

# Colorado Leave Laws

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*This material is for general informational purposes only and does not constitute legal advice. For current and accurate guidance, please consult legal counsel in your jurisdiction.*

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# Paid Time Off (PTO) in Colorado

## Leave Quota

Vacation leave isn't required by law.

No federal or state law requires employers to provide their employees with paid or unpaid vacation time. Yet, if employers choose to offer vacation leave to their employees, paid or unpaid, they must act according to applicable state law, established policy, or employment contract. Although employers are not obligated to provide vacation time, if they do, it must be paid out on separation. Colo. Rev. Stat. § 8-4-101(14)(a)(III).

Company policy vacation policies may include:

- whether or not there is any vacation pay
- the amount of vacation pay received each year or over a specific time period
- whether vacation pay is accrued all at once, in a proportional manner each week, month, or another period
- whether or not vacation pay is capped at a year's worth (or more)

Vacation, paid and unpaid, is a compulsory subject of collective bargaining in a unionized workplace and may be controlled by a collective bargaining agreement.

## Accrual

Accruals are not mandated in Colorado but are widely used by companies.

A reasonable vacation leave cap can be imposed by an employer, preventing employees from accruing or earning vacation over a certain number of hours.

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## Carry Over

Use-It-or-Lose-It policy is prohibited for vacation, sick time, or any other type of accrued paid leave.

Colorado is one of the few rare states where the use-it-or-lose-it policy is not allowed for employers. The same ban also applies in [California](#), [Nebraska](#), and [Montana](#).

It is illegal for an employer to put a “use-it-or-lose-it” into effect, an approach that requires an employee to forfeit any unused vacation time after a specific date (usually the end of the year). Therefore, employers must let their employees carry over unused leave into the next year.

Colorado banned Use-It-or-Lose-It policies by [a decision of the high court](#) in June 2021.

On the other hand, employers may impose a cap (or ceiling) on the number of vacation days employees can accrue.

## Payment of accrued, unused vacation on termination

An employer must pay employees for any accrued vacation time upon employment separation.

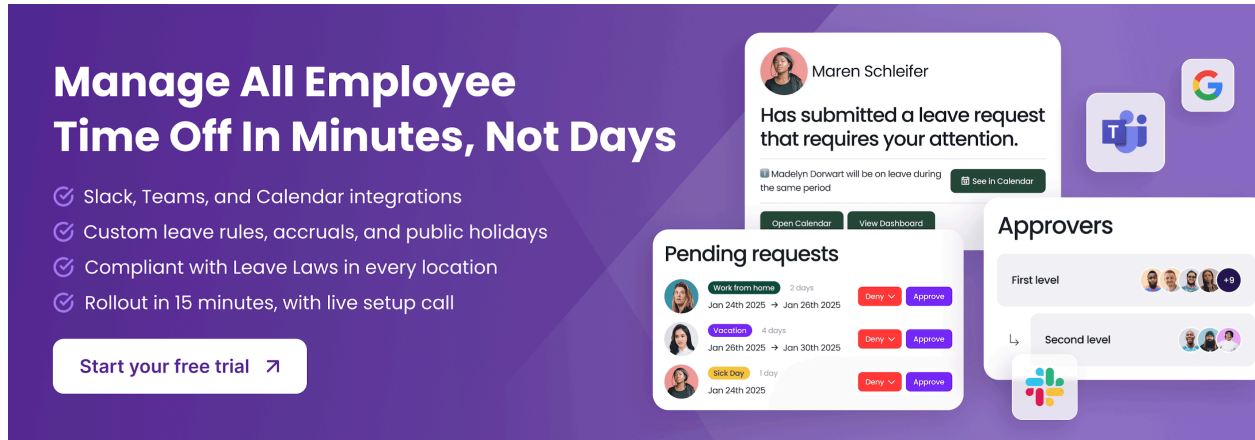
Employers must pay employees’ earned vacation leave upon termination of employment, and they may not lawfully enforce a policy or agreement that prevents employees from receiving payment for accrued vacation leave. Additionally, while the law refers to paid sick leave as “wages,” it provides explicitly that unused paid sick leave doesn’t have to be paid out at termination.

There are strict guidelines, such as the employer’s historical practices, industry norms, the employer’s and employees’ understandings, and other factors that may explain when vacation time becomes “earned” under the specific policy.

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## Payout

An employer is the one who pays for earned vacation leave.



## Sick Leave in Colorado

Federal law requires employers in Colorado to provide up to 12 weeks of unpaid FMLA sick leave. State law requires all employers in the private and public sectors to provide 1 hour of paid sick leave for every 30 hours.

## Federal Laws: Leave Quota

Up to 12 weeks of unpaid leave.

First, employers need to follow the Family and Medical Leave Act (FMLA), which allows certain employees to take up to 12 weeks of unpaid, job-protected leave each year for specific family and medical reasons (serious illnesses, maternity/paternity leave, or if the employee needs to care for a spouse or child).

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Employees are qualified for FMLA if they have worked for their employer for at least 1 year, completed a minimum of 1,250 hours over the past year, and worked at a location where the company hires 50 or more employees within 75 miles.

## Colorado State Laws: Paid Sick Leave

1 hour of leave for every 30 hours of work

In addition to the FMLA, there is the Healthy Families and Workplaces Act (HFWA), Colorado's paid sick leave law, which went into effect on January 1, 2021. First, it covered employers with more than 16 employees (since January 1, 2021). Beginning January 1, 2022, the HFWA requires all employers in the private and public sectors, regardless of the number of employees, to provide paid sick leave to their employees.

### Accrual Rate and Carry Over

Employers are now required to provide workers with 1 hour of paid sick leave for every 30 hours worked. Paid sick leave can be capped at 48 hours (6 days). Employees can roll over up to 48 hours of unused paid sick leave to the following year.

### Waiting Period

Under the HFWA, employers can't impose a waiting period for paid sick leave; hence, an employee begins accruing it when the employee's employment begins. The law permits using paid sick leave hours as soon as they accrue.

An employer may request documentation from employees who take 4 or more consecutive paid sick days.

## What Can Paid Sick Leave Be Used For?

Employees can use their paid sick leave for the following purposes:

- The employee is suffering from a mental or physical illness, injury, or health condition; requires medical diagnosis, care, or treatment for such a disease, injury, or condition; or requires preventive medical care.
- The employee is responsible for a family member suffering from a mental or physical illness, injury, or health condition; requires medical diagnosis, care, or treatment for such a disease, injury, or condition; or requires preventive medical care.
- The employee worker or family member has been the victim of domestic violence, sexual assault, or harassment and needs to be absent from work for reasons related to the crime.
- Due to a public health emergency, a public official has ordered the closure of the employee's child's school or the employee's place of business, necessitating the employee's absence from work.

### **Payout of Sick Leave**

An employer pays for paid sick leave.

## **Colorado's New FAMLI Program Started in 2023**

### Up to 12 weeks of paid leave

In November 2020, Colorado voters approved Proposition 118, which will allow the state to run a Paid Family and Medical Leave Insurance (FAMLI) program.

The new family program provides most Colorado workers with up to 12 weeks of paid time off to take care of themselves or their families during life events that pull them away from their jobs. A

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covered individual can take this leave for the following reasons: an accident, a severe health condition, the birth or adoption of a child, caring for a family member with a serious health condition, making arrangements for a family member's military deployment, or safe leave due to domestic violence.

Employers and employees began contributing to this program on January 1, 2023, and workers started receiving benefits on January 1, 2024.

The program will be funded by a new payroll tax split evenly between employers and employees, with the tax initially set at 0.9% of an employee's wages (from Jan. 1, 2023 to Dec. 31, 2024). Premiums will increase over time. Employers may also cover their employees' contributions as an added perk, so their employees don't pay. Small employers with fewer than 10 employees would be exempt from the employer premium.

If a worker makes at least \$2,500 per year and has been working for the company for at least 180 days, they will typically be qualified to take paid family leave.

Colorado employers should be proactive in making a timeline for implementing this new payroll tax. Employers will need to transmit this new policy to their employees and provide procedures for implementing this initiative.

## **Payout**

Paid Medical and Family Leave is funded through a payroll tax paid by both employer and employee in a 50/50 split.

## **Maternity, Paternity, FMLA in Colorado**

Colorado employers with 50 or more employees are required to provide their employees 12 weeks of unpaid maternity/paternity leave mandated by federal law. Additional state laws expand the scope.

For more information, please visit [vacationtracker.io](https://vacationtracker.io)

## Federal law

12 weeks of unpaid maternity/paternity leave provided by FMLA.

The Family and Medical Leave Act (FMLA), which is applied to employers of 50 or more workers, provides 12 weeks of unpaid maternity/paternity leave to expectant and new parents. Because FMLA is a federal law, it is the most important law in the United States for establishing these policies. The majority of the rules and regulations are the same everywhere. For more information about FMLA, look above under the section “Sick Leave in Colorado => Federal Laws: Leave Quota”.

Another federal law protecting new mothers is the Pregnancy Discrimination Act (PDA). This law prohibits discrimination based on pregnancy in any aspect of employment, including firing, hiring, promotions, and fringe benefits. This applies to all companies that have 15 or more employees.

## Additional State Laws in Colorado

Apart from the FMLA and PDA, Colorado has additional laws regarding Maternity and Paternity Leave:

Colorado’s Pregnant Workers Fairness Act requires employers to provide reasonable accommodations to pregnant employees, such as more or longer breaks during the workday, light-duty, job restructuring, equipment modification (including seating), or modified work schedules.

Adoptive Parents Leave is a parental leave law, but it applies only to adoptive parents. Employers who provide parental leave to biological parents must also provide it to adoptive parents. These requirements don’t apply to step-parent adoptions. This law does not require employers to provide time off in the first place; instead, it mandates that adoptive parents be treated equally to biological parents.

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The Paid Family and Medical Leave Insurance (FAMLI) program ensures that all Colorado workers have access to paid leave to take care of a new child after birth or adoption. Eligible employees will receive up to 12 weeks of partial pay and job security. Those who experience pregnancy or childbirth complications will receive an additional four weeks. Employers and employees will both contribute to the program's premiums. These contributions began in January 2023, and employees are able to apply for benefits starting in January 2024. For more information about FAMLI, look above under the section "Sick Leave in Colorado => Colorado's New FAMLI Program Started in 2023".

### **Payout**

Federally mandated maternity leave is unpaid, and payroll taxes paid by both the employer and the employee will support FAMLI.

## **Bereavement Leave in Colorado**

Employers in Colorado aren't required to provide paid or unpaid bereavement leave.

No federal or state law requires employers to provide paid or unpaid bereavement leave or time off to plan or attend a close relative's funeral. Employers who decide to provide bereavement leave are required to follow the bereavement policy or practice they have in place.

### **Payout**

Bereavement leave is unpaid.

## **Jury Duty Leave in Colorado**

The employer must provide paid, job-protected jury duty leave to employees.

Colorado laws require an employer to pay regular employees up to \$50 per day for the first 3 days of trial or grand jury service unless the employer and employee have agreed otherwise to pay more. Starting on the 4th day of service, the state compensates all regular employees with \$50.00 per diem.

If called to serve on a jury in Colorado, employees must be excused from work. Under Colorado law, employees must be regularly employed to be eligible for jury duty leave. Any part-time or temporary employee who has worked for the same employer for three months or more is considered “regularly employed.”

Colorado law protects an employee’s job while they serve on a jury. Hence, an employer can’t terminate, penalize, threaten, harass, coerce or substantially interfere with an employee for complying with a jury summons or serving on a jury.

Employees are not entitled to pay for time spent testifying, responding to subpoenas, or acting as plaintiffs or defendants in court.

## **Payout of Jury Duty Leave**

*Employer pays*

The first 3 days of the trial.

*State pays*

Starting on the 4th day of service.

## **Military Leave in Colorado**

### **Federal law**

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The Uniformed Services Employment and Reemployment Rights Act (USERRA) is a federal law that governs all employers in the United States. USERRA protects the rights of Army and Air National Guard members who are summoned from civilian jobs for federal service. Employers are prohibited from discriminating against workers who serve in the military. For the first year after returning from military service, an employer may fire an employee only for a good reason.

## **Colorado State Law**

In addition to federal law USERRA, Colorado provides state and U.S. military service members reinstatement rights. Employees called to active service must be given unlimited unpaid time off and reinstated to their previous positions with all the wages, seniority, and benefits they would have had if they had been continuously employed.

In addition, Colorado provides up to 15 days of unpaid leave per year to members of the National Guard or the U.S. armed forces to attend the military exercise. These members also have reinstatement rights to their previous position if they are still qualified for the job.

Employees must provide documentary evidence of the successful completion of their training.

Public employees are entitled to special advantages such as paid annual military leave, additional military leave, reinstatement, and benefit retention.

## **Voting Leave in Colorado**

Two hours of paid leave.

Registered employees must be allowed up to 2 hours of paid leave to vote in any primary or general election.

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Special advance notice is not required; still, an employee must ask for leave one day before the vote. The employer may select the hours during which employees can be absent. However, if the employee requests it, the hours must be at the start or end of the shift. If an employee's shift starts at least three hours after the polls open or ends at least three hours before the polls close, the employer is not required to provide voting leave.

An employer may not penalize or dismiss an employee for being absent.

## **Payout**

An employer.