

West Virginia Leave Laws

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 West Virginia

Vacation Leave Quota

No federal or West Virginia law requires employers to provide vacation leave.

Private employers and companies in West Virginia are not required to provide paid or unpaid vacation for their workers and employees.

Despite this legal stipulation, most employers in the US provide employees with 10 paid days off after being employed for 1 year.

If an employer chooses to offer vacation leave to its employees, paid or unpaid, it must adhere to with appropriate state law, established company policy, and the employment contract.

Accruals

The accrual system is not required by law in West Virginia, but it is a common practice among many companies.

Employers are generally free to design their own vacation accrual system, such as hourly, daily, weekly, bi-weekly, semi-monthly, or monthly increments. Accruals are usually based on the pay period. Official payroll frequency in West Virginia is bi-weekly.

An employer is allowed to cap (limit) the amount of vacation time an employee can accrue during the year.

Roll Over (Carry Over, Brought Forward)

For more information, please visit vacationtracker.io

A “use-it-or-lose-it” policy is not forbidden.

It is allowed to have a use-it-or-lose-it policy in which an employee forfeits any remaining vacation time after a certain date, usually at the end of the year. Since there is no specific mention of this policy in West Virginia’s law, employers are free to adopt it, but employees must agree to it in writing.

Employers generally prefer a use-it-or-lose-it policy because some employees use little to no paid time off (PTO), and long-term employees can accumulate a substantial amount of PTO over the years, which can be expensive if paid out upon termination.

Statutory Provisions Addressing Vacation Pay

An employer can choose whether to provide vacation pay or not.

If an employer chooses to provide vacation pay, these benefits establish “compensation for work performed”, and must be paid to employees. However, an employer may establish a policy stating that accrued vacation time doesn’t constitute “wages”.

Payment of Accrued, Unused Vacation on Termination

Not required by law; only if promised in the employer’s policy.

An employer may legally establish a company policy or contract that denies employees payment for accumulated vacation time upon their departure from the company. If company policy is silent on this matter, an employer is also not required to pay accrued vacation leave that has not been used upon separation.



Even though West Virginia doesn't have a law requiring payment of accrued, unused vacation at termination, employers can still be responsible for paying this if there is a company policy that requires it.

A screenshot of the Vacation Tracker web application. The main header reads 'Manage All Employee Time Off In Minutes, Not Days'. Below this are four bullet points: 'Slack, Teams, and Calendar integrations', 'Custom leave rules, accruals, and public holidays', 'Compliant with Leave Laws in every location', and 'Rollout in 15 minutes, with live setup call'. A 'Start your free trial' button is at the bottom left. On the right, a user card for Maren Schleifer shows a leave request for Madelyn Dorwart. Below this is a 'Pending requests' table with three rows: 'Work from home' (2 days, Jan 24th to Jan 26th), 'Vacation' (4 days, Jan 26th to Jan 30th), and 'Sick Day' (1 day, Jan 24th). Each row has 'Deny' and 'Approve' buttons. To the right of the table is an 'Approvers' section with 'First level' and 'Second level' approvers, each with a list of user avatars and a '+9' indicator. The interface includes Slack, Teams, and Google Calendar integration icons.

Sick Leave in West Virginia

Federal Laws – Leave Quota

Federal law requires 12 weeks of unpaid sick leave.

The standard federal Family and Medical Leave Act (FMLA) applies to West Virginia (as it is in all the states in the U.S.A). The leave is job-protected.

Employees qualify for FMLA benefits only if:

- they have been employed for at least 12 months (at least 25 hours per week) or 1,250 hours in the previous year
- they work in a location where at least 50 people are employed by the company (in a 75-mile radius)

For more information, please visit vacationtracker.io

The FMLA entitles qualified employees to take up to 12 weeks off for:

- personal medical reasons – illness or injury
- to care for a close family member (child, spouse, or parent) suffering from a severe illness
- maternity or paternity leave.

Employers are free to propose additional sick leave benefits that are better than the minimum federal requirement.

Check out our article on [FMLA](#) to learn more.

West Virginia State Laws

There are no additional state sick leave laws.

Currently, 23 states provide sick leave benefits. West Virginia isn't one of them.

West Virginia doesn't have a sick leave law that requires employers to provide employees with sick leave benefits, other than the federal FMLA.

Payout

Sick leave in West Virginia is unpaid.

Maternity, Paternity, FMLA in West Virginia

Federal Law

For more information, please visit vacationtracker.io

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

The Family and Medical Leave Act (FMLA) is a federal law that allows eligible workers to take up to 12 weeks of unpaid, job-protected leave per year for family or medical reasons, including maternity or paternity leave. Unless otherwise authorized by the employer, an employee must take this leave continuously. More information about FMLA eligibility can be found above, under the section *Sick Leave in West Virginia: Federal Laws – Leave Quota*.

The Pregnancy Discrimination Act (PDA) is one more federal law that protects pregnant women. According to the PDA, discrimination against pregnant people is prohibited in all areas of employment: hiring, firing, pay, job assignments, promotions, fringe benefits, training, leave, and health insurance.

Additional State Laws in West Virginia

No additional maternity or paternity leave under state laws.

Like many other states, West Virginia doesn't require from private employers any kind of maternity or parental leave, paid or unpaid. Despite the lack of a legal requirement, many employers in West Virginia provide maternity or paternity leave plans.

State employees are entitled to 12 weeks of paid leave.

Payout

Maternity and paternity leave in West Virginia are unpaid (for private employers).

Bereavement Leave in West Virginia (Funeral Leave)

For more information, please visit vacationtracker.io

An employer is not required to provide bereavement leave.

An employer is not legally required to provide any paid or unpaid bereavement leave, or any time off to attend an immediate family member's funeral.

However, almost all companies in the United States provide paid bereavement leave to their employees. Employees are usually entitled to up to 3 consecutive days off. The most generous companies regarding bereavement leave offer up to a week or two weeks.

Payout

Bereavement leave in West Virginia is unpaid.

Jury Duty Leave in West Virginia

Employers must provide employees with unpaid time off for jury duty.

Employers are required to provide employees with unpaid, job-protected leave to report to jury selection or jury duty. An employee must show a jury summons letter to the immediate superior, one workday after receiving it, to be given the necessary leave.

An employer may not fire, threaten to fire, penalize, or punish the employee due to jury service.

Payout

The employer pays:

Employers in West Virginia are not required to pay employees for jury duty leave, but most employers do it as the court compensation is rather low.

The court pays:

For more information, please visit vacationtracker.io

Employees who serve as jurors in West Virginia are paid \$15.00 a day (though juror pay is only a token amount).

Military Leave in West Virginia

All employers in the U.S. must comply with USERRA. Additional state laws.

Federal Law

The Uniformed Services Employment and Reemployment Rights Act (USERRA) is a federal law that applies to employers of all sizes and types in the U.S. USERRA protects employees called to active duty in the U.S. military, including the U.S. Armed Forces, Reserves, and National Guard. USERRA provides reinstatement rights, protection from discrimination, the right to continue group health care benefits for up to 24 months during their leave, and up to 5 years of unpaid leave for military service (with exceptions to this 5-year limit).

West Virginia State Law

Employees who are serving in the organized militia and are on active state duty have equal rights and benefits related to leave and reinstatement guaranteed under USERRA.

An employer is required to offer their employees unpaid time off for Civil Air Patrol training, up to a maximum of 10 days per year, and for Civil Air Patrol missions, up to a maximum of 30 days per year.

Payout

Military leave in West Virginia is unpaid.

For more information, please visit vacationtracker.io

Voting Leave in West Virginia

Up to 3 hours of paid leave.

Employers are required to provide time for voting – up to 3 hours of paid time off – while the polls are open. To be eligible for the leave, an employee must request the leave at least 3 days before Election Day.

An employer is not required to provide an employee with voting leave if the employee has 3 or more consecutive hours to vote before or after his/her shift while polls are open.

Payout

Paid by an employer; an employer in West Virginia may not deduct from a worker's wages because of voting leave.

West Virginia State Holidays in 2025

A leave for holidays is not required by state law.

Private employers in West Virginia are not required to provide paid or unpaid leave for holidays. However, the majority of employers provide at least a few paid holidays.

Holiday pay ("time and a half") is also not required by law.

West Virginia officially observes 12 state holidays.

A complete list of holidays celebrated in West Virginia in 2025:

Holiday	Observed in 2025	General Date
New Year's Day 2025	Wednesday, January 1	January 1
Martin Luther King, Jr.	Monday, January 20	3rd Monday in January
Washington's Birthday	Monday, February 17	3rd Monday in February
Memorial Day	Monday, May 26	Last Monday in May
West Virginia Day	Friday, June 20	June 20
Independence Day	Friday, July 4	July 4
Labor Day	Monday, September 1	1st Monday in September
Columbus Day	Monday, October 13	2nd Monday in October
Veterans Day	Tuesday, November 11	November 11
Thanksgiving Day	Thursday, November 27	4th Thursday of November
Day after Thanksgiving	Friday, November 28	Friday after Thanksgiving

Christmas Day

Thursday, Dec. 25

December 25

Holidays that fall on Saturday are observed on the prior Friday; holidays that fall on Sunday are observed on the following Monday.

Election Day is celebrated as a state public holiday in West Virginia, on even-numbered years.

2026**Holiday****Observed in 2026****General Date**

New Year's Day 2026

Thu, Jan 1, 2026

January 1

Martin Luther King, Jr.

Monday, January 19

3rd Monday in January