

# GOVERNOR SIGNS SWEEPING CHANGES TO UNTANGLE OREGON'S JUMBLED LEAVE LAWS: KEY TAKEAWAYS AND A 5-STEP ACTION PLAN FOR EMPLOYERS

Insights  
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Governor Kotek signed a bill into law today harmonizing Oregon's overlapping and confusing set of leave laws. The new framework distinguishes different types of leave events under the state's various laws and stops those leaves from being taken concurrently. While this latest effort may simplify compliance, it expands both the total amount of leave employees may take and the circumstances under which they take it. We'll cover the key employer takeaways and give you a five-step action plan.

## Why was a new law needed?

The new law (SB 1515) addresses a conundrum Oregon employers faced as a result of multiple leave laws in effect at once. The overlapping laws made it difficult to determine which law (or laws) applied, and when. In addition to the federal Family Medical Leave Act (FMLA), Oregon employers are subject to state leave laws, including the Oregon Family Leave Act (OFLA) and Paid Leave Oregon (PLO).

Employers (and employment attorneys) have had a devil of a time determining exactly how these laws interact. To start:

- FMLA applies to employers with at least 50 employees;
- OFLA applies to employers with at least 25 employees; and
- PLO applies to all employers with even a single employee in Oregon.

## Related People



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Even more complicating, under the old framework employers had to juggle:

- whether leave for the same reason had to be taken concurrently if it qualified under more than one law;
- how concurrent leave worked given an employee was not required to apply for PLO; and
- what would happen if the employer and the Oregon Employment Department (which administers PLO) disagreed about whether an illness or injury qualified as a "serious health condition."

### What does SB 1515 do?

Senate Bill 1515 guts OFLA and makes minor changes to PLO.

- **OFLA leave is now limited to:** (1) pregnancy disability, (2) leave related to a child's illness, and (3) bereavement. This change eliminates major redundancies between the two laws.
- **PLO leave is no longer capped.** Employees may take the full amount of OFLA and PLO entitlements in a benefit year. Under prior law, as soon as an employee took paid leave benefits, the maximum amount of leave the employee could take for the benefit year was capped at 16 weeks (18 weeks if pregnancy disability was involved).

Here's a breakdown of the OFLA and PLO leave entitlements before and after SB 1515.

OFLA		
Leave Purpose	Before SB1515	After SB 1515
Parental Leave	Yes; 12 Weeks	No
Serious Health Condition	Yes; 12 Weeks	No

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Pregnancy Disability	Yes; 12 Additional Weeks	Yes; 12 Addit Weeks
Bereavement	Yes; 12 weeks	Yes; 4 weeks
Sick Child	Yes; 12 additional weeks, only if parental leave has been exhausted and child does not have a serious health condition	Yes; 12 week

<b>PLO</b>		
<b>Leave Purpose</b>	<b>Before SB 1515</b>	<b>After SB 1515</b>
Parental Leave	Yes; 12 Weeks	Yes; 12 Week
Serious Health Condition	Yes; 12 Weeks	Yes; 12 Week
Pregnancy Disability	Yes; 2 Additional Weeks	Yes; 2 Additi Weeks
Bereavement	No	No

Sick Child	Yes; 12 weeks	Yes; 12 week only if child has serious health condition
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## 7 Other Takeaways from SB 1515

**1. Increased Maximum Leave Time.** Theoretically, the maximum amount of job-protected leave for an employee increases to 38 weeks. For example, an employee could use:

- 12 weeks of unpaid leave for a sick child or bereavement under OFLA;
- 12 weeks of unpaid leave for pregnancy disability under OFLA;
- 12 weeks of paid leave for several purposes, including for a serious health condition or parental bonding; **and**
- two weeks of paid leave for pregnancy disability under PLO.

**2. Expanded Sick Child Leave.** Employees may take leave to care for a sick child under OFLA regardless of whether the child's health condition qualifies as a serious health condition. Before SB 1515, employees could use OFLA's sick child leave only if the child did not have a serious health condition, leading to a strange "sick, but not too sick," standard.

**3. Capped Wage Replacement.** While employees retain the option to use other paid benefits (vacation, sick leave, PTO, etc.) during OFLA or PLO leaves, employers may cap the use of such benefits while on PLO leave to the amount that provides the employee with 100% wage replacement. (Previously, employees taking PLO who also qualified for OFLA were able to exceed 100% wage replacement).

**4. Bereavement Leave Capped.** OFLA leave taken for bereavement purposes is capped at two weeks per family member and four weeks total per year.

**5. No Notice for Pregnancy Disability Leave.** Employees no longer need to provide notice to their employers prior to taking pregnancy disability leave under OFLA.

**6. Transition for Fostering or Adoption Leave.** OFLA will temporarily (from July 1, 2024, to December 31, 2024) provide an additional two weeks of leave for the fostering or adoption process. PLO will then cover that type of leave starting on January 1, 2025.

**7. Predictive Scheduling Relief.** Employers will have relief from predictive scheduling penalties for large retail, hospitality, and food service employers if an employee provides less than 14 days' notice of their need for, or return from, leave under PLO or OFLA.

## **5-Step Action Plan for Oregon Employers**

- 1. Don't delay.** This Bill took effect immediately upon Governor Kotek's signature, so the time to act is now.
- 2. Review your handbook and leave policies** to ensure they align with these changes.
- 3. Train** your human resources personnel and other employees administering leaves on the changes made by SB 1515.
- 4. Update all leave tracking systems.**
- 5. Consult legal counsel.** The changes made by SB 1515 are nuanced. In addition, Oregon's Bureau of Labor and Industries (BOLI) will likely issue new posters and regulations to further shape the law in the coming months.

## **Conclusion**

Fisher Phillips will continue to monitor any further developments in this area. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. If you have questions about Oregon leave laws, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in [our Portland office](#).