

Your Employee Handbook: Prepare Now to Mitigate Future Risk

A Littler and ComplianceHR Webinar

November 15, 2021



Presented by



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Why Now?



Welcome To Fall!



20

The background features a teal-to-dark-blue gradient on the left and a green-to-yellow-green gradient on the right. A large, curved, light-green shape, resembling a stylized 'C' or a folded corner, overlaps the teal area and partially obscures the number '20'.

Is Just Around The Corner!

2022

But Also...

Our State Legislatures Have Been Busy!

City Hall, Too!

And This Means That...

It's Employee Handbook Season!

Littler's Employee Handbook Resource Team



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Agenda

1. Mandatory Vaccination And Other COVID Policies

LEAVES OF ABSENCE

2. Paid Family Medical Leave

3. Parental Leave

4. Mandatory Paid Leave

5. Unlimited PTO

6. USERRA and other Military Leaves

7. New Leave of Absence Laws



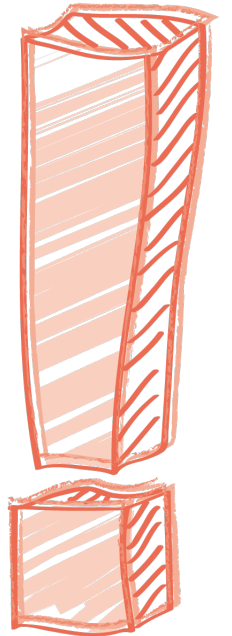
Agenda

- 8. Telework
- 7. Multi-State Harassment
- 8. DEI Spruce-Up
- 9. Lactation and Pregnancy Accommodation
- 10. Potpourri
- 11. Mandatory Handbook Policies
- 12. NOT in the Handbook
- 13. Acknowledgement of Receipt

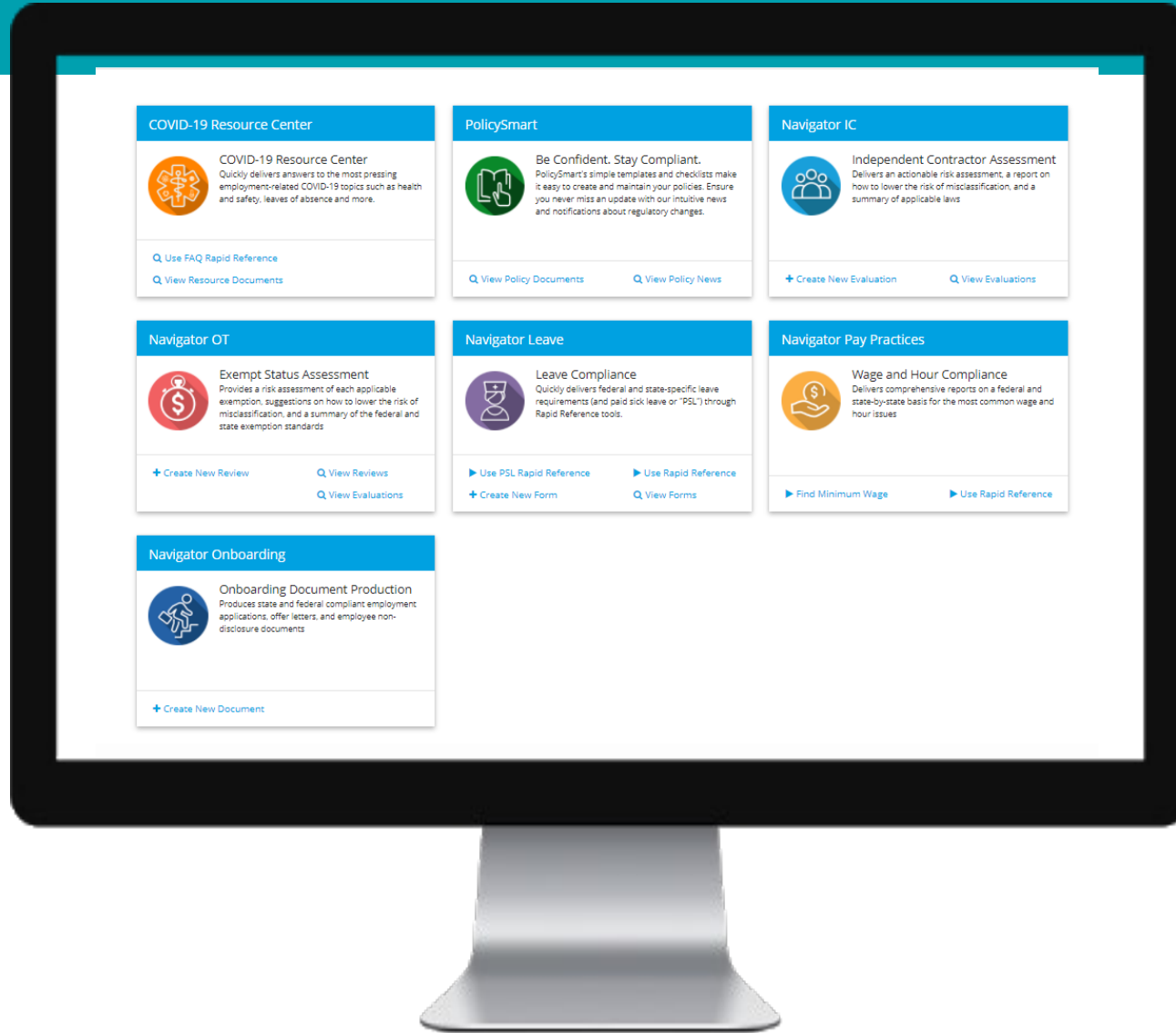


DISCLAIMERS!

- **This is a lot of information to cover!**
- So, we won't cover *everything*.
- Our discussion will emphasize what's new since last year. (Not "how to write a handbook").
- Many handbook issues are location-specific.
- Many of our slides have more words than usual!
- Finally, as always, this webinar does not substitute for advice of counsel!



Meet the Navigator Suite



Over 20 federal & state employee life-cycle management applications

Covers compliance in all 50 states & jurisdictions

Comprehensive engine of 10,000+ cases and federal & state regulations

11,000+ users and clients including Fortune 50 companies



- Comprehensive library of customizable federal and state specific model policies
- Innovative compliance timeline of important legal changes soon to take effect
- Access to jurisdiction-specific checklists
- Monthly automated emails with a summary and analysis of relevant legal documents

Effective Date Timeline

Jurisdiction	Effective Date
California	09/01/2020
Colorado	09/01/2020
	01/01/2021

Filter Timeline

Effective Within

- One Month 2
- Six Months 4
- One Year 4

Filter News

Select Jurisdiction

- Select All -

Requires Policy Update

- Select All -

PolicySmart

This application provides you with the tools of documents:

- A National Template
- State Supplements
- Policy Checklists
- State Guides

The **National Template** includes a number of traditional policies (e.g., EEO, Harassment, FMLA, Meal Breaks, Standards of Conduct), along with optional sample policies you can customize and provide to employees if they are relevant for your workforce and operations (e.g., Workplace Bullying, Holidays, Personal Appearance and Grooming).

There is a **State Supplement** to that National Template for every state and the District of Columbia. In the State Supplements you will find policies that carefully track state and locality-specific distinctions from those general, national policies. In the state materials, you will find addenda that identify the protected categories under state EEO laws, state-specific meal break, predictive scheduling, lactation accommodation and leaves of absence policies. We also provide policies tracking sick leave, lactation accommodation and predictive scheduling requirements for major municipalities, which are localities with 100,000 or more residents.

The State Supplement policies are drafted to comprehensively track statutory requirements, while also identifying places for customization. Throughout the templates, you will see comments intended for the policy drafter. These comments may explain why specific language appears, signal updates made within the last year or provide context or background information to help you customize the policy.



PolicySmart™ - Why Is It Important?

- Each of the states on this map had employment and labor law changes in 2021 between July and November.



- To receive a demo and free trial of the Navigator Suite, email freetrial@compliancehr.com or go to compliancehr.com/demo.



1. Covid in the Workplace

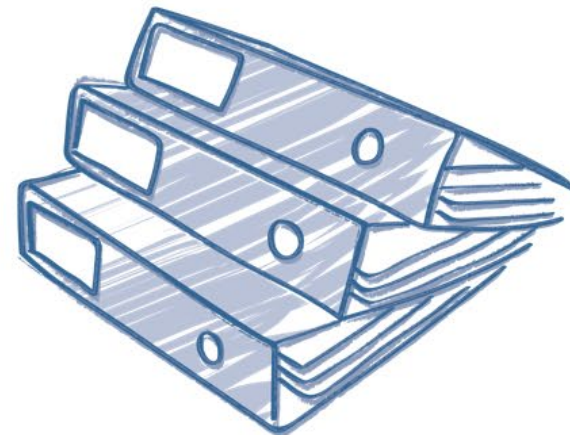
Bruce Sarchet

From Our 2020 Employee Handbook Update Webinar

From Our 2020 Employee Handbook Update Webinar

Benefits of Including COVID-19 Policies in the Handbook

- One-stop-shop for Company policies
- Single employee acknowledgment
- Puts COVID policies in context
- Opportunity to rethink “traditional” policies in light of COVID



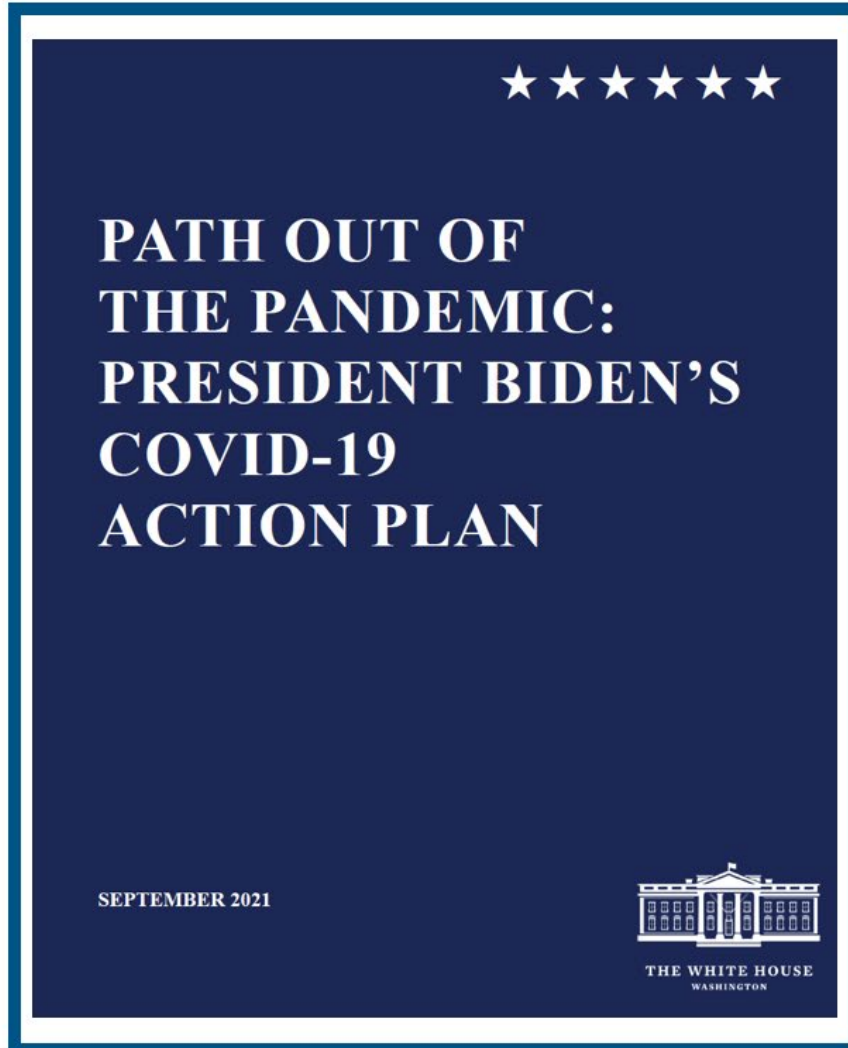
From Our 2020 Employee Handbook Update Webinar

Downsides to Using the Handbook to Convey COVID Policies?

- Pages, pages, pages
- Expiration dates
- Frequent changes
- Requirements and expectations are hyper-local
- (Least) favorite reading material
- Policy-specific acknowledgments



September 9, 2021



1. Vaccinating the Unvaccinated
2. Furthering Protection for the Vaccinated
3. Keeping Schools Safely Open
4. Increasing Testing and Requiring Masking
5. Protecting Our Economic Recovery
6. Improving Care for Those with COVID-19



November 4, 2021

The New York Times

The Biden administration sets a Jan. 4 vaccination deadline for private sector workers.

By Lauren Hirsch

Nov. 4, 2021, 8:46 a.m. ET

The Biden administration said on Thursday that large companies have until Jan. 4 to ensure that their workforces are fully vaccinated under a sweeping new coronavirus health measure that will cover 84 million private sector workers.

The plan was first announced in September by President Biden, who directed the Labor Department to invoke its emergency powers over the safety of workplaces to require businesses with 100 or more employees to mandate vaccinations for all employees. Workers who refuse to get vaccinated must undergo weekly testing.

Also on Thursday, the administration unveiled new emergency regulations for health care workers, including those at nursing homes caring for elderly and sick residents who are at high risk for infection. All 17 million workers at health care facilities receiving either Medicare or Medicaid funding must be vaccinated by Jan. 4.

November 4, 2021



This document is scheduled to be published in the Federal Register on 11/05/2021 and available online at [federalregister.gov/d/2021-23643](https://www.federalregister.gov/d/2021-23643), and on [govinfo.gov](https://www.govinfo.gov)

: 4510-26-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, 1917, 1918, 1926, and 1928

[Docket No. OSHA-2021-0007]

RIN 1218-AD42

COVID-19 Vaccination and Testing; Emergency Temporary Standard

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor

ACTION: Interim final rule; request for comments.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is issuing an emergency temporary standard (ETS) to protect unvaccinated employees of large employers (100 or more employees) from the risk of contracting COVID-19 by strongly encouraging vaccination. Covered employers must develop, implement, and enforce a mandatory COVID-19 vaccination policy, with an exception for employers that instead adopt a policy requiring employees to either get vaccinated or elect to undergo regular COVID-19 testing and wear a face covering at work in lieu of vaccination.



EMERGENCY TEMPORARY STANDARD

Frequently Asked Questions

Open/Close All

1. Paragraph (a) – Purpose

1.A. How is this ETS affected by State laws that prohibit or limit employers' authority to require employees to be vaccinated? ▾

1.B. Does the ETS preempt State or local requirements mandating face coverings in indoor public spaces, or that members of the public provide proof of vaccination or recent COVID-19 testing to enter restaurants, bars, or other public spaces? ▾

1.C. What are State Plans' obligations with respect to this ETS? ▾

1.D. What happens if a State with an OSHA-approved State Plan does not adopt the ETS or an "at least as effective" emergency rule within the 30-day timeframe required by OSHA's regulations? ▾

1.E. Could an employer implement additional measures to protect employees from COVID-19? ▾

Biden's Covid Shot-or-Test Rule Faces Incoming Wave of Lawsuits

- States waiting for Friday publication of rule
- Some challengers may have jumped the gun

By Robert LaFolla / November 4, 2021 03:52PM ET / Bloomberg Law

Arizona, Florida, and Missouri have vowed to sue the Biden administration Friday to block an emergency rule mandating workplace Covid-19 vaccination or testing, with more lawsuits expected from Republican-led states and industry groups.

Attorneys general in those three states said they'll file lawsuits early Friday, when the rule is officially published and will take effect. Ohio's attorney general also has pledged to challenge the regulation in court. Alabama and Georgia are expected to join Florida's suit.

"We will be on file first thing tomorrow morning to halt this illegal, unconstitutional attempt by the Biden Administration and the federal government to impose their will on thousands of Missouri businesses and millions of Missourians," Missouri Attorney General Eric Schmitt said in a statement.

November 12, 2021

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

November 12, 2021

No. 21-60845

Lyle W. Cayce
Clerk

BST HOLDINGS, L.L.C.; RV TROSCLAIR, L.L.C.; TROSCLAIR
AIRLINE, L.L.C.; TROSCLAIR ALMONASTER, L.L.C.;
TROSCLAIR AND SONS, L.L.C.; TROSCLAIR ; TROSCLAIR,
INCORPORATED; TROSCLAIR CARROLLTON, L.L.C.; TROSCLAIR
CLAIBORNE, L.L.C.; TROSCLAIR DONALDSONVILLE, L.L.C.;
TROSCLAIR HOUMA, L.L.C.; TROSCLAIR JUDGE PEREZ, L.L.C.;
TROSCLAIR LAKE FOREST, L.L.C.; TROSCLAIR MORRISON,
L.L.C.; TROSCLAIR PARIS, L.L.C.; TROSCLAIR TERRY, L.L.C.;
TROSCLAIR WILLIAMS, L.L.C.; RYAN DAILEY; JASAND
GAMBLE; CHRISTOPHER L. JONES; DAVID JOHN LOSCHEN;
SAMUEL ALBERT REYNA; KIP STOVALL; ANSWERS IN GENESIS,
INCORPORATED; AMERICAN FAMILY ASSOCIATION,
INCORPORATED; BURNETT SPECIALISTS; CHOICE STAFFING,
L.L.C.; STAFF FORCE, INCORPORATED; LEADINGEDGE
PERSONNEL, LIMITED; STATE OF TEXAS; HT STAFFING,
LIMITED; DOING BUSINESS AS HT GROUP; THE STATE OF
LOUISIANA; COX OPERATING, L.L.C.; DIS-TRAN STEEL,
L.L.C.; DIS-TRAN PACKAGED SUBSTATIONS, L.L.C.; BETA
ENGINEERING, L.L.C. OPTIMAL FIELD SERVICES, L.L.C.; THE
STATE OF MISSISSIPPI; GULF COAST RESTAURANT GROUP,
INCORPORATED; THE STATE OF SOUTH CAROLINA; THE STATE
OF UTAH; WORD OF GOD FELLOWSHIP, INCORPORATED, DOING
BUSINES AS DAYSTAR TELEVISION NETWORK,

Petitioners,

versus

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION,
UNITED STATES DEPARTMENT OF LABOR; UNITED STATES

November 12, 2021

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit
FILED

For these reasons, the petitioners' motion for a stay pending review is GRANTED. Enforcement of the Occupational Safety and Health Administration's "COVID-19 Vaccination and Testing; Emergency Temporary Standard"²² remains STAYED pending adequate judicial review of the petitioners' underlying motions for a permanent injunction.²³

In addition, IT IS FURTHER ORDERED that OSHA take no steps to implement or enforce the Mandate until further court order.

PC1343

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION,
UNITED STATES DEPARTMENT OF LABOR; UNITED STATES

The Court's Reasoning

- This is not an “emergency” as defined in the OSHA statute.
- OSHA previously announced that there was no emergency re COVID
- There is no relationship between the hazard and the remedy -- why are 99 employees in close quarters in greater danger than 100?

What Does This Mean?

- OSHA cannot now enforce the ETS.
- Further court challenges are on the way, it is possible that the ETS could be reinstated in the future.
- If the ETS is reinstated, it is highly likely that the prior initial deadline of December 5 will be extended by OSHA.

Fed-OSHA ETS?

- Applies to employers with at least 100 employees.
- Employer must adopt mandatory vaccination policies.

December 5, 2021? See FAQ # 12.A.

Requirement	30 days after publication	60 days after publication
Establish policy on vaccination (paragraph (d))	X	
Determine vaccination status of each employee, obtain acceptable proof of vaccination, maintain records and roster of vaccination status (paragraph (e))	X	
Provide support for employee vaccination (paragraph (f))	X	
Ensure employees who are not fully vaccinated are tested for COVID-19 at least weekly (if in the workplace at least once a week) or within 7 days before returning to work (if away from the workplace for a week or longer) (paragraph (g))		X
Require employees to promptly provide notice of positive COVID-19 test or COVID-19 diagnosis (paragraph (h))	X	
Remove any employee who received positive COVID-19 test or COVID-19 diagnosis (paragraph (h))	X	
Ensure employees who are not fully vaccinated wear face coverings when indoors or when occupying a vehicle with another person for work purposes (paragraph (i))	X	
Provide each employee information about the ETS; workplace policies and procedures; vaccination efficacy, safety and benefits; protections against retaliation and discrimination; and laws that provide for criminal penalties for knowingly supplying false documentation (paragraph (j))	X	
Report work-related COVID-19 fatalities to OSHA within 8 hours and work-related COVID-19 in-patient hospitalizations within 24 hours (paragraph (k))	X	
Make certain records available (paragraph (l))	X	

Two Policy Options

1. Everyone must be vaccinated. If you have a religious or medical exemption, submit to weekly testing.
2. Everyone must be vaccinated. If you are not vaccinated for any reason, submit to weekly testing.

Note: It seems that 100% remote work may be the only way to avoid testing.

Note: Mandatory masking.

Note: Federal Contractors and Health Care – other rules may apply.

But For Now...

- Probably ok to enjoy Thanksgiving, while the courts are sorting this out.



COVID Vaccination Leave of Absence

- **LA County Ordinance 21-3180:** Paid leave to get vaccinated.
- **Chicago Ordinance 02021-1219:** No retaliation against employee who takes time off to get vaccinated.
- **Cook County Ordinance 21-3171:** Time off to get vaccinated.
- **Nevada SB 209 (BDR 953):** Mandatory paid time off law includes leave to get vaccinated.
- **New York AB 3354 (SB 2588):** Four hours paid leave to get vaccinated.

COVID Vaccination Leave of Absence

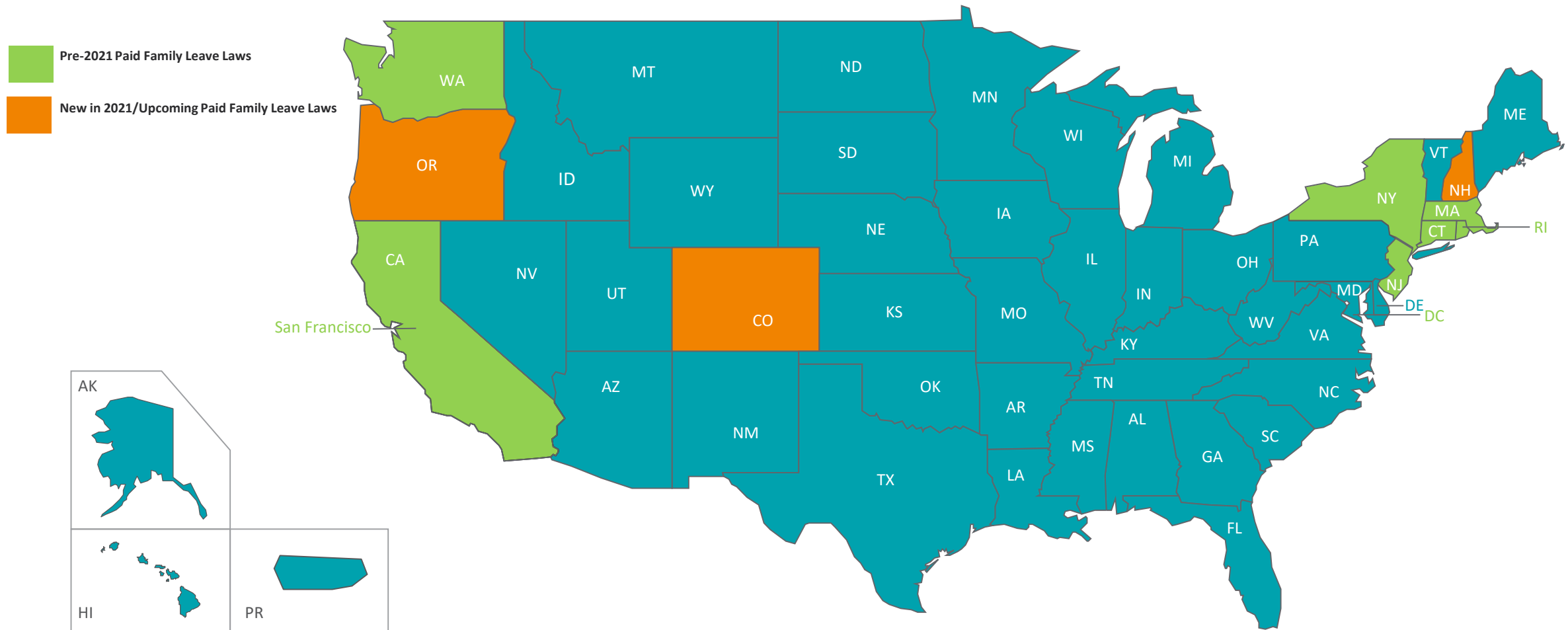
- **Pittsburgh Ordinance No. 2021-1721:** Mandatory paid time off law includes leave to get vaccinated.
- **The D.C. City Council passed COVID Vaccination Leave**—it is awaiting the Mayor's signature, which is expected.
- **NOTE:** Just like vaccines, check the expiration date!
 - Philadelphia – expired June 17, 2021
 - Daly City – expired July 8, 2021
 - And so on...



2. Paid Family and Medical Leave

Jennifer E. Savion

Paid Family and Medical Leave Programs



Paid Family and Medical Leave Programs

Covered Reasons

- All cover family member care **and** bonding with new child
- Some cover employee illness, although some states have a separate statutory disability program for self
- Some cover family military events under FMLA

States with Programs

- CA, NJ, NY, RI, WA, DC, MA
- CT Contributions began 1/1/21; Benefits effective on 1/1/22
- OR effective 9/3/23; contributions start 1/1/23
- CO effective 1/1/24; contributions start 1/1/23
- NH: Benefits effective 1/1/23: Mandatory for state employees; voluntary for private.

Plan Structure

- Statutory insurance programs that are administered by the state or an insurance company
- Some states added paid family leave to a statutory disability program
- Other states adopted paid family and medical leave programs and built them off of unemployment or workers' compensation programs

NH Family and Medical Leave Insurance (FMLI):

Benefits start 1/1/2023

- **Covered Employers**
 - Mandatory for state employees; voluntary for private
 - Over 50 employees must permit employees who have opted into the plan to use payroll deductions to pay for the plan and remit payments to the state.
- **Up to 6 weeks a year of paid leave at 60% of wages for:**
 - Bonding with newly born/adopted/foster child
 - Care for an employee's spouse, child, or parent with a serious health condition or who is in the military
 - A personal serious health condition not related to employment IF the employer does not offer STD insurance
- **Policy not required to appear in Handbook**

Oregon Paid Family And Medical Leave

Benefits Start 9/3/2023

- **Employer Coverage**
 - 25 or more employees in Oregon. If fewer than 25 employees in Oregon, may make payroll contributions to the fund. If so, may apply for a state-funded grant for reimbursement for some of their contribution.
- **Up to 12 weeks of leave (14 if disabled due to pregnancy) at 100% average weekly wage on sliding scale for:**
 - Bonding
 - Care for an employee's family member with a serious health condition
 - Employee's own serious health condition
 - Safe leave for victims of domestic violence, harassment, stalking or sexual assault
- **Not specifically required to appear in Handbook, but notice requirements apply**

Colorado Paid Family And Medical Leave

Benefits Start 1/1/2024

- **Employer Coverage**
 - One or more employees during each of 20 or more calendar workweeks in the current or immediately preceding calendar year. Self-employed and local gov't employees can opt in. Less than 10 employees do not pay employer portion of premium.
 - Excludes federal government; local government can opt out.
- **Up to 12 weeks (16 if employee disabled due to pregnancy) at 90% state average weekly wage for:**
 - Bonding
 - To care for an employee's family member with a serious health condition
 - Employee's own serious health condition
 - Safe leave for victims of domestic violence, stalking or sexual assault
 - Qualifying military events related to a family member on (or called to) active duty
- **Not specifically required to appear in Handbook**

States with Separate Disability Insurance Programs

- California
- Hawaii (no PFML)
- New Jersey
- New York
- Rhode Island (no PFML)





3. Parental Leave

Jennifer E. Savion

Polling Question

Has your company implemented a Paid Parental Leave Policy in past 2 years, or currently have plans to do so?

1. Yes

2. No

What **NOT** to Do

- Background
 - EEOC position
- Primary v. Secondary Caregiver
 - **Risks**
- Bonding Leave where STD runs concurrent for birthing parents
 - **Risks**

Outline of Paid Parental Leave Policy (PPL)

- **Post-Partum Disability**
 - Provides paid medical leave to employees who give to recover from childbirth
 - Typically, 6-8 weeks paid leave at 100% pay
 - Coordination with STD
- **Bonding Leave**
 - Provides leave to all eligible employees under policy to bond with their newly born child or child placed with employee for adoption or foster care
 - Company can choose number of weeks at its option
 - Coordination with State PFML laws

Sample Paid Parental Policy (PPL)

- Time runs concurrently with FMLA, PFML laws and STD programs
- **Require** employees to apply for any State and Company benefits programs: PFML; STD
- Leave must be taken within 12 months after birth
 - If not requiring employees to apply for benefits; must adjust this period to avoid stacking

Sample Paid Parental Policy (PPL)

- May provide PPL leave cannot be taken intermittently, or in large increments, such as 2 weeks
- Notice to Company 30 days prior to leave
- Important Legal Disclaimer stuff!



4. Mandatory Paid Leave

Bruce Sarchet

New Paid Leave Laws

- **West Hollywood, CA –**
 - 96 hours of paid leave/year and 80 hours of unpaid leave/year
 - Effective 1/1/2022 for hotel employers; 7/1/2022 for others
- **Allegheny County, PA (26+ employees)**
 - 1:35; 40 hour accrual/carryover/use caps; no waiting period for use
 - Effective date TBD
- **New Mexico**
 - 1:30; 64 hour accrual and use cap; no waiting period for use
 - Effective date 7/1/2022

Amended Paid Sick Leave Laws

- **Chicago, IL** – Revisions to covered uses, including obeying state-at-home or quarantine order
- **Duluth, MN** – Amended to provide for use when employees lose work hours when their place of employment closes for public health reasons; requires copy of policy in handbook and display of poster or provision of notice
- **Oregon** – Temporary expansion of covered uses during public health emergency; expires 1/17/2022



5. Unlimited PTO

Bruce Sarchet

Attractive Option for Certain Employers

- “We’re more worried about burnout than attendance.”
- “We don’t need face time to measure performance. We have objective measures of productivity (e.g., billable hours, sales).”
- “No one records their time off anyway, and we need to get these big balances off of our books.”*
- “We can’t keep up with all of these sick leave rules. We’d rather just let employees take whatever time they need.”*
- “Everybody’s doing it.”*
- ***NOT SO FAST!**

Risks of Unlimited or Flex PTO/Vacation Policies

- Risk that Company may be required pay out at termination
- States that require pay out of accrued vacation/PTO:

ALASKA	CALIFORNIA
COLORADO	LOUISIANA
ILLINOIS	MONTANA
MASSACHUSETTS	NORTH DAKOTA*
NEBRASKA	RHODE ISLAND (EMPLOYED OVER 1 YEAR)
NEW MEXICO	

Risks of Unlimited or Flex PTO/Vacation Policies

- Risk employees will use it **to be paid** during FMLA, state family leave, or other leave laws that permit use of accrued vacation/PTO during unpaid leave
- Risk if mandatory Paid Sick and Safe Time Law applies and using to cover sick time

Risks of Unlimited PTO and USERRA

- **USERRA** - Up to 5 YEARS of protected leave to serve in the Uniformed Services
- **EXPRESSLY** permits employees to use their vacation/PTO time to receive pay during military leave...

ARE YOU THINKING WHAT I'M THINKING?



6. USERRA and Other Military Leaves

Jennifer E. Savion

USERRA Amendment

- Effective 1/5/2021, “uniformed services” include:
 - state active duty for 14 or more days; and
 - state active duty in response to a national emergency or major disaster declared by the president.

Not New: USERRA's Comparable Leave Requirement

- Non-seniority-based benefits must be provided to employees on military leave if provided to employees with similar seniority, status, and pay on comparable nonmilitary leaves of absence
- Leaves are considered “comparable” by examining such factors as the duration of the leave, purpose of the leave, and the ability of the employee to choose when to take the leave

**Employer to Employee
on Military Leave:**
“Nothing compares . . .
TO YOU!”



**Employer to Employee
on Military Leave:**
“Nothing compares . . .
TO YOU!”

Employee:
“Oh yeah? What about
my colleagues on *paid*
bereavement or jury
leave?”

Other Military Leave Developments

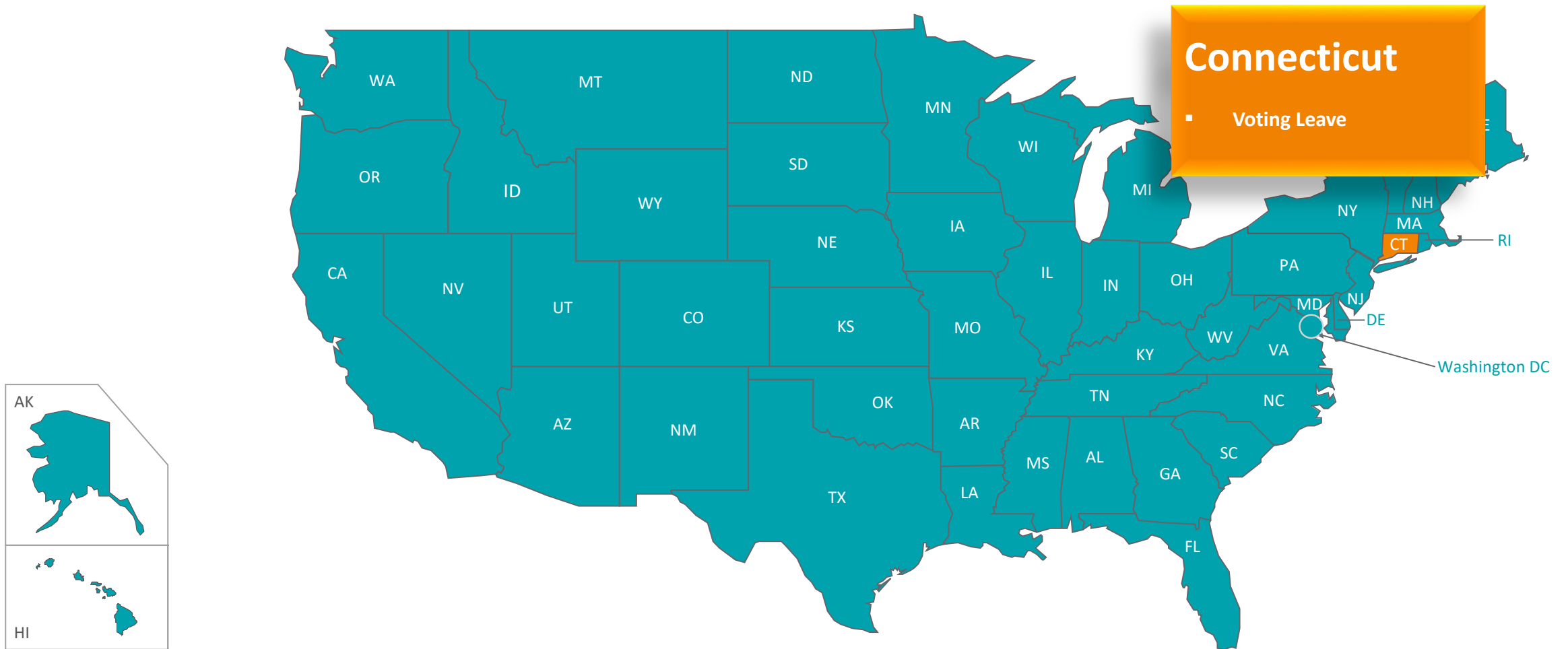
1. **Iowa** – expanded to cover regular, reserve, or auxiliary members of the United States Coast Guard
2. **Montana** – amended to clarify that protections apply whether service is voluntary or involuntary
3. **Oklahoma** – new military leave law
4. **Oregon** – amended to exempt certain voluntary service in uniformed service from the five-year limit
5. **Pennsylvania** – amended to clarify that the protections also apply to an individual who is a member of a National Guard or reserve component from another state
6. **Tennessee** – amended to provide protections equivalent to USERRA
7. **Vermont** – military leave law amended to no longer limit leave to 15 days



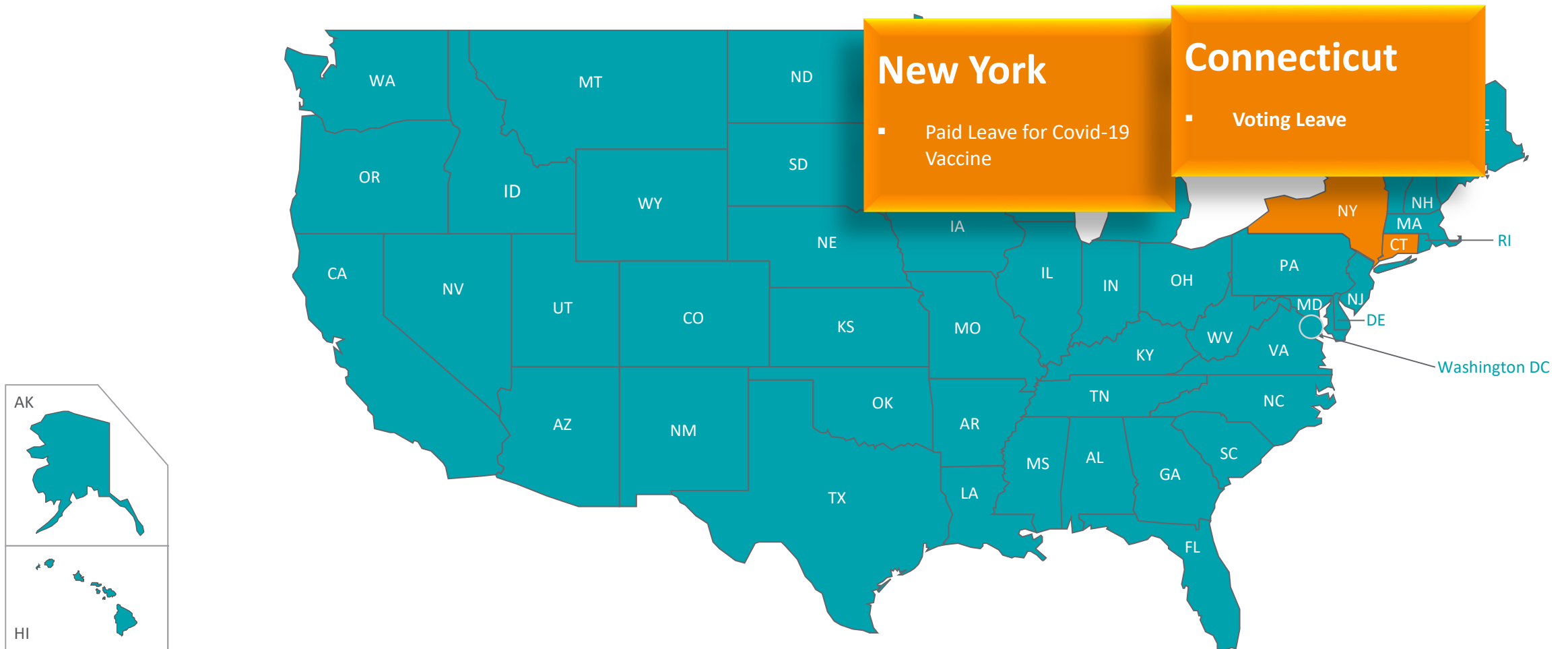
7. New Leave of Absence Laws

Natasha L. DeCourcy

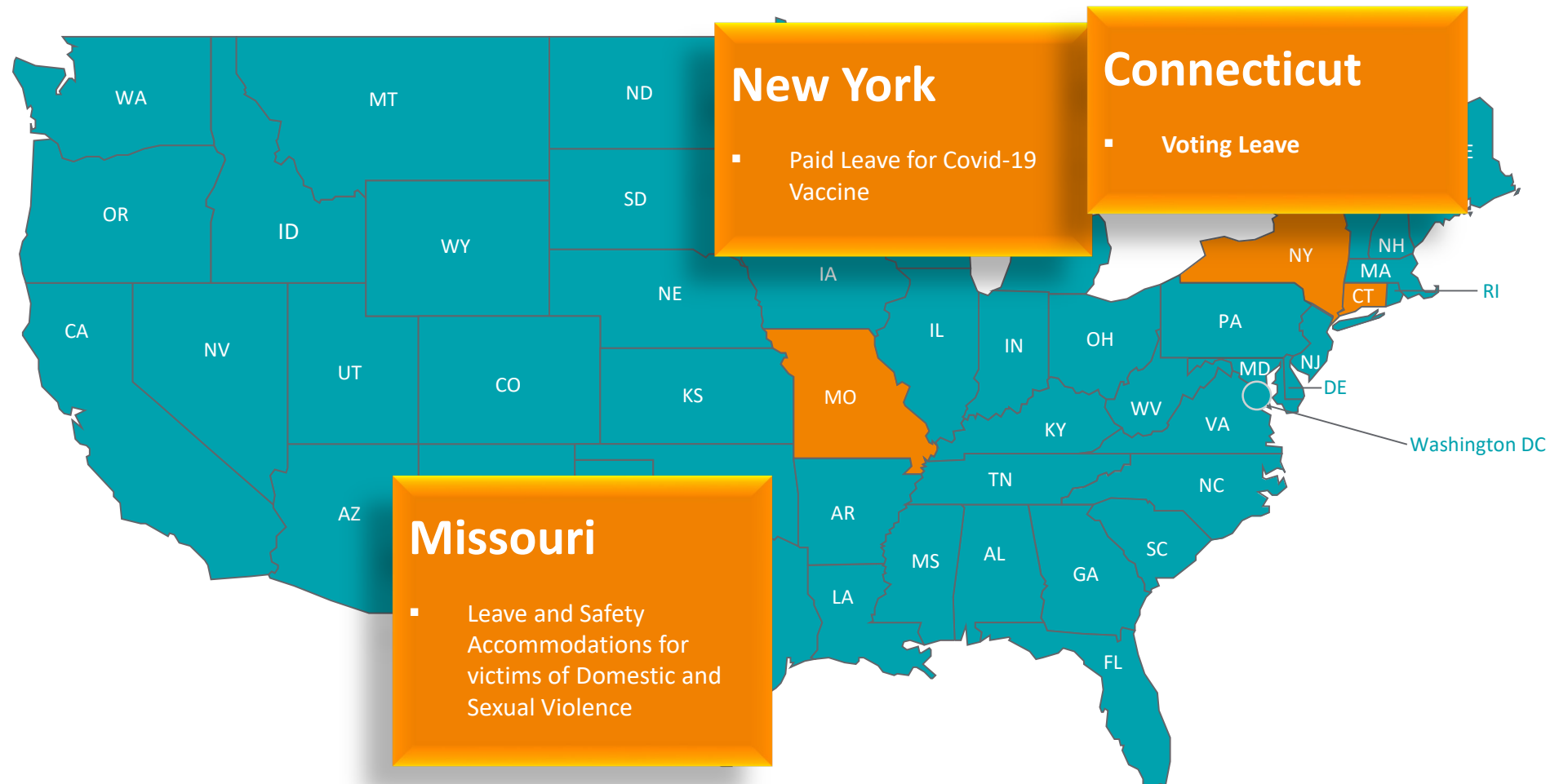
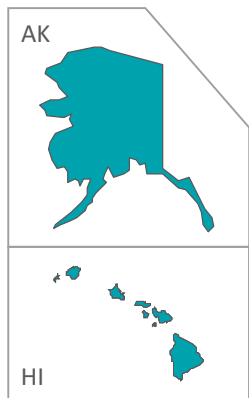
New Leave Laws We Haven't Covered



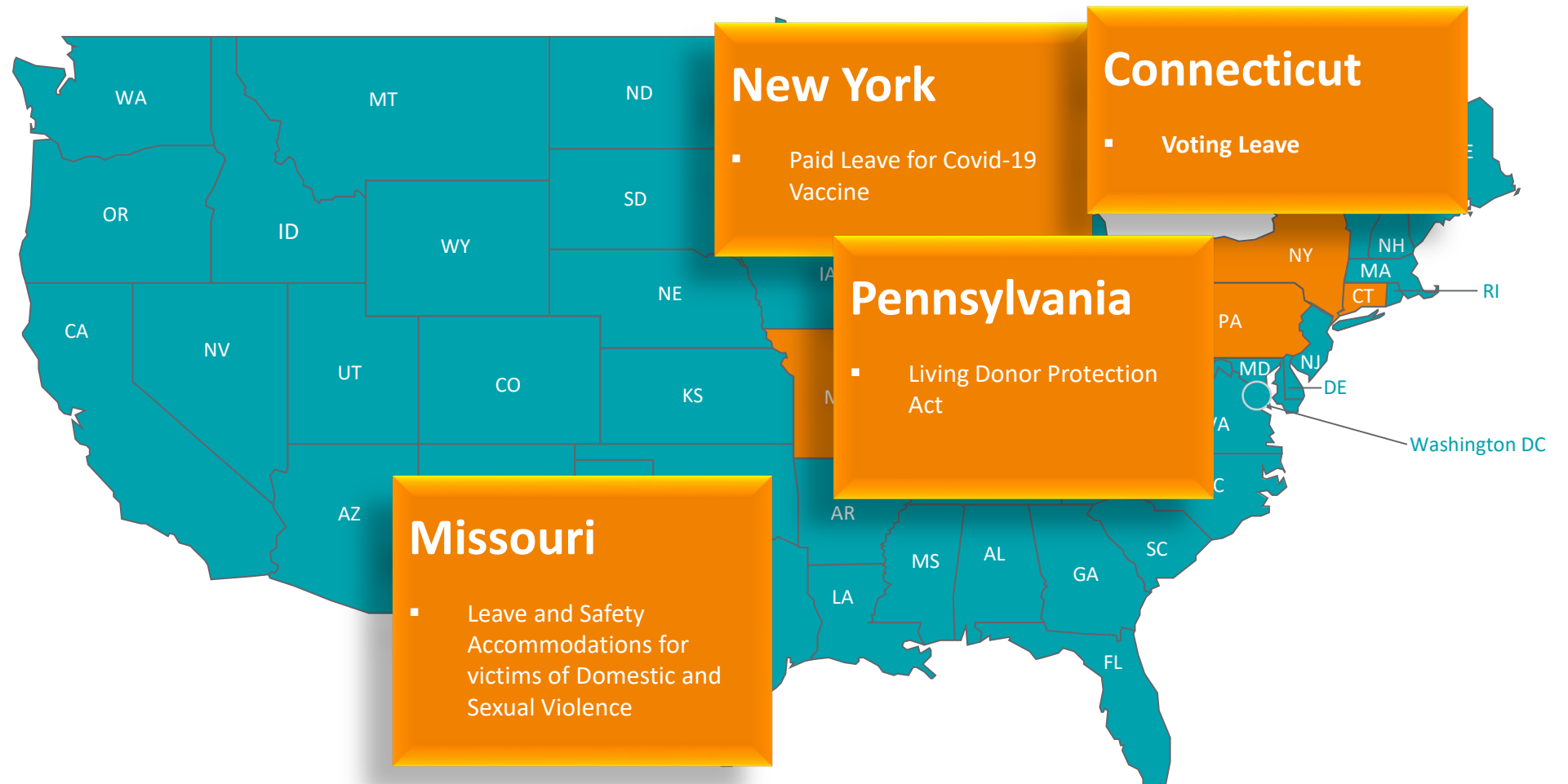
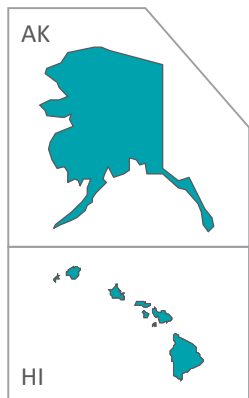
New Leave Laws We Haven't Covered



New Leave Laws We Haven't Covered



New Leave Laws We Haven't Covered



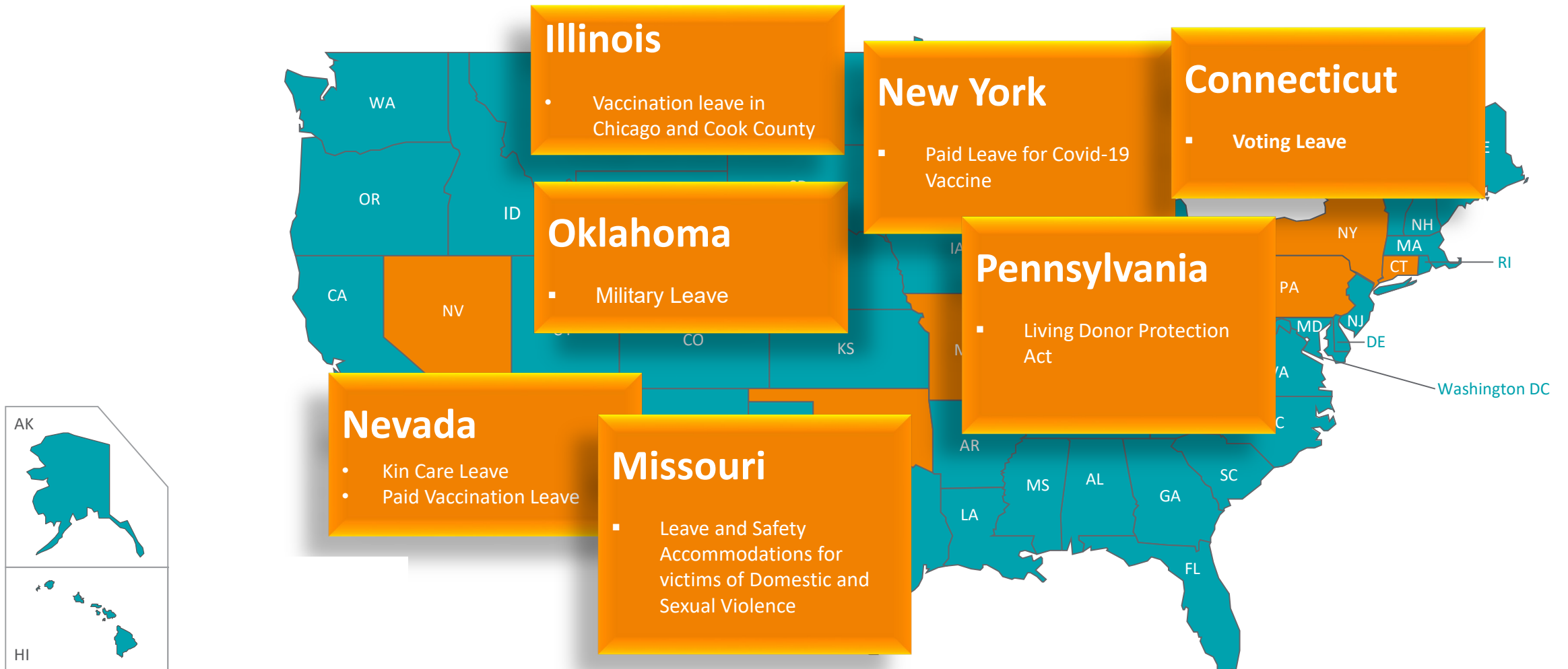
New Leave Laws We Haven't Covered



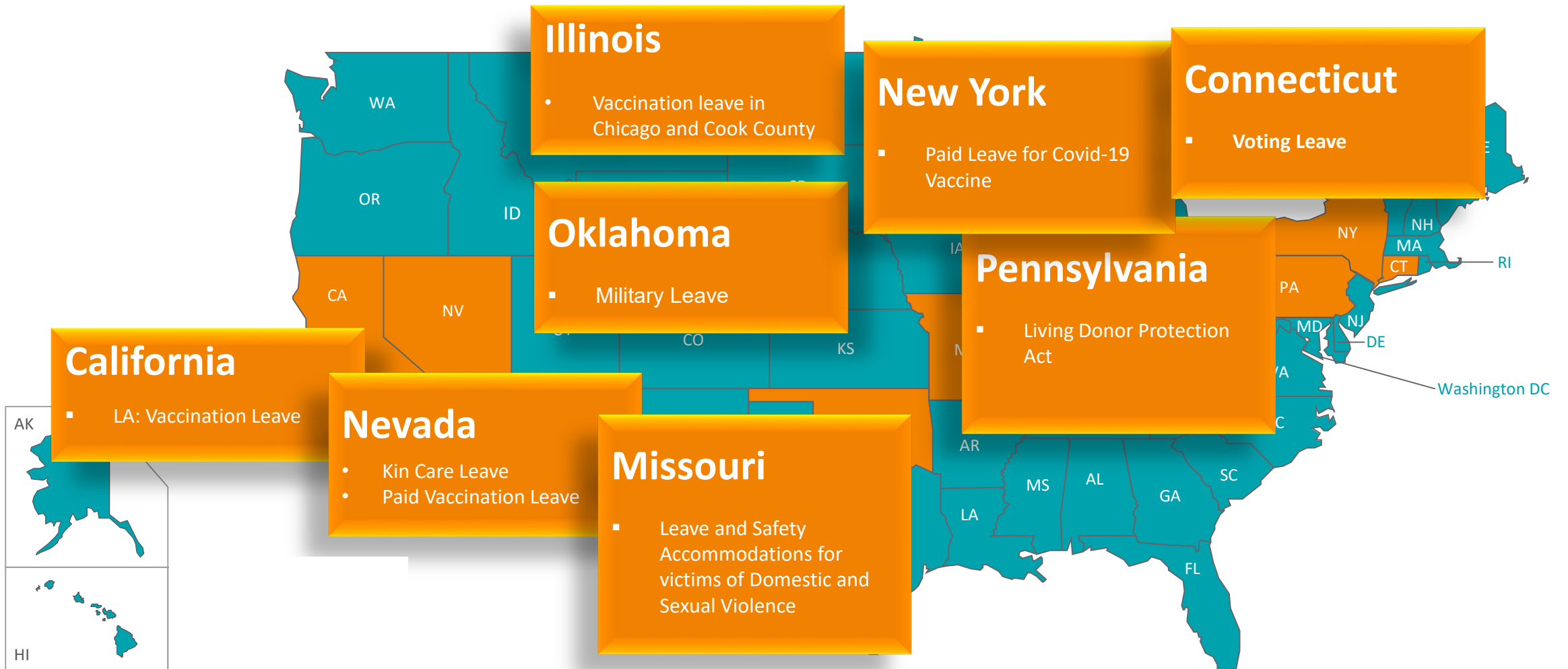
New Leave Laws We Haven't Covered



New Leave Laws We Haven't Covered



New Leave Laws We Haven't Covered





8. Telework

Bruce Sarchet

Non-Exempt Employees Working From Home.

10 Things to do every workday.

1. Don't work until you clock in.
2. Clock in.
3. Take your morning break. (but don't clock out or back in)
4. Clock out for lunch.
5. Clock back in after lunch.
6. Take your afternoon break. (but don't clock out or back in)
7. Get prior permission before working overtime.
8. Clock out.
9. Don't work after you clock out.
10. Oh, and don't forget to work in between each of these things.

Exempt Employees Working From Home

- Clock in, schmlock in, we don't care. Do your laundry if you like at 9:00 a.m., just get your work done.
- But – you may need to double check exempt status – outside sales – working from home.
- **Big concern:** expense reimbursement (but this is a concern for non-exempt, as well).



Who Pays For What?



[REDACTED] & [REDACTED] LLP

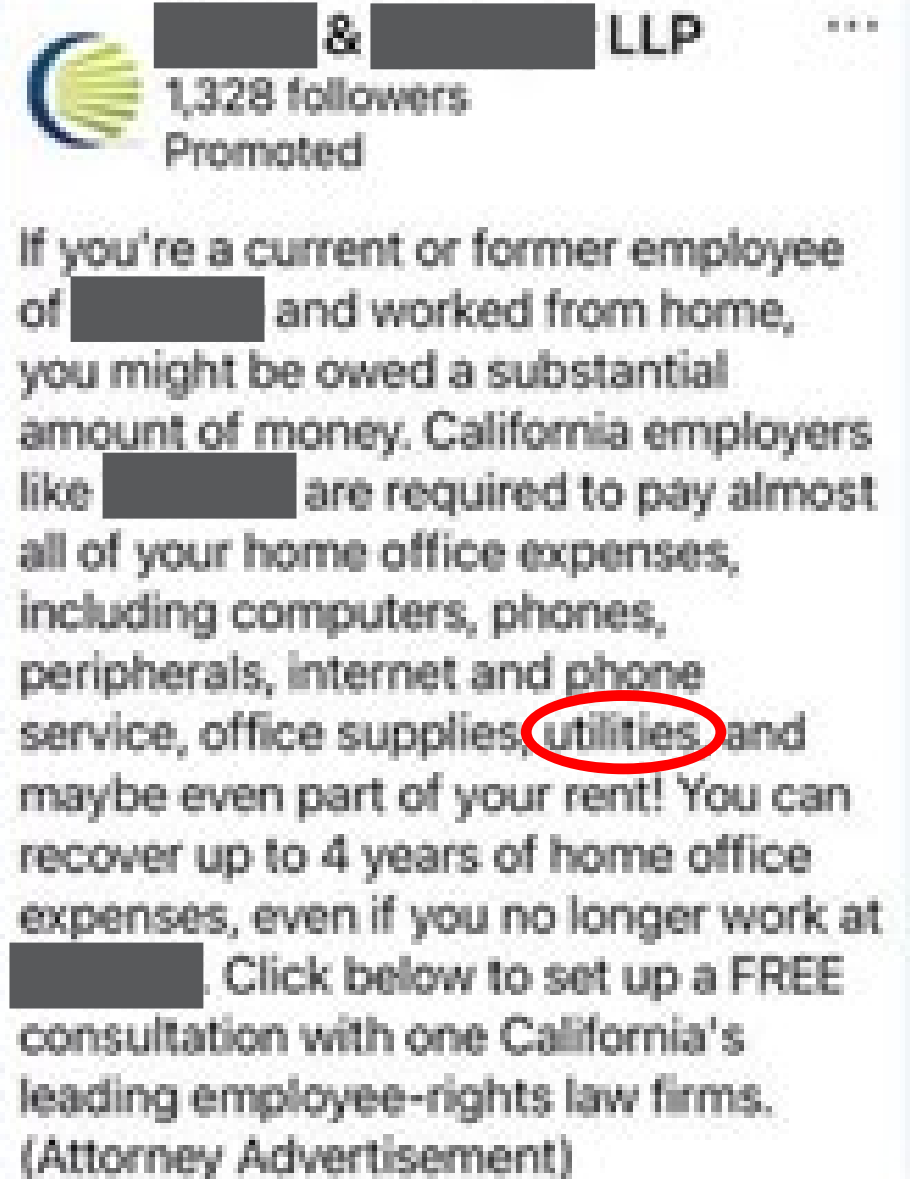
1,328 followers

Promoted


...

If you're a current or former employee of [REDACTED] and worked from home, you might be owed a substantial amount of money. California employers like [REDACTED] are required to pay almost all of your home office expenses, including computers, phones, peripherals, internet and phone service, office supplies, utilities, and maybe even part of your rent! You can recover up to 4 years of home office expenses, even if you no longer work at [REDACTED]. Click below to set up a FREE consultation with one California's leading employee-rights law firms. (Attorney Advertisement)

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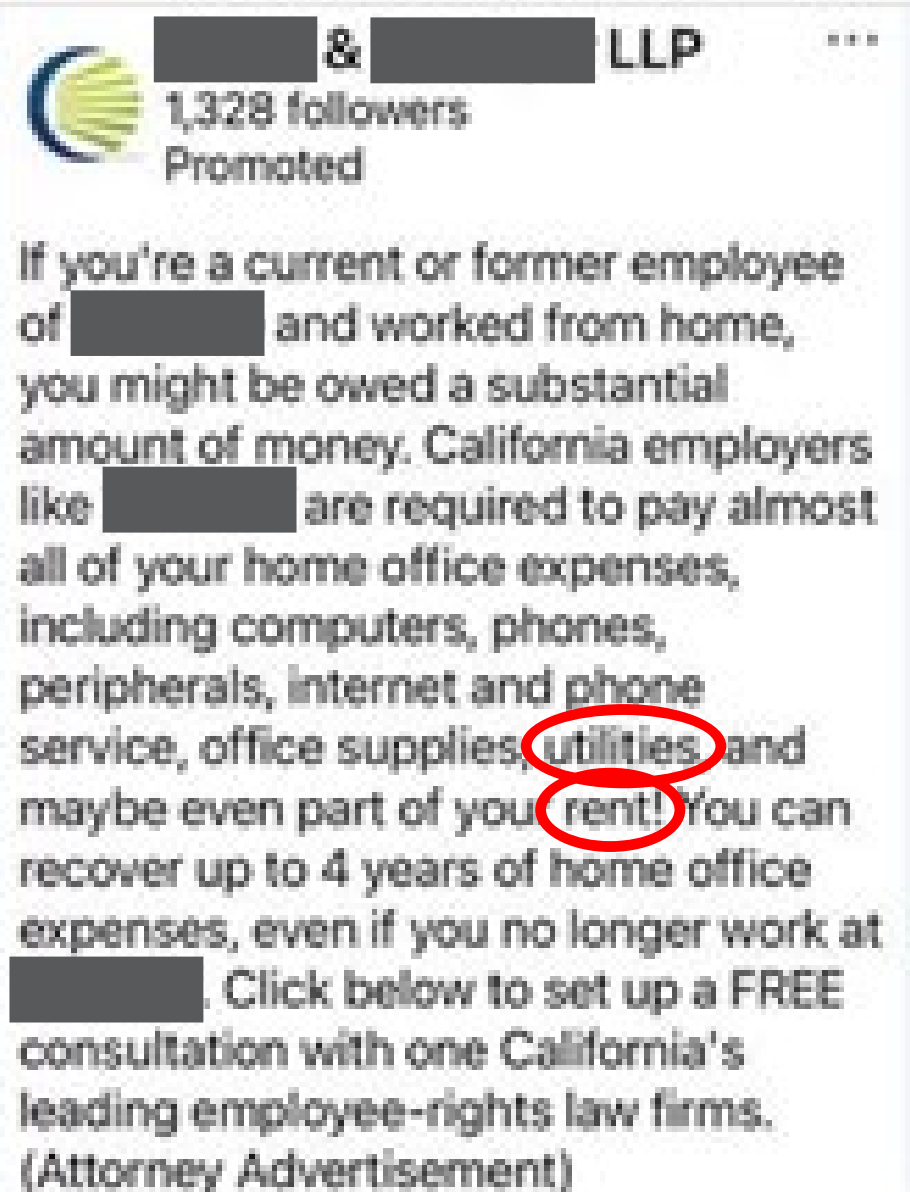


The screenshot shows a Facebook post from a law firm. The profile picture is a yellow sun-like logo. The name is redacted with a black box, followed by "& [redacted] LLP". It shows "1,328 followers" and is marked as "Promoted". The text of the post discusses home office expenses for California employees, with the word "utilities" circled in red. The post ends with a call to action for a free consultation.


 [redacted] & [redacted] LLP ...
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The screenshot shows a Facebook post from a law firm. The profile picture is a yellow and blue circular logo. The name is redacted with a black box, followed by "& [redacted] LLP". It has 1,328 followers and is marked as "Promoted". The text of the post discusses California employers' obligations for home office expenses, with "utilities" and "rent" circled in red. The post ends with a call to action for a free consultation.

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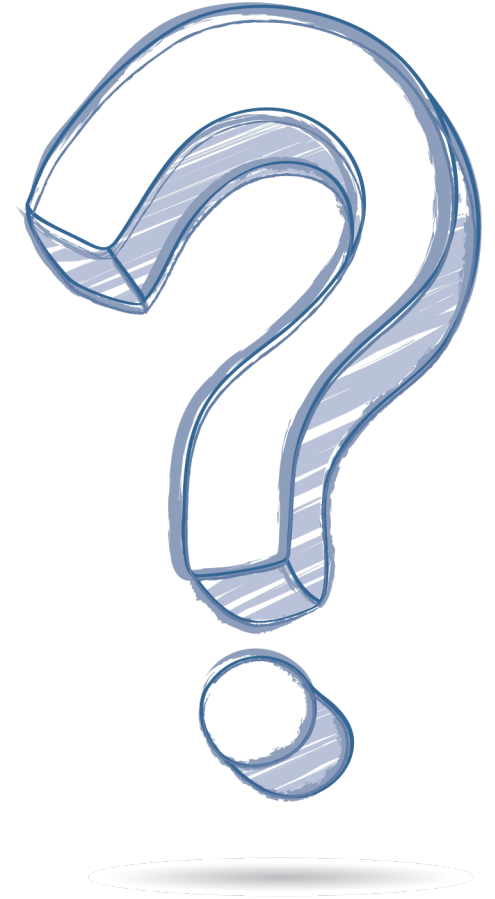
The Home Office – Other Considerations

- Notices and postings.
- Workplace Safety.
- Trade Secrets and Confidential Information.
- Workers' Compensation.



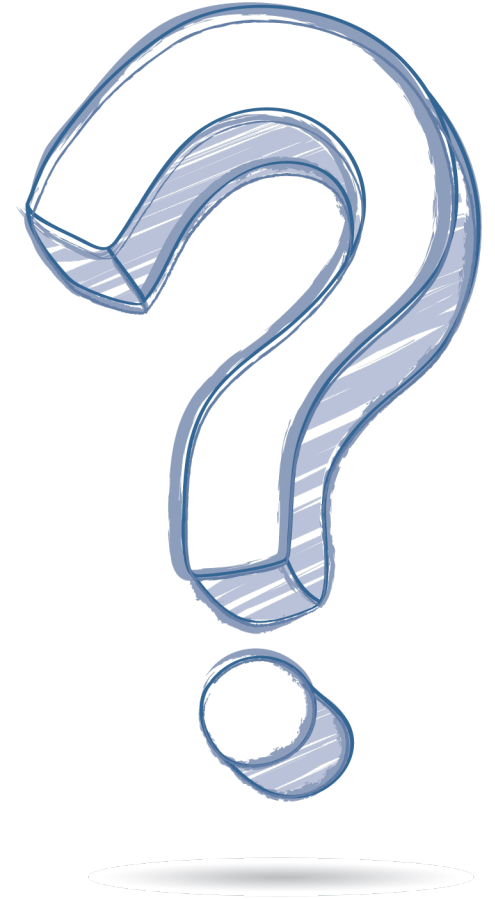
What Happens When...

- Your employee is working from home,
- But their “home” is in a different **city** from their place of work?



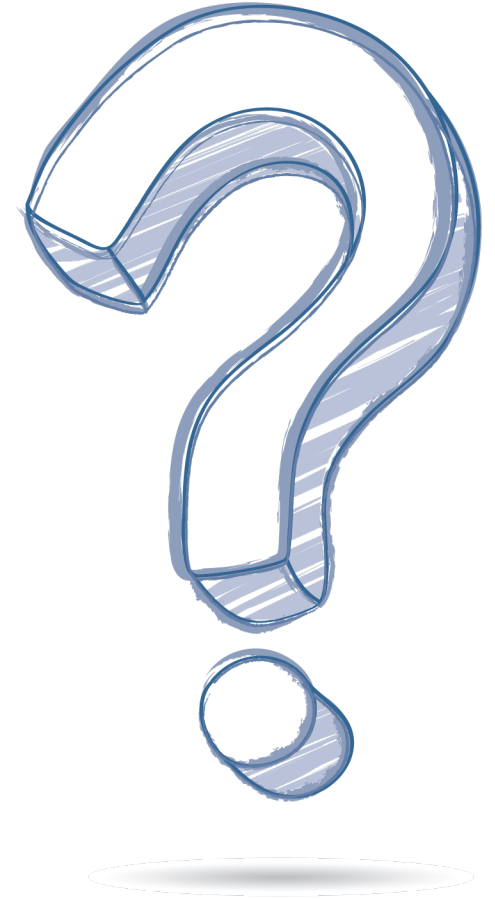
What Happens When...

- Your employee is working from home,
- But their “home” is in a different **city** from their place of work?
- Or in a different **state**?



What Happens When...

- Your employee is working from home,
- But their “home” is in a different **city** from their place of work?
- Or in a different **state**?
- Or in a different **country**?



What Happens When...


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- Or on a different **planet**?



Suggestions

- One workplace per day.
- Have a written telework agreement, signed by the employee, which addresses all of these complex issues.
- And now a word from our sponsor:

Suggestions

- One workplace per day.
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Suggestions

- One workplace per day.
- Have a written telework agreement, signed by the employee, which addresses all of these complex issues.
- And now a word from our sponsor: **Littler**
- Littler has a Remote Work Package (aka our “Telework Toolkit”).



9. Multi-State Harassment

Jennifer E. Savion

Outline of National Harassment Policy

- Federally Protected Categories
- Includes conduct that does not rise to the level of “Unlawful”
- Examples of Sexual Harassment

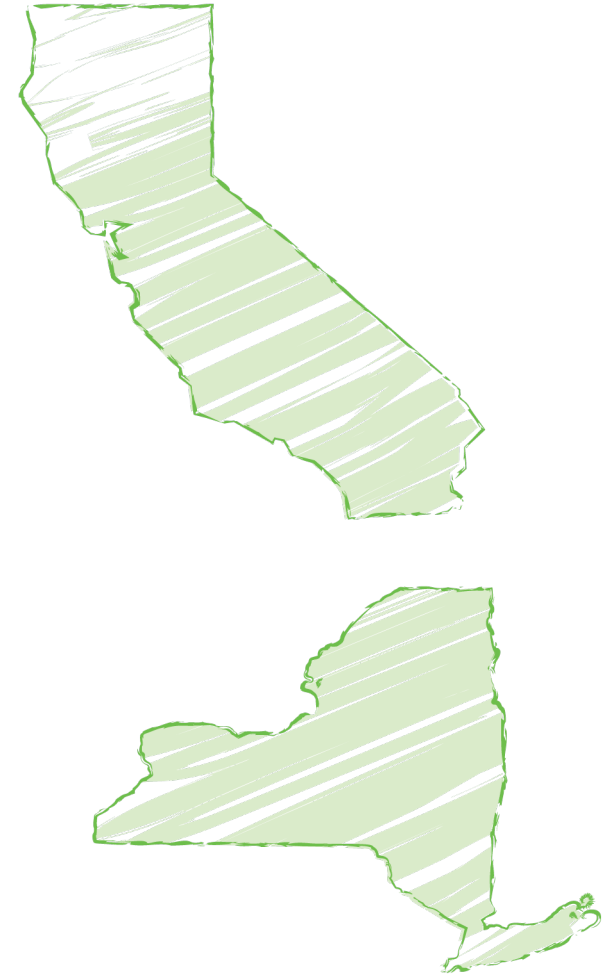
Outline of National Harassment Policy

- Examples of “Other” types of Harassment
- No Retaliation
- Complaint Procedure
 - **STATE NUANCES:** NY, CA and Other States that require address/phone/email of contact



Outline of National Harassment Policy

- Investigation
 - **STATE NUANCES:** NY, CA
- Discipline
 - **STATE NUANCES:** NY
- Good Faith Complaints



Outline of National Harassment Policy

States that require additional language for state agencies/ other special language

CALIFORNIA	D.C. (IF TIPPED EMPLOYEES)
CONNECTICUT	ILLINOIS
MAINE	MASSACHUSETTS
NEW YORK	OREGON
RHODE ISLAND	TENNESSEE (ABUSIVE CONDUCT)
VERMONT	WASHINGTON (IF EMPLOYEES WORKING IN HOTEL, RETAIL, SECURITY GUARD ENTITY, OR PROPERTY SERVICES)

Acknowledgment of *Sexual and Other Unlawful Harassment Policy*
(Revised _____)

- I acknowledge that I have reviewed, understand and agree to comply with the **[Company Name]** *Sexual and Other Unlawful Harassment Policy*.
- I fully understand my responsibility as an employee is to comply with this Policy and that failure to follow this Policy is cause for disciplinary action, up to and including, termination.
- I further acknowledge that I have reviewed and understand the Complaint Procedure for reporting complaints or concerns under this Policy.

Employee or Intern

Sign Name

Print Name

Date

Maintain a signed copy of this policy for yourself and return a signed copy to Human Resources



10. Lactation and Pregnancy Accommodation

Natasha L. DeCourcy

New Since Last Year

- **Connecticut** – amendments impose additional requirements for lactation room or other location
- **Indiana** – new law allows employees to request pregnancy accommodation and requires employers to respond within a reasonable timeframe; protection from discrimination and retaliation
- **Louisiana** – law amended to clarify that "reasonable period of time" for pregnancy leave law means 6 weeks for a normal pregnancy/childbirth or the period of disability, up to four months
- **Minneapolis** – pregnancy and lactation accommodation law amended to require that lactation breaks be paid, apply pregnancy accommodation requirements to employers with 15 or more employees, and eliminate length of service and hours worked requirements for eligibility



11. Potpourri

Natasha L. DeCourcy

Protected Categories – Race and Hairstyle Discrimination

- **Connecticut** – race defined to include traits historically associated with race, such as hair texture and protective hairstyles, such as wigs, headwraps, braids, cornrows, locs, twists, Bantu knots, afros and afro puffs
- **Delaware** – race defined to include traits historically associated with race, such as hair texture and a protective hairstyle
- **Nebraska** – race defined to include skin color, hair texture and protective hairstyles
- **Nevada** – race defined to include including traits associated with race such as hair texture and protective hairstyles
- **New Mexico** – race defined to include traits historically associated with race, such as hair texture and length, protective hairstyles and cultural or religious headdresses
- **Oregon** – race defined to include physical characteristics that are historically associated with race, such as natural hair, hair texture, hair type and protective hairstyles

Protected Categories – Military Service

- **Pennsylvania** – prohibits discrimination based on military status, membership in the National Guard or other reserve components of the armed forces (including being called to active duty)
- **Virginia** – prohibits certain dependents of service members, veterans, and members of the uniformed forces of the United States and armed forces reserves

Other Protected Category Developments

- **Colorado** – expanded discrimination law to prohibit discrimination based on gender identity and gender expression
- **Illinois** – work authorization added as protected category
- **Maine** – prohibits discrimination for seeking and receiving a protection from abuse order; prohibits discrimination on the basis of “familial status”

State Leave Amendments

- **California** – CFRA amended to cover care of parent-in-law
- **District of Columbia** – Universal Paid Leave Act amended to increase the amount of medical leave, cover “pre-natal leave,” eliminate waiting period for up to 1 year after COVID emergency, and prohibit reducing STD benefits to offset UPLA benefits; DC FMLA expanded eligibility for workers seeking leave related to the COVID-19 pandemic
- **Illinois** – Victims’ Economic Security and Safety Act amended to cover crimes of violence and expanded family members; kin care amendment allows leave for family member’s “personal care”
- **Kentucky** – adoption leave law amended to require that if company parental leave policy provides >6 weeks, must provide to adoptive parents too, and increase child’s age from 7 to 10 years

State Leave Amendments

- **Maine** – ME FMLA amended to cover care of grandchild and domestic partner's grandchild
- **Maryland** – amended Flexible Leave Act allows eligible employees to use available paid leave for bereavement purposes
- **Oregon** – OFLA amended to expand eligibility for public health emergency leave and sick child leave and add restoration provision for employees rehired within 180 days
- **Rhode Island** – Incremental increases of temporary caregiver insurance benefits
- **Washington** – WA PFMFLA amended to cover leave for care dependent and temporarily expand eligibility; volunteer emergency responder leave law amended definition of volunteer firefighter

Grab Bag

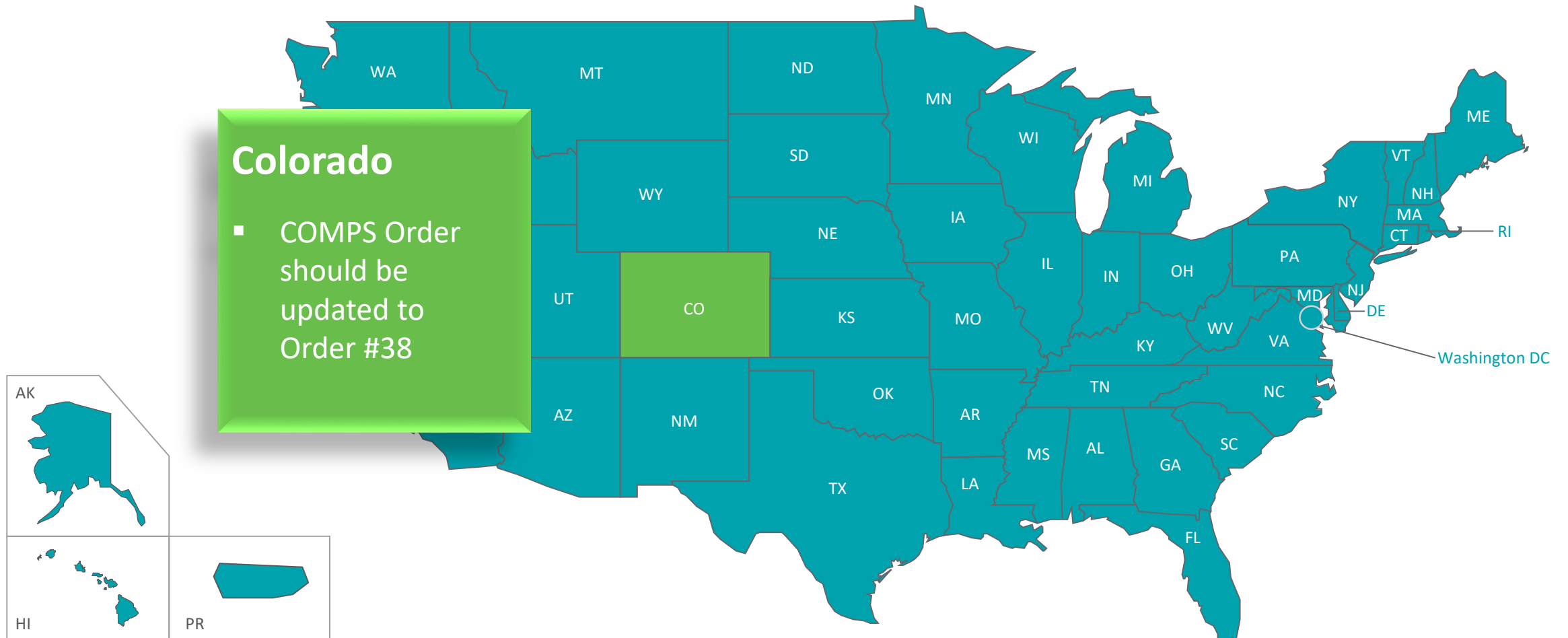
- **Arkansas** – amendment of weapons law
- **Connecticut** – employers with five or more employees must prohibit smoking, including cannabis or hemp in any area of any business facility under the employer's control
- **District of Columbia** – employers cannot have a workplace policy that prohibits an employee from being employed by another person, performing work or providing services for pay for another person, or operating the employee's own business.
- **Philadelphia, PA** – City has begun enforcing the predictability pay requirements



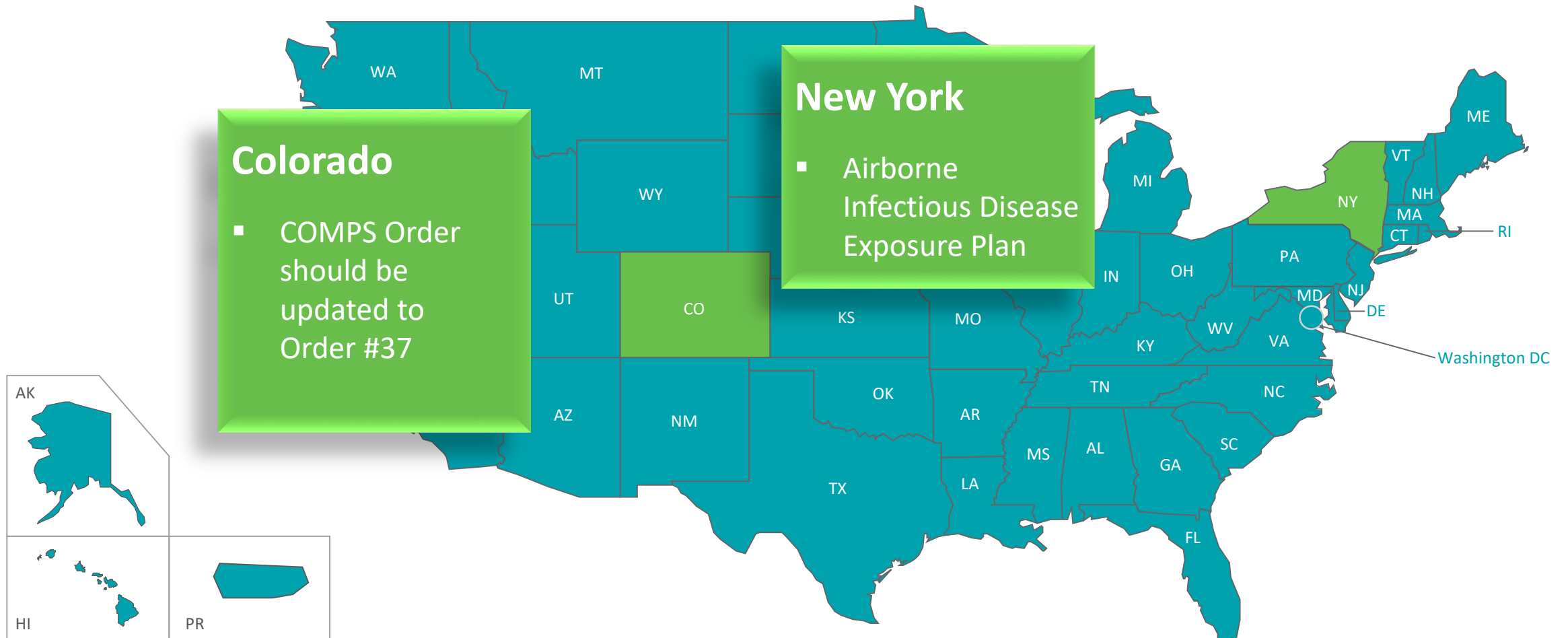
12. New Mandatory Policies

Natasha L. DeCourcy

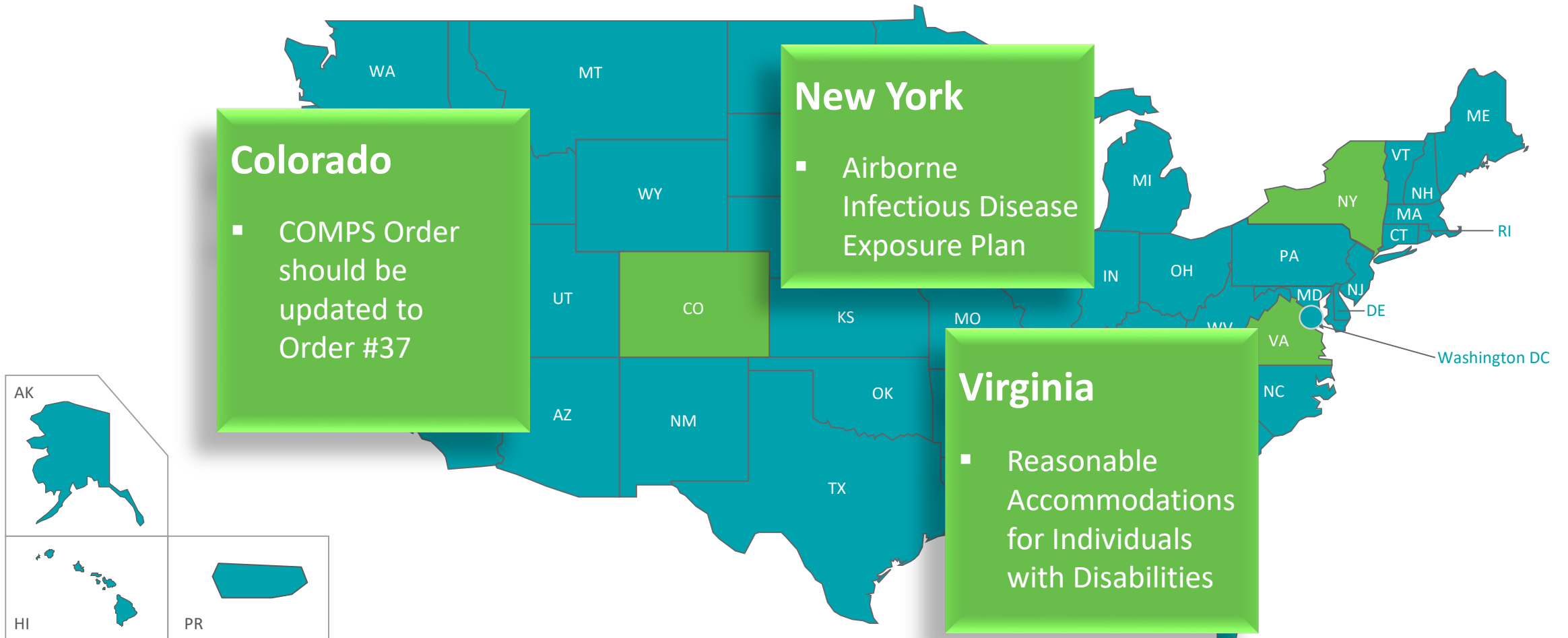
New Required Policies



New Required Policies



New Required Policies





13. NOT in the Handbook Policies

Bruce Sarchet

Maybe These Don't Need To Be Written Policies At All

- Wage Transparency – Colorado.
- Right To Recall – California, Several CA Cities, Nevada, Connecticut, Minneapolis, Philadelphia, Baltimore.
- Production Quotas (CA Warehouses).

Maybe These Don't Need To Be Written Policies At All

- Wage Transparency – Colorado.
- Right To Recall – California, Several CA Cities, Nevada, Connecticut, Minneapolis, Philadelphia, Baltimore.
- Production Quotas (CA Warehouses).
- And again, COVID.



14. Acknowledgement of Receipt

Jennifer E. Savion

Is acknowledgment of the policy required?

- Colorado COMPS order
- Delaware electronic monitoring
- Hawaii lie detector testing
- New Hampshire policies re vacation pay, sick leave, holidays, personal days, and other fringe benefits
- Wyoming policy requiring forfeiture of vacation at termination
- [California harassment policy]

Concluding Remarks

Is Just Around The Corner!

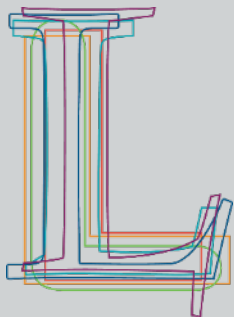
2022

**Don't forget to receive your free trial of
the ComplianceHR Navigator Suite at
compliancehr.com/demo**



**Best Wishes From Littler For A Happy
Employee Handbook Season!**





Thank You!

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