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Vote of confidence: Employers need to know the voting leave rules

October 1, 2026

Fifty years ago, the band Chicago released a [single](#) that began with this lament: “If you leave me now, you’ll take away the biggest part of me. Ooh, no, baby, please don’t go.” Employers may sing a different tune on November 3 because the laws of many states (plus Puerto Rico and Washington, DC) provide job protection for employees taking time off to vote.

As a preliminary matter, federal law imposes no requirement. However, an exempt employee taking time off under the Fair Labor Standards Act generally should be paid because of the [salary basis](#) requirement.

What follows is a state-of-the-states summary, sorted into three categories for private employers: paid, unspecified, and no requirement. A discussion of special considerations follows.

Paid. These 23 jurisdictions require some form of paid time off.

[AK](#)

Not specified

[AZ](#)

3

[CA](#)

2

[CO](#)

2

[DC](#)

2

[IL](#)

2

[IA](#)

2

[KS](#)

2

[MD](#)

2

[MN](#)

Not specified

[MO](#)

3

[NE](#)

2

[NV](#)

1-3 (depends on distance to polling
place)

[NM](#)

2

[NY](#)

2

[OK](#)

"a sufficient time"

[PR](#)

2

[SD](#)

2

[TN](#)

3

[TX](#)

Not specified

[UT](#)

2

[WV](#)

3

[WY](#)

1

Not specified as to paid or unpaid. These 7 states require time off but do not specify whether it must be paid or unpaid

[AL](#)

1

[AR](#)

Not specified

[GA](#)

2

[KY](#)

No apparent cap for in-person voting, but 4 hours to obtain absentee ballot

[MA](#)

first 2 hours of polls being opened

[OH](#)

"a reasonable amount of time"

[WI](#)

3

No requirement. These 22 states do not address the issue: CT, DE, FL, HI, ID, IN, LA, ME, MI, MS, MT, NH, NJ, NC, ND ([law](#) encourages time off), OR, PA, RI, SC, VT, VA, and WA.

Special considerations. Time off is not required in these 19 states if there is a specific window during non-work hours to vote: AL, AK, AZ, CO, GA, IL, IA, KS, MD, MO, NE, NM, NY, OK, SD, TN, TX, WV, and WY. Advance or reasonable notice is required in these 16 jurisdictions: AL, AZ, CA, DC, GA, IL, IA, MA, MO, NE, NY, OK, TN, UT, WV, and WI.

Arkansas employers are subject to a \$50-\$250 fine. [California](#) and [New York](#) employers must post a notice at least 10 days before the election. Colorado, Georgia, and Oklahoma extend the protection to early voting. Florida does not require time off but [criminalizes](#) employer threats to control employee voting. The [Illinois](#) mandate does not appear to extend to primary elections. [Maine](#) has a separate paid leave law where employees can take accrued time off for any reason; employers can require advance notice. While Massachusetts limits job protection to employees at manufacturing, mechanical, and mercantile establishments, [judicial precedent](#) has held that “mechanical establishment” includes workplaces where “machinery is employed,” including computers. While Mississippi has no requirement, employers are subject to a \$250 fine for interference with employees’ exercise of political rights. [Missouri](#), [Puerto Rico](#), [South Dakota](#), [Texas](#), and [Utah](#) laws are among the jurisdictions that subject employer violations to criminal penalties.

For employers, especially those with workplaces in multiple states, election day can be a delicate balancing act between allowing employees to exercise their right to vote and minimizing disruption to operations. Before all the ballots are cast, advance planning, requesting employee advance notice of time-off needs, and ensuring general awareness of applicable laws can go a long way toward employee appreciation.

For more information about voting rights, see our [Roundup: US employer resources on employee voting rights/trends](#).

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