous employees use the same doctor to provide medical certifications to support their FMLA absences, it may signal that leave abuse is occurring. If there is reason to doubt the validity of an employee's medical certification, the employer may request a second opinion at the employer's expense, but employer cannot regularly employ the doctor. A third opinion at the employer's expense may then be requested if the opinions of both the employee's and the employer's designated health care providers differ.

4 **Leave request offers insufficient medical documentation**

An employee's failure to provide proper medical documentation when applying for FMLA leave or submitting vague documents may indicate abuse.

5 **Requesting more and more intermittent leave**

Under the FMLA, employees may take leave in short blocks of time to care for a qualifying health condition. This is known as intermittent leave, a valuable tool in helping workers recover from their condition. Intermittent leave also makes it easy for dishonest workers to call in sick to avoid unpleasant work, to leave work early to attend to personal matters, to look for another job, or to attend unreported secondary employment. Misusing intermittent leave is a common form of FMLA abuse to watch for.

6 **Repeated requests to extend FMLA leave**

Employees may request FMLA leave extensions for legitimate reasons, such as when more time is needed to recover from serious health conditions. Nevertheless, repeated requests for extensions may be a sign of abuse, especially if questionable medical certifications support the extensions.

7 **Insufficient communication during leave**

Workers legitimately using FMLA leave should maintain communication with their employer to provide updates on their condition and potential return to work. A lack of these consistent updates may indicate abuse.

Although FMLA leave helps assist workers during periods of family and medical need, it can also result in abuse. Employee misuse of FMLA leave is a big challenge for employers as it may complicate their operations and increase costs. Employers should closely observe how employees use their FMLA leave to not only avoid abuse, but to promptly correct misuse when it occurs.

Employers should carefully balance the need to prevent abuse against the needs of employees who legitimately require FMLA leave. This list is designed to aid employers in preventing abuse and avoiding claims of FMLA leave interference. Employers should consult legal counsel before taking disciplinary action against an employee for leave abuse.

✓ 2026 implications

Warning signs of potential FMLA abuse include leave frequently taken before or after weekends or holidays, requests following disciplinary actions, multiple employees relying on the same doctor for certifications, vague or inadequate medical documentation, increased use of intermittent leave, repeated requests for leave extensions and insufficient communication during leave. Employers are encouraged to monitor FMLA usage for patterns of abuse, update compliance protocols and consult legal counsel before taking disciplinary action to ensure legitimate employee needs are respected while minimizing risk.

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December 17, 2025

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PARENTAL LEAVE EXPANDED UNDER COLORADO PAID FAMILY AND MEDICAL LEAVE

July 8, 2025

Parental leave is a common type of leave for employees, often representing a notable change in their lives. It's also a rapidly growing area of leave entitlement, with some interesting twists being added to newer leave laws. This leave varies significantly between territories across North America.

However, individual states may rely on a different approach as new leave laws are introduced. Colorado offers a good example. The Colorado Family and Medical Leave Insurance (FAMLI) law aims to ensure that Colorado workers have access to paid leave, allowing them to care for themselves or their family when unforeseen circumstances prevent them from being at work. The FAMLI law is being expanded to provide employees with additional leave time beyond current FMLA standards.

It's worth noting that while this change in legislation is specific to Colorado, it sets a precedent for new legislation to emerge, expanding parent leave accommodations elsewhere.

New amendments to Family and Medical Leave Insurance (FAMLI)

Parental leave is time off from work provided to employees who are parents, usually after the birth, adoption or foster care placement of a child. It gives working parents a chance to bond with their new child and to focus on the child's health and welfare.

Under Colorado's FAMLI law, covered Colorado employees may receive up to 12 weeks of leave per year for several reasons, including parental leave to bond with a new biological, adopted, or foster child. Employees experiencing pregnancy or childbirth complications may be entitled to an additional four weeks of leave for a total of 16 weeks per year.

Effective January 1, 2026, Colorado amended its FAMLI law to grant 12 additional weeks of parental leave to any covered employee whose child is receiving inpatient care in a neonatal intensive care unit (NICU). In other words, the amendment provides workers with an additional 12 weeks of leave on top of the 12 weeks of leave they are already generally entitled to under FAMLI. This would allow an employee whose child is in the NICU to receive up to 24 weeks of paid FAMLI leave if the employee chooses to use 12 weeks of regular bonding/parental leave after taking 12 weeks of NICU leave.

A second, less-publicized amendment to paid FAMLI leave reduces the premiums collected from each employee's wages to pay for wage replacement during leave from 0.9% to 0.88%, effective January 1, 2026. After 2026, the director of the Division of Family and Medical Leave Insurance will set the premium yearly, with a maximum potential premium rate of 1.2% of wages per employee.

How employers can prepare for new parental leave requirements

Colorado employers should prepare for these changes by revising their employee handbooks to cover parental leave for inpatient NCIU care under FAMLI and confirm that payroll taxes will be properly submitted in 2026.

Additionally, Colorado employers with employees in other states should closely watch for new parental leave entitlements in those states to avoid costly liability for non-compliance. Ultimately, national employers navigating the complex leave requirements of multiple states can greatly benefit from automation by implementing workforce management software that simplifies and enhances compliance with federal, state and local leave regulations.

Closing thoughts

As employers prepare to adapt to these new requirements, it's essential to revise company policies to simplify compliance regarding leave requests. Parental leave is significant to an employee's experience, and expectations about this can have a substantial impact on their feelings toward their employer.

✓ 2026 implications

Colorado employers must prepare for significant changes to parental leave under amendments to the Family and Medical Leave Insurance (FAMLI) law, effective January 1, 2026. Covered employees are now entitled to an extra 12 weeks of paid leave if their child is in a neonatal intensive care unit (NICU), in addition to the standard 12 weeks for bonding, allowing up to 24 weeks of paid leave. Employers should update handbooks, adjust payroll systems and watch evolving leave entitlements in other states.

WHAT'S NEW IN ONTARIO'S EMPLOYMENT STANDARDS ACT (ESA)?

August 5, 2025

Any discerning employment lawyer will tell you that employers should constantly be on the lookout for new employee leave laws, and this is especially true in the Canadian province of Ontario. The challenge lies in the sheer volume of information and the rapid pace at which laws evolve. Crucial updates regarding employee leave rights can go unnoticed, potentially leading to unintentional violations and significant penalties.

Ontario is Canada's most populous province, home to millions of workers, thousands of employers and an extensive Employment Standards Act (ESA) containing numerous employee leave provisions. Consequently, failing to understand new employee leave rights can be a costly compliance mistake for Ontario employers, possibly leading to heavy penalties.

What are the key changes to Ontario's Employment Standards Act?

The Ontario ESA is seeing changes to several employee leave provisions, including:

- Placement of a Child Leave provides at least 12 weeks of unpaid leave.
- Long-term illness leave provides at least 13 consecutive weeks.
- Ontario's government introduced the Working for Workers Seven Act.

Here is an in-depth view of these new employee leave entitlements in Ontario's ESA and further changes Canadian employers should know about.

Placement of a child leave

Placement of a Child Leave, which takes effect on a future date to be proclaimed by the Lieutenant Governor, will provide employees who have

been employed by an employer for at least 13 weeks with the right to unpaid leave for two reasons.

- The first-time placement of a child into the employee's care, custody and control for adoption.
- The first-time arrival of a child into the employee's care, custody and control where the birth parent is a surrogate.

An employee may begin child placement leave up to six weeks before the expected placement, with a total entitlement of 16 weeks of leave, which must be taken over a single period. The leave must end no later than 17 weeks after the day the placement occurs.

If, after beginning the leave, the employee learns that the child's placement will not occur; the leave may continue for 14 days or fewer days if the employee and employer agree.

Finally, employers must retain records relating to an employee's child placement leave for three years after the day the leave ends.

Long-term illness leave

Effective June 19, 2025, long-term illness leave will be granted to employees who have been employed by an employer for at least 13 consecutive weeks with unpaid leave if both of the following can be shown:

- The employee will not be performing the duties of their position because of a serious medical condition.
- A qualified health practitioner issues a certificate stating the employee has a serious medical condition and sets out the time the employee will be unable to work because of the condition.

The maximum entitlement to long-term illness leave is 27 weeks in a 52-week period, even if the employee has more than one serious medical condition. But an employee's leave must end no later than the last day of the period specified in the medical certificate.

Like Placement of a Child Leave, employers must retain specified records relating to an employee's long-term illness leave for three years after the leave of absence expires.

Are there more Ontario leave provisions coming?

On May 28, 2025, Ontario's government introduced the Working for Workers Seven Act, 2025, which is expected to receive Royal Assent sometime later this year. Under this Bill, if enacted, the ESA would grant employees up to three days of unpaid job-seeking leave if they receive notice of termination along with 50 or more other workers. The reason behind the leave is to help employees undertake activities related to obtaining new employment, such as job searching, interviewing and training.

Closing thoughts

Employers should review and update their policies, practices and employment contracts to cover these and any other new employee leave rights they encounter. Additionally, employers should determine the effect, if any, the new leaves will have on previously existing leave entitlements and their company's operating efficiency. And finally, contact your legal advisor if you have any concerns about how new leave rights may affect your business.

✓ 2026 implications

Ontario employers must prepare for new leave entitlements under recent amendments to the Employment Standards Act (ESA). Key changes include the introduction of Placement of a Child Leave, granting eligible employees up to 16 weeks of unpaid leave for adoption or surrogacy-related child placement, and expanded long-term illness leave, now allowing up to 27 weeks of unpaid leave for serious medical conditions.

WHAT IS PUERTO RICO'S LACTATION/BREASTFEEDING CODE?

September 3, 2025

On August 1, 2025, a new workplace right, the Puerto Rico Lactation Code ("Code"), was signed into law and took immediate effect. The Code replaces Law 427-2000 and other lactation-related regulations in Puerto Rico and consolidates the breastfeeding/lactation rights of employees and employer obligations into one statute. Here are some key provisions of the Code that Puerto Rico employers and employees should know about:

- **Paid daily leave for breastfeeding or expressing milk**

  Upon returning to work from maternity leave and for at least 12 months after that, public and private employees must be provided with a reasonable period of leave each workday to express milk or breastfeed their child. The length of this "reasonable period" is based on the nursing employee's needs but may not be less than one hour per day. This break is treated as hours worked requiring employees to be paid. The code also eliminates the need for employees to provide medical certification to take this time off.

- **Breastfeeding/lactation space**

  All employers must provide a designated lactation space, which may not be a restroom, for nursing employees to breastfeed their child and express breast milk. This space must be clean, private, safe, ventilated and equipped with seating, electrical power, access to water, a door with a lock and a refrigerator for storing breast milk only.

- **Discrimination and retaliation prohibited**

  The code prohibits employers from considering a worker's breastfeeding and lactation needs in imposing discipline, conducting performance reviews, determining compensation, in switching shifts, or in making any other adverse employment decision.

- **Application to union workers**

  The code allows private sector union contracts to expand employee breastfeeding and lactation rights from those it establishes. A union contract, however, may not reduce an employee's lactation rights.

- **Notice requirement**

  Employers must notify all employees of their rights under the code.

- **Enforcement**

  The Puerto Rico department of labor and the Puerto Rico Women's Advocate Office (WAO) have authority to investigate, file complaints and impose penalties for an employer's violation of the code. Additionally, aggrieved workers may file claims in court or with the WAO to recover damages.

Puerto Rico's expanded Lactation Code creates a more supportive workplace by providing explicit legal guidelines and strong protection for employees using breastfeeding/lactation periods.

To support compliance, Puerto Rico employers should immediately update their employee handbooks, policies and union contracts to include these new requirements and provide all workers with written notice of their rights under the Code. And finally, employers should train their managers, supervisors and human resource department personnel in this law to treat nursing employees fairly and to avoid costly violations.

✓ 2026 implications

Puerto Rico's new Lactation Code, effective August 1, 2025, consolidates and expands employee rights and employer obligations regarding breastfeeding and expressing milk at work. Key provisions include at least one hour of paid daily leave for nursing employees, a requirement to provide a clean, private and well-equipped lactation space (not a restroom), and strict prohibitions against discrimination or retaliation based on lactation needs. The law applies to both public and private sector employers, including unionized workplaces and mandates employer notification of employee rights.

NEW EMPLOYEE LEAVE RIGHTS COMING TO SASKATCHEWAN IN 2026

October 7, 2025

Several amendments to the Saskatchewan Employment Act concerning employee leave rights will come into effect on January 1, 2026, that will require updates to leave management policies. The Saskatchewan government states that the amendments are intended to provide additional support to provincial workers while also helping employers run their businesses efficiently. Here are the changes in employee leave rights Saskatchewan employers should know about treating their employees fairly and avoid potentially costly compliance mistakes.

- **Serious injury or illness leave**

  The duration of Serious Injury or Illness Leave will be extended from 12 weeks to 27 weeks, aligning the leave with federal employment insurance benefits and protecting workers' jobs while they receive benefits.

- **Interpersonal violence leave**

  Employees encountering interpersonal or sexual violence will be entitled to a new unpaid leave of up to 16 weeks, to be taken continuously within a 52-week period. The leave can be used for several reasons, such as receiving medical care, counseling, victim services, seeking legal or law enforcement help, or relocating for safety reasons. The new Interpersonal or Sexual Violence Leave is on top of an already existing Interpersonal Violence Leave entitlement, which includes five paid and five unpaid days that may be taken consecutively or intermittently.

- **Bereavement leave**

  Currently, bereavement leave must be taken for the death of an employee's immediate family member between one week before and one week after the family member's funeral. The amendment enlarges the bereavement leave entitlement by allowing workers to take the five-day leave any time within six months after the family member's death. Additionally, bereavement leave was extended to cover a pregnancy loss of the employee, the employee's immediate family member, or any other person if the employee would have been a parent to the other person's newborn child (e.g., surrogacy).

- **Maternity leave**

  This leave will be expanded to include employees who experience a pregnancy loss not more than 20 weeks before the estimated date of birth. Before the amendment, employees experiencing a pregnancy loss could take maternity leave only if their pregnancies terminated 13 weeks or less before the estimated date of birth.

- **Medical certifications**

  Employers can no longer request medical certificates from employees for absences due to illness or injury unless the employee has been absent for more than five consecutive working days or has had two or more non-consecutive absences of two or more working days in the previous 12 months.

These amendments to leave requirements under the Saskatchewan Employment Act will require employers to update their HR policies, employee handbooks and employment contracts, and change their employment practices to comply with the new legislation. Employers should also train HR and management teams on the new leave entitlements to avoid compliance issues, possible lawsuits and penalties. Finally, employers may wish to meet with their workers to answer any questions they may have regarding their expanded leave rights.

✓ 2026 implications

Saskatchewan employers must prepare for amendments to the Employment Act taking effect January 1, 2026, which expand employee leave rights and alter documentation requirements. Key changes include extending Serious Injury or Illness Leave to 27 weeks, introducing a new 16-week unpaid Interpersonal or Sexual Violence Leave, and broadening bereavement leave to allow use within six months of a loss, including pregnancy loss and surrogacy situations. Maternity leave is expanded for pregnancy loss occurring up to 20 weeks before the due date.

HOW MUCH ADVANCE NOTICE MUST EMPLOYEES GIVE BEFORE TAKING FMLA LEAVE IN THE US?

November 15, 2025

The federal Family and Medical Leave Act (FMLA) grants eligible employees up to 12 weeks of unpaid, job-protected leave per year for specified family and medical reasons, including qualifying military exigency leave. Additionally, the FMLA provides eligible workers with up to 26 weeks of leave during a single 12-month period to care for a covered servicemember with a serious injury or illness if the employee is the servicemember's spouse, son, daughter, parent or next of kin.

Before taking FMLA leave, employees must provide their employer with timely and sufficient notice of their need for leave. Generally, the notice may be oral or written, but employers may require employees to comply with their usual and customary policies for requesting leave, including providing written notice. Employers can act under their internal policies if the employee fails to follow the usual rules for requesting time off, such as delaying or denying leave. However, employers are also free to waive their internal notice and policy requirements regarding leave requests.

- **Content of employee notice**

  An employee's first-time request for a qualifying FMLA reason does not have to specifically assert rights under the FMLA or even mention the FMLA. The notice, however, must provide sufficient information for the employer to determine whether the leave is for an FMLA qualifying reason and set forth the anticipated timing and duration of the leave if the leave is foreseeable (29 CFR § 825.302c and 303b). Once leave is approved for a qualified reason, an employee who requests additional time off for that reason may be required to specifically refer to the FMLA.

- **Timing of notice for foreseeable leave**

  Generally, an employee must give their employer at least 30 days' advance notice of their need for foreseeable FMLA leave, such as for planned medical treatment or the birth of a child if it is possible and practicable to give it (29 CFR § 825.302a). If an employee fails to provide at least 30 days' advance notice and it was possible and practicable to do so, the employer may delay the start of the leave until 30 days after the employee provides the notice.

If 30 days' advance notice is not possible for foreseeable leave because the situation changes or the employee does not know precisely when the leave will be needed, the employee must provide notice as soon as practicable (29 CFR § 825.302a). For qualifying military exigency leave, the employee must provide notice as soon as practicable, no matter how far in advance the leave is foreseeable (29 CFR § 825.302a).

- **Timing of notice for unforeseeable leave**

  When the need for FMLA leave is unforeseeable, employees must provide notice as soon as practicable under the circumstances, which may differ from case to case. However, it should be practicable for employees to provide notice of unforeseeable leave within the time prescribed by the employer's usual and customary notice requirements for other forms of leave (29 CFR §825.303a). If possible, the notice should be provided within one or two business days of learning about the need for leave.

An employee must provide their employer with adequate advance notice of their need for FMLA leave, typically 30 days for foreseeable leave and as soon as practicable for unexpected leave.

Employers need to understand that to provide proper notice for FMLA leave; the employee does not initially have to refer to the FMLA or even request time off. The employee must merely provide the employer with enough information to determine if the leave qualifies under the FMLA.

Finally, once the employee provides notice of the need for FMLA leave, the employer may follow up with additional questions if more information is required from the employee to determine if the leave is for an FMLA-qualifying reason.

✓ 2026 implications

Employers must understand and comply with FMLA notice requirements, which govern how and when employees must request leave. Employees are generally required to give at least 30 days' advance notice for foreseeable leave, or as soon as practicable for unforeseeable or military exigency leave. Notice does not have to specifically reference FMLA, but it must provide enough information for the employer to determine eligibility. Employers may require adherence to standard leave request procedures and can delay or deny leave if proper notice is not given but may also waive such requirements.

NEW SICK NOTE RESTRICTIONS IN EFFECT FOR BRITISH COLUMBIA EMPLOYER COMPLIANCE

December 3, 2025

The workplace health policies in British Columbia have changed with the introduction of new restrictions on sick notes for short-term absences. Employers should make efforts to understand these changes and inform employees accordingly.

This article breaks down the new requirements under the Employment Standards Act (ESA) and discusses how these adjustments fit into the broader trend of employee protections for privacy while balancing employer compliance needs.

What are the new sick note restrictions for British Columbia employers?

On November 12, 2025, new rules took effect under the British Columbia ESA and related regulation that sharply restrict an employer's ability to request doctor's notes from employees taking short-term health-related leave. These restrictions continue a trend under Canadian provincial law of limiting an employer's right to request medical certification for brief absences due to illness or injury.

Before November 12, British Columbia employers had the right to request medical documentation or other reasonably sufficient proof from an employee for health-related leave. This proof helped employers determine whether the employee's absence was due to an actual illness or injury or was just a ruse to wrongfully take time off.

Under the new ESA provisions, however, employers are now barred from requesting notes, documents, or other records from a health practitioner relating to health-related employee leave if:

- The leave is for five or fewer consecutive days
- The employee has not taken more than one other health-related leave of five or fewer consecutive days during the calendar year

In other words, employees can take two health-related leaves per calendar year, and their employer cannot request a sick note for either leave if the absences are for five days or less.

Exceptions

These new certification restrictions only pertain to leaves under ESA relating to the health condition, illness or injury of the employee or their close family members and do not affect medical documentation that may be needed if an employee is taking maternity leave, parental leave, compassionate care leave, or critical illness or injury leave.

Additionally, employers can still request a doctor's note when:

- The employee is absent a third time or more in a calendar year
- The employer needs medical information to determine if the worker is ready to return to work or requires accommodation to enable their return
- The employee is absent for more than five consecutive days

Key takeaway

A primary purpose of these new rules, according to British Columbia's government, is to reduce unnecessary and time-consuming paperwork requests to busy health-care providers which will give them more time to treat patients. The changes aim to ease the burden on healthcare professionals and protect employee privacy. Employers, however, are still free to seek other reasonable proof of illness or injury for short-term leave such as a signed statement from the employee that they are sick, a pharmacy prescription receipt or a hospital medical bracelet.

As always, employers are encouraged to seek legal advice if they are unclear regarding the rules and procedures to follow when requesting medical documentation or other medical proof from a worker or their health practitioner. By staying proactive and up to date, workplaces can navigate these changes smoothly and continue fostering a culture of transparency and respect.

✓ 2026 implications

As of November 12, 2025, new rules have taken effect under the British Columbia ESA restricting an employer's ability to request doctor's notes from employees taking short-term health-related leave. Employers must promptly update their workplace policies and train managers on the new limits for requesting medical documentation. Critical actions include developing alternative processes for verifying short-term absences, such as employee self-declarations or collecting other reasonable proof, and adequately informing staff of these changes.

LOOKING AHEAD: THE VALUE OF PROACTIVE COMPLIANCE VIGILANCE

Employment laws governing the workplace have evolved rapidly in 2025. Colorado, California, Illinois, Puerto Rico, Ontario, Quebec and Saskatchewan have all added new rules for employee leave. Likewise, meal and rest break laws have also undergone substantial changes.

New regulations such as Michigan's Earned Sick Time Act (ESTA) or Colorado's Family and Medical Leave Insurance (FAMLI) represent continued expansions of employee rights that employers must accommodate. The specifics of these changes vary by region, and employers should proactively adapt to new requirements as they arise. While new changes may create risks of non-compliance, they also help build safer, more employee-friendly workplaces where individuals feel supported in their daily work and during unexpected life events.

This report cataloged the compliance strategies shared throughout 2025 to minimize risks, penalties and legal vulnerabilities. Key recommendations include regularly reviewing workforce compliance measures by conducting periodic compliance checks and consulting legal experts when facing uncertainties.

Implementing these practices protects employees and the broader organization. The Compliance Navigator series offers updates and best practices to help employers understand and address the complexities of evolving labor laws while creating a supportive, compliant work environment.

Follow our Compliance Navigator series to stay informed on evolving labor regulations throughout 2026.

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