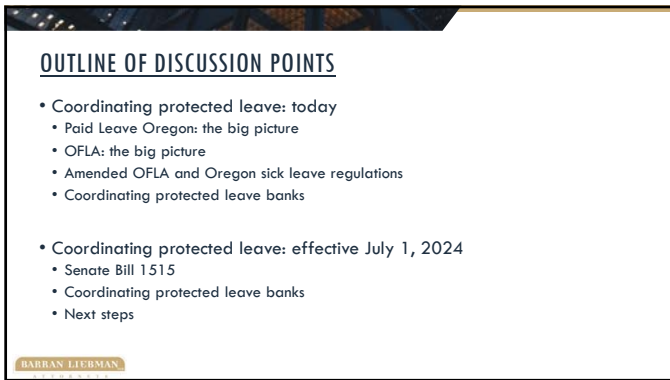




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COVERED LEAVE

- **Family Leave**
 - To care for and bond with a child during the first year after the child's birth or during the first year after placement through foster care or adoption; OR
 - To care for a family member with a serious health condition
- **Medical Leave**
 - For the employee's own serious health condition
- **Safe Leave**
 - For any purpose described in 659A.272: to seek medical, legal, or law enforcement assistance due to domestic violence, sexual assault, stalking, or harassment

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LEAVE NOT COVERED

- **OFLA Bereavement Leave**
- **OFLA Sick Child Leave**
 - Non-serious health conditions
 - Daycare or school closures during public health emergency
- **Oregon Military Family Leave (OMFLA)**
- **FMLA Call to Active Duty & Injured Service Member**

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DURATION OF BENEFITS

- **12 weeks per benefit year**
 - Paid Leave Oregon benefits
- **16 weeks per benefit year**
 - 12 weeks: Paid Leave Oregon benefits; and
 - 4 weeks: Unpaid leave for an OFLA-qualifying reason (if the employee is OFLA eligible)
- In addition to the leave available above, an employee may qualify for up to 2 additional weeks of paid benefits for limitations related to pregnancy, childbirth or a related medical condition, including lactation

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USE OF ACCRUED PAID BENEFITS (NOW)

- Pre-Senate Bill 913
 - Employers may bring employees up to 100% in wages by:
 - Paying the delta; or
 - Allowing employees to use accrued sick leave, PTO, or other paid benefits
- Post-Senate Bill 913
 - Removed the cap
 - May permit employees to use **all or a portion of** accrued sick leave, PTO, or other paid benefits during a period of leave under Paid Leave Oregon

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OFLA: THE BIG PICTURE (TODAY)

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COVERED LEAVE

- **Family Leave**
 - To care for and bond with a child during the first year after the child's birth or during the first year after placement through foster care or adoption; OR
 - To care for a family member with a serious health condition
- **Medical Leave**
 - To recover from a serious health condition
 - Pregnancy disability leave
- **Sick Child Leave**
 - To care for a child who is suffering from an illness, injury, or condition that is not a serious health condition but that requires home care or who requires home care due to the closure of the child's school or child care provider as a result of a public health emergency
- **Bereavement Leave**
- **Oregon Military Family Leave**

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DURATION OF LEAVE

- 12 weeks of Family Leave within any one-year period
 - Includes a total of 2 weeks of bereavement leave
- 12 weeks of Pregnancy Disability Leave
 - "Leave for an illness, injury, or condition related to the eligible employee's own pregnancy or childbirth that disables the eligible employee from performing available job duties offered by the covered employer"
- 12 weeks of Sick Child Leave
 - If the employee exhausts their 12 weeks of family leave in a leave year, then they may take up to an additional 12 weeks of sick child leave within the same leave year

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USE OF ACCRUED PAID BENEFITS (NOW)

- Employee is entitled to use accrued paid time off during a period of OFLA leave
- Employer may also require use of accrued paid time off during a period of OFLA leave
 - Must give written notice to the employee prior to the commencement of a period of OFLA leave; or
 - Must give written notice to the employee within 5 business days of the employee's unforeseeable period of OFLA leave

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COORDINATING PROTECTED LEAVE: TODAY

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BIG PICTURE

- Employees have up to 4 banks of protected time off to work with:
 - FMLA
 - OFLA
 - Paid Leave Oregon
 - Oregon Sick Time
- OFLA/FMLA leave runs concurrently with Paid Leave Oregon benefits when leave is covered by the other laws
 - But: *Escriba*
- Most difficult coordination topic is OFLA & Paid Leave Oregon

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CURRENT ELIGIBILITY POSSIBILITIES: TODAY

- Paid Leave Oregon only
- Paid Leave Oregon + OFLA
- OFLA only
- OFLA + FMLA
- FMLA only
- FMLA + Paid Leave Oregon
- FMLA + OFLA + Paid Leave Oregon

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COORDINATION CHALLENGES—ELIGIBILITY TIMEFRAMES

- Paid Leave Oregon provides employee may take leave after they earn \$1,000 in wages and contribute to the PFML Trust
 - Note: eligibility v. job protections
- OFLA provides for protected leave after 180 days of employment
 - Remember: exceptions
- FMLA provides for protected leave after 12 months of employment

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COORDINATION CHALLENGES—LEAVE & BENEFITS YEARS

- Paid Leave Oregon only allows for a rolling-forward benefit year, with a start date of the Sunday prior to the date leave starts
- OFLA allows for a rolling forward, a rolling backward, or calendar-year leave year, but the rolling forward leave year starts the date leave commences*
- FMLA allows for a rolling forward, a rolling backward, calendar-year leave year, or a leave year that is required by state law

* SB 999 adjusts the rolling forward year to align with Paid Leave Oregon which must be in place by July 1, 2024

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COORDINATION CHALLENGES—DEFINITION OF FAMILY MEMBER

- Paid Leave Oregon and OFLA (and paid sick time) include those related by blood or affinity in definition of family member
 - SB 999
- FMLA does not

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COORDINATION CHALLENGES—EMPLOYEE CHOICE

- Employees cannot be forced to take OFLA, FMLA, or Paid Leave Oregon
- With the changes to Paid Leave Oregon and OFLA in Senate Bill 1515, the challenges of concurrency will not be as prevalent

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**SENATE BILL 1515: CHANGES TO PAID LEAVE OREGON
(EFFECTIVE JULY 1, 2024)**

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USE OF PAID BENEFITS

- Employees may decide whether to use any accrued PTO *in addition to* their Paid Leave Oregon benefits
- The total amount received by the employee may not exceed an amount equal to the employee's full wage replacement
 - Employer must still rely on the employee to report to the employer how much the employee is receiving in benefits
- Employer may still permit employee to use their PTO, such that the total amount received exceeds their regular pay
 - Best practice: written policy

*Waiting on guidance as to what "full wage replacement" means

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TIME LOSS

- Previously, employees eligible to receive unemployment benefits under ORS chapter 657 were disqualified from receiving benefits under Paid Leave Oregon during the same week
- SB 1515 adds that employees who are eligible to receive time loss under ORS chapter 656 are ineligible for Paid Leave Oregon benefits

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GARNISHMENTS

- Exempts Paid Leave Oregon benefits from garnishment
- Exceptions:
 - Child or spousal support
 - Restitution for crime victims

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**SENATE BILL 1515: CHANGES TO OFLA
(EFFECTIVE JULY 1, 2024)**

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REASONS FOR LEAVE THAT NO LONGER QUALIFY

- Parental leave
- Serious health condition leave
 - Of the employee
 - Of a family member

*Paid Leave Oregon and OFLA will no longer run concurrently

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BEREAVEMENT LEAVE CAPPED

- SB 1515 places caps on the amount of bereavement leave a covered employee may take per leave year
- Capped at 2 weeks of bereavement leave per death of a family member
- Capped at 4 weeks of bereavement leave per leave year

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EXPANDS SICK CHILD LEAVE

"To care for a child of the employee who is suffering from an illness, injury or condition that ~~is not a serious health condition but that~~ requires home care or who requires home care due to the closure of the child's school or child care provider as a result of a public health emergency."

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CHILD PLACEMENT LEAVE

- OFLA temporarily covers 2 additional weeks of leave for the fostering or adoption process
 - This provision will sunset on January 1, 2025
- Effective January 1, 2025, SB 1515 amends "family leave" under Paid Leave Oregon to include leave to "effectuate the legal process required for placement of a foster child or adoption of a child"

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REQUIRED NOTICE

- Employers may still require written notice at least 30 days before starting leave
- However, an employee may start leave without prior notice, if the reason for leave is:
 - An unexpected illness, injury, or condition of a child that requires home care;
 - The death of a family member; or
 - Pregnancy disability

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CONCURRENT OFLA LEAVE FOR FAMILY MEMBERS

- Family members may not take concurrent OFLA leave
- Exceptions:
 - One employee needs to care for a child (sick child leave) while another is taking pregnancy disability leave; or
 - One or more of the employees is taking bereavement leave

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SENATE BILL 1515: PREDICTIVE SCHEDULING RELIEF

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PREDICTIVE SCHEDULING RELIEF

- Employers will be exempt from predictive scheduling penalties, if:
 - (1) An employee provides less than 14 days' notice of the need for or return from leave under Paid Leave Oregon, OFLA, or any other leave under ORS Chapter 659A; **and**
 - (2) The employer makes a change to the schedule of an employee who was temporarily assigned to specific shifts to cover for an employee on leave

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**POST-SENATE BILL 1515:
PROPOSED ADMINISTRATIVE RULE AMENDMENTS**

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AMENDMENT TO OREGON SICK LEAVE RULES

- Clarified that an employee may use sick leave for any qualifying purpose under Paid Leave Oregon
- This includes time periods during which an employee is receiving benefits under Paid Leave Oregon

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OFLA RULE CHANGES

- Attestation for family by "affinity"
 - Employer may require an employee who uses OFLA or sick time to care for or to grieve the death of a family member who is related by "affinity" to attest in writing that the employee and the family member have a significant personal bond similar to a family relationship
- OFLA eligibility:
 - To determine number of days an employee has worked for purposes of OFLA eligibility, employer must count any hours of protected leave taken as well as actual hours worked

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OFLA RULE CHANGES (CONTINUED)

- Eliminates requirement that domestic partner be the same gender as the employee
- Definitions of "serious health condition" and "pregnancy disability" amended to include a period of disability due to pregnancy termination or fertility or infertility treatment
- Clarifies that when an employer transitions their OFLA leave year to the rolling forward leave year, employees must be provided a new, full bank of leave

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OFLA RULE CHANGES (CONTINUED)

- Employer may require employee to provide verification from the employee's health care provider that they are able to resume work
 - Employer must apply this practice uniformly and pay for the medical verification
- Use of accrued benefits
 - Removed language allowing employers to mandate use of paid accrued benefits during a period of OFLA leave

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**POST-SENATE BILL 1515:
TEMPORARY OAR 839-009-0201**

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BOLI TEMPORARY RULE: OAR 839-009-0201

- Employers may rescind a designation or approval of leave as OFLA leave, if the period of OFLA leave is scheduled to occur on or after July 1, 2024
- To do so, employer must, as soon as practical **but no later than June 1:**
 - Notify the employee in writing that the leave is not protected by OFLA on or after July 1
 - Provide written information to the employee that informs them of their ability to apply for benefits under Paid Leave Oregon
 - Must include contact information for Paid Leave Oregon or the employer's equivalent plan administrator

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BOLI TEMPORARY RULE: OAR 839-009-0201

- If employee submits a new request for leave that would have been protected by OFLA prior to July 1, the employer must, as soon as practicable but no later than 14 calendar days from the request:
 - Inform the employee in writing that they can apply for benefits under Paid Leave Oregon; and
 - Provide the applicable contact information

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**COORDINATING PROTECTED LEAVE:
EFFECTIVE JULY 1, 2024**

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PAID LEAVE OREGON: THE BIG PICTURE (EFFECTIVE JULY 1)

- Qualifying reasons for leave:
 - Family Leave
 - Will include Child Placement Leave beginning January 1, 2025
 - Medical Leave
 - Safe Leave
- Employees may be eligible for up to 14 weeks of benefits
 - 12 weeks: family, medical, or safe leave
 - 2 weeks: limitations related to pregnancy

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OFLA: THE BIG PICTURE (EFFECTIVE JULY 1)

- Qualifying reasons for leave
 - Sick child
 - Bereavement
 - Pregnancy disability
 - OMFLA
 - Temporary: child placement leave
- Duration of leave: employee may be eligible for up to 26 weeks
 - 12 weeks of sick child or bereavement leave
 - 12 weeks: pregnancy disability leave
 - Temporary: 2 additional weeks of leave for child placement leave

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ELIGIBILITY POSSIBILITIES (EFFECTIVE JULY 1)

- Paid Leave Oregon only
- OFLA only
- OFLA + FMLA
- FMLA only
- FMLA + Paid Leave Oregon

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PREPARING FOR JULY 1

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WHAT YOU CAN DO NOW

- Revise leave policies
 - Benefit/leave year
 - Integrated leave policies
 - Evaluate true-up language
 - Evaluate use of accrued benefits
- Inform employees about upcoming changes
 - Don't forget: OAR 839-009-0201
- Update leave tracking systems
- Watch for revised rules and posters

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