

Larkin U.S Family and Medical Laws PTO Requirements	
Federal/State	PTO Requirements
All States	<p>Larkin's Recommendation: Due to the varying rules by state, The Larkin Company generally recommends (if the law permits) that employers allow employees the choice regarding how they utilize vacation/PTO during paid and unpaid leave.</p> <p>Paid and Unpaid Leaves: When referring to "paid" and "unpaid" leaves, the term paid leave refers to when an employee is receiving income replacement benefits, such as STD and state paid family and medical leave benefits. The laws most commonly refer to PTO, sick time, and vacation, as "accrued paid leave". We are referring to them broadly as "vacation/PTO" here, but will make any special call outs as it relates to sick pay, if any. When vacation/PTO is supplementing income replacement benefits provided within the state, the general rule is that the state will permit this, provided an employee does not receive more than their full pay (but we will call out any unique rules).</p> <p>Federal and State Laws: Where an employee is eligible for leave under both federal and state law, employers should follow the vacation/PTO rules for the law which are the most beneficial to the employee. For example, if the federal law allows employers to require the use of PTO, but the state law prohibits employers from requiring the use of vacation/PTO while an employee is on leave, then employers should follow the state law as it is more favorable to the employee.</p>
Federal	<p>Family and Medical Leave Act (FMLA) Unpaid Leaves: An employee may elect, or an employer may require the employee to use vacation/PTO. Paid Leave: An employee is permitted (with mutual consent from the employer) to use vacation/PTO to supplement paid leave.</p> <p>Uniformed Services Employment and Reemployment Rights Act (USERRA) Employees are permitted to use vacation/PTO if they wish.</p>
Alabama	<p>Adoption Promotion Act (APA) The law does not address use of vacation/PTO. It may be acceptable to defer to FMLA. However, allowing employees to use vacation/PTO, but not requiring the use of vacation/PTO, is the least risk adverse approach for employers. Employers may wish to seek advice from counsel on this topic.</p>
California	<p>California Family Rights Act (CFRA) Unpaid Leaves: Employees are permitted to use vacation/PTO during unpaid leave. Employers can also require the use of vacation/PTO (note: sick pay can be required only for the employee's own medical leave), during unpaid leave. Paid Leaves: An employee is permitted (with mutual consent from the employer) to use vacation/PTO to supplement paid leave.</p> <p>Pregnancy Disability Leave (PDL) - Pregnancy leave law. Unpaid Leaves: An employee has right to use their vacation/PTO, during unpaid leave. An employer may also require the use of sick pay, during unpaid leave. Paid Leaves: Employees are permitted to use their vacation/PTO, during their leave. Note: they do not have the right to use sick pay during their paid leave. However, we can't see any particular risk in allowing the employee the option to use sick if it is the employee's choice and the employer allows it.</p> <p>State Paid Family Leave (PFL) and State Disability Insurance (SDI) - Income replacement laws. PFL/SDI allows the use of vacation/PTO to supplement the benefits provided under these programs.</p>
Colorado	<p>Colorado Family Care Act (CO FCA) The law does not address use of vacation/PTO. It may be acceptable to defer to FMLA. However, allowing employees to use vacation/PTO, but not requiring the use of vacation/PTO, is the least risk adverse approach for employers. Employers may wish to seek advice from counsel on this topic.</p> <p>Colorado Paid Family and Medical Leave Insurance Act (CO FAMLII) An employee is permitted (with mutual consent from the employer) to use vacation/PTO to supplement paid leave.</p>

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Delaware	<p>Delaware Family and Medical Leave Insurance Program (DE PFML) - Law effective January 1, 2026. An employer can require (or allow the employee to choose) to use up to 75% of their vacation/PTO prior to receiving benefits provided under this program. Vacation/PTO may be counted against an employee's PFML leave, if required. We will continue to monitor any updates regarding this topic as further guidance is provided by the state.</p>
Hawaii	<p>Hawaii Family Leave Law (HFLL) Employees are permitted to use vacation/PTO.</p> <p>Hawaii Temporary Disability Insurance (TDI) - Income replacement law. HI TDI allows the use of vacation/PTO to supplement the benefits provided under this program.</p>
Louisiana	<p>Louisiana Pregnancy Disability Law (LAPDL) - Pregnancy leave law. Employees are permitted to use vacation/PTO.</p>
Maine	<p>Maine Family and Medical Leave Act (MFMLA) The law does not address use of vacation/PTO. It may be acceptable to defer to FMLA. However, allowing employees to use vacation/PTO, but not requiring the use of vacation/PTO, is the least risk adverse approach for employers. Employers may wish to seek advice from counsel on this topic.</p> <p>Maine Paid Family and Medical Leave (ME PFML) - Law effective January 1, 2026. An employee is permitted to use vacation/PTO during the waiting period prior to benefits provided under this program. The law does not address use of vacation/PTO concurrently with PFML benefits. We will continue to monitor any updates regarding this topic as further guidance is provided by the state.</p>
Maryland	<p>Maryland Parental Leave Act (MD PLA) Employees are permitted to use vacation/PTO. Employer may require the use of vacation/PTO.</p> <p>Maryland Family and Medical Leave Insurance (MD FAMILI) - Law effective July 1, 2026. An employee is permitted (with mutual consent from the employer) to use vacation/PTO to supplement the benefits provided under this program. We will continue to monitor any updates regarding this topic as further guidance is provided by the state.</p>

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Massachusetts	<p><u>MA Parental Leave Act (MPLA)</u> Employees are permitted to use vacation/PTO.</p> <p><u>MA Paid Family and Medical Leave (MAPFML)</u> Employees are permitted to use vacation/PTO, but this is not recommended. MA PFML pay will be denied if any PTO at the same time (even if PTO is only intended to supplement MA PFML). Beginning 11/01/2023, MA PFML pay will no longer be denied if employees use PTO concurrently to "top up" their pay.</p>		
Minnesota	<p><u>Minnesota Pregnancy and Parental Leave Act (MPPL)</u> Employees are permitted to use vacation/PTO.</p>		
New Hampshire	<p><u>New Hampshire Law Against Discrimination (NH-LAD)</u> - Pregnancy leave law. If the employer requires the use of vacation/PTO for other non-pregnancy temporary disability leaves, then it may require the same for pregnancy. If you allow employees the choice for other medical leaves, allow them the choice for pregnancy disability leaves.</p> <p><u>New Hampshire Paid Family and Medical Leave (NH PFML)</u> - Law effective January 1, 2023. Employer policy will dictate how employees may use PTO and salary continuation with PFML benefits. Employers may also require employees to use all their PTO before taking PFML. In the event that an employee individually opts into NH PFML, employees must use all their PTO before receiving PFML benefits. However, employees must be allowed to retain one week of PTO.</p>		
New Jersey	<p><u>NJ Family Leave Act (NJ FLA)</u> Employer may require the use of vacation/PTO if the employer requires this for other similar leaves of absence. If an employer doesn't have a policy/practice of requiring vacation/PTO on leave, then employee is entitled to use accrued paid leave, but may not be required to do so.</p> <p><u>New Jersey Family Leave Insurance (NJ FLI) and New Jersey Temporary Disability Insurance (TDI)</u> - Income replacement laws. NJ FLI/TDI allows the use of vacation/PTO to supplement the benefits provided under these programs.</p>		
New York	<p><u>NY Paid Family Leave (NY PFL)</u> An employee is permitted (with mutual consent from the employer) to use vacation/PTO to supplement paid leave.</p> <p><u>NY Disability Benefit Law (NY DBL)</u> - Income replacement law. NY DBL allows the use of PTO to supplement the benefits provided under this program.</p>		
Oregon	<p><u>Oregon Family Leave Act (OFLA)</u> Employees are permitted to use vacation/PTO. Employers may require the use of vacation/PTO during unpaid leave (employees must be notified prior to the leave).</p> <p><u>Paid Leave Oregon (OR PLO)</u> An employee is permitted (with mutual consent from the employer) to use vacation/PTO to supplement paid leave. Beginning 07/01/24, employees will simply be permitted to use vacation/PTO to supplement paid leave.</p>		

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Puerto Rico	<p><u>Temporary Non-Occupational Insurance Program (SINOT)</u> This law does not address use of vacation/PTO. It may be acceptable to defer to FMLA. However, allowing employees to use vacation/PTO, but not requiring the use of PTO, is the least risk adverse approach for employers. Employers may wish to seek advice from counsel on this topic.</p> <p><u>Working Mother's Protection Act (WMPA)</u> This law does not address use of vacation/PTO. However, employers are required to provide salary continuation while an employee is on leave, so PTO is not applicable.</p>		
Rhode Island	<p><u>Rhode Island Parental and Family Medical Leave Act (RIPFMLA)</u> This law does not address use of vacation/PTO. It may be acceptable to defer to FMLA. However, allowing employees to use vacation/PTO, but not requiring the use of PTO, is the least risk adverse approach for employers. Employers may wish to seek advice from counsel on this topic.</p> <p><u>Rhode Island Temporary Caregiver Insurance (TCI) and Rhode Island Temporary Disability Insurance (TDI)</u> - Income replacement laws. TCI/TDI permits employees to use vacation/PTO to supplement the benefits provided under these programs.</p>		
Tennessee	<p><u>TN Maternity Leave Act (TN MLA)</u> - Includes non-birthing parents. The law does not address use of vacation/PTO. It may be acceptable to defer to FMLA. However, allowing employees to use vacation/PTO, but not requiring the use of PTO, is the least risk adverse approach for employers. Employers may wish to seek advice from counsel on this topic.</p>		
Vermont	<p><u>Vermont Parental and Family Leave Act (VPFLA)</u> Employees are permitted to use vacation/PTO.</p> <p><u>Vermont Paid Family and Family Leave Insurance (VT PFMLI)</u> - Law effective July 1, 2024 Employees are permitted to use vacation/PTO, depending on the employer's plan.</p>		
Washington	<p><u>Washington Paid Family and Medical Leave (WA PFML)</u> Employees are permitted to use vacation/PTO.</p> <p><u>Washington Law Against Discrimination (WLAD)</u> The law does not address use of vacation/PTO. Likely it will be accepted to mirror how other medical leaves are handled. However, allowing employees to use vacation/PTO, but not requiring the use of vacation/PTO, is the least risk adverse approach for employers. Employers may wish to seek advice from counsel on this topic.</p>		
Washington D.C.	<p><u>D.C Family and Medical Leave Act (FMLA)</u> Employees are permitted to use vacation/PTO.</p> <p><u>D.C Paid Family Leave (PFL)</u> - Income replacement law. D.C PFL allows the use of vacation/PTO to supplement PFL benefits.</p>		
Wisconsin	<p><u>Wisconsin Family and Medical Leave Act (WFMLA)</u> Employees are permitted to use vacation/PTO.</p>		
<p>The Larkin Company has taken reasonable steps to ensure the accuracy of the information on this page, however we make no representation or warranty of any kind as to its accuracy or completeness. These resources should not be construed or substituted for legal advice. Accordingly, before taking any actions based upon such information provided herein, we encourage you to seek competent legal advice from a licensed attorney or appropriate professionals.</p>			