

Leave Laws: Oklahoma

DANIEL V. CARSEY, HALL ESTILL, WITH PRACTICAL LAW LABOR & EMPLOYMENT

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A Q&A guide to state law on employee leave for private employers in Oklahoma. This Q&A addresses the legal requirements for leave from employment and explains the rights and obligations of employees and employers under state law. Federal, local, or municipal law may impose additional or different requirements. Answers to questions can be compared across several jurisdictions (see [Leave Laws: State Q&A Tool](#)).

For information and updates on changes to state leave laws related to the 2019 novel coronavirus disease (COVID-19), see [Paid Sick Leave State and Local Laws Chart: Overview: State and Local Laws Charts \(4-597-3867\)](#), and [Paid Family and Medical Leave State and Local Laws Chart: Overview: State and Local Laws Charts \(W-022-3037\)](#).

For information and ongoing updates on state employment law developments related to COVID-19, see [COVID-19: Employment Law and Development Tracker: State Laws and Directives: Oklahoma \(W-024-5500\)](#).

OVERVIEW OF STATE LEAVE LAW

1. What leave laws exist in your state (for example, mini-FMLA laws, disability leave, jury duty leave, or domestic violence leave)? For each leave law please describe:

- Which employers are covered.
- Which employees are eligible to take the leave.
- The entity that administers the law.
- Whether the employee has a private right of action.

On March 18, 2020, the Families First Coronavirus Response Act (FFCRA) (H.R. 6201, §§ 5105 to 5111) was signed into law. The FFCRA:

- Includes the:
 - Emergency Paid Sick Leave Act; and
 - Emergency Family and Medical Leave Expansion Act.
- Is effective April 1, 2020 through December 31, 2020, when it expires by its terms (US Department of Labor FAQ).

On April 8, 2020, Oklahoma Governor Kevin Stitt issued Executive Order 2020-13, which, among other things, directs that correctional officers, law enforcement officers, and fire personnel are not excluded from Emergency Paid Sick Leave benefits under the FFCRA.

For more information on the federal FFCRA, see Practice Note, [COVID-19: Paid Sick and Family Leave Under the FFCRA \(W-024-7536\)](#).

JURY DUTY LEAVE: OKLA. STAT. TIT. 38, §§ 34 AND 35

Covered Employers

All Oklahoma employers are covered.

Eligible Employees

All Oklahoma employees summoned to serve as a juror are eligible for this leave.

A court must automatically postpone and reschedule the service of a summoned juror employed by an employer with five or fewer full-time employees if another of that employer's employees has already been summoned to appear during the same period (Okla. Stat. tit. 38, § 34(D)). In this situation, a court may look at the overall number of the employer's employees without considering the isolated number of employees in a division or branch.

Administration

Any state district court where venue and jurisdiction are proper has the power to enforce the statute.

Private Right of Action

An employee may bring a civil action for actual and exemplary damages if, because of the employee's absence due to jury duty, the employer:

- Discharges the employee.
- Takes other adverse action against the employee.
- Requires the employee to use sick, annual, or vacation leave.

(Okla. Stat. tit. 38, § 35.)

Damages may include the employee's pecuniary losses including, but not limited, to:

- Lost earnings, both past and future.
- The value of lost leave.
- Mental anguish.
- All reasonable damages incurred in obtaining other suitable employment.

(Okla. Stat. tit. 38, § 35.)

MILITARY LEAVE: OKLA. STAT. TIT. 72, §§ 47 AND 48.1

Covered Employers

All private employers are covered.

Eligible Employees

Officers and employees of covered employers are eligible for this leave if they are officers or enlisted members of:

- The Reserve Components, including:
 - the Army; and
 - the Air National Guard.
- The Army.
- The Navy.
- The Air Force.
- The Marine Corps.
- The Coast Guard Reserves.
- Any other component of the US Armed Forces.

(Okla. Stat. tit. 72, § 48.1.)

Administration

Any state district court where venue and jurisdiction are proper has the power to enforce the statute.

Private Right of Action

An eligible employee may bring an action in district court for actual and compensatory damages if their employer does not comply with this law (Okla. Stat. tit. 72, § 48.1).

VOTING LEAVE: OKLA. STAT. TIT. 26, § 7-101

Covered Employers

All employers in Oklahoma are covered.

Eligible Employees

All employees who are eligible voters in Oklahoma are eligible for this leave, with the exception of employees whose workday either:

- Begins three or more hours after the polls open.
- Ends three or more hours before the polls close.

(Okla. Stat. tit. 26, § 7-101.)

Administration

The Oklahoma secretary of state administers and enforces this law.

Private Right of Action

There is no private right of action under this law.

RAILROAD EMPLOYEES' LEAVE: OKLA. STAT. TIT. 40, § 185

Covered Employers

All railroad companies operating in Oklahoma are covered (Okla. Stat. tit. 40, § 185).

Eligible Employees

All employees of railroad companies operating in Oklahoma are eligible for this leave if they:

- Seek to run for public office.
- Serve in a military or civil government position.
- Serve in public office.
- Must serve jury duty in Oklahoma courts.

(Okla. Stat. tit. 40, § 185.)

Administration

The Oklahoma commissioner of labor administers and enforces this law.

Private Right of Action

There is no private right of action under this law.

RULES REGARDING TAKING LEAVE

2. For each leave law, please describe:

- The circumstances under which an employee may take leave (for example, birth of a child).
- How much leave time is allowed to be taken by each employee each year?
- How is that leave time calculated?

JURY DUTY LEAVE: OKLA. STAT. TIT. 38, §§ 34 AND 35**Valid Leave Reasons**

An Oklahoma employee may take leave if:

- The employee receives a summons that requires their attendance for jury duty.
- The employee notifies their employer within a reasonable period of time prior to their appearance for jury duty.

(Okla. Stat. tit. 38, § 34(A).)

Leave Time for Each Employee

The leave must be granted for time spent:

- Responding to a summons for jury duty.
- Participating in the jury selection process.
- Actually serving on a jury.

(Okla. Stat. tit. 38, § 34(B).)

Calculating Leave Time

There is no specific method for calculating leave time.

MILITARY LEAVE: OKLA. STAT. TIT. 72, §§ 47 AND 48.1**Valid Leave Reasons**

An eligible employee may take leave when ordered to active or inactive duty or service by the proper authority (Okla. Stat. tit. 72, § 48.1).

Leave Time for Each Employee

The statute does not specify how much leave time an employee may take each year. However, the duration must not be less than that provided by federal law (Okla. Stat. tit. 72, § 48.1).

Calculating Leave Time

There is no specific method for calculating leave time.

VOTING LEAVE: OKLA. STAT. TIT. 26, § 7-101**Valid Leave Reasons**

An employee may take time off to vote in an election if the employee:

- Is registered to vote.
- Notifies the employer, orally or in writing, of the employee's intention to be absent at least three days before the day of:
 - the election; or
 - in-person absentee voting.

(Okla. Stat. tit. 26, § 7-101.)

Leave Time for Each Employee

Employees may take up to two hours of voting leave while the polls are open. If an employee needs more than two hours due to distance, they are allowed sufficient additional time to vote. The employer may specify the days and hours that employees may be absent. However, an employee is not entitled to time off if their work day:

- Starts at least three hours after the polls open.
- Ends at least three hours before the polls close.

An employer may change the employee's work hours to allow for three hours before or after the work hours. (Okla. Stat. tit. 26, § 7-101(A)(3).)

Calculating Leave Time

There is no specific method for calculating leave time.

RAILROAD EMPLOYEES' LEAVE: OKLA. STAT. TIT. 40, § 185**Valid Leave Reasons**

A railroad company operating in Oklahoma must grant leave to employees to:

- Run for or seek public office.
- Serve in any government position, military or civil, or who have been elected or appointed to public office.
- Serve jury duty in Oklahoma courts.

(Okla. Stat. tit. 40, § 185.)

Leave Time for Each Employee

The statute does not specify how much leave time may be taken by an employee each year. An employee who takes leave must report for duty within 15 days after the leave period ends (Okla. Stat. tit. 40, § 185).

Calculating Leave Time

There is no specific method for calculating leave time.

3. For each leave law, must the leave time run concurrently with other leave, and if so, which types of leave must it run concurrently with?

JURY DUTY LEAVE: OKLA. STAT. TIT. 38, §§ 34 AND 35

This leave does not run concurrently with other Oklahoma leave laws.

MILITARY LEAVE: OKLA. STAT. TIT. 72, §§ 47 AND 48.1

This leave does not run concurrently with other leave laws. However, employers must follow the provisions and regulations of the federal Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) (Okla. Stat. tit. 72, § 47).

The provisions of USERRA:

- Apply to all employers (38 U.S.C. § 4303(4)).
- Contain more detailed provisions than the Oklahoma statute (38 U.S.C. §§ 4301 to 4335; Okla. Stat. tit. 72 § 48.1).
- Preempt state law to the extent that it offers greater protections (38 U.S.C. §§ 4321 to 4323; Okla. Stat. tit. 72 § 48.1).

For more information, see Practice Notes, Military Leave Law ([7-504-4849](#)) and Discrimination: Overview: USERRA ([3-503-3975](#)).

VOTING LEAVE: OKLA. STAT. TIT. 26, § 7-101

This leave does not run concurrently with other leave laws.

RAILROAD EMPLOYEES' LEAVE: OKLA. STAT. TIT. 40, § 185

This leave does not run concurrently with other leave laws.

4. For each leave law, can leave be taken intermittently, and if so, what rules apply to intermittent leave under each law?

None of the Oklahoma laws listed in Question 1 address intermittent leave.

EMPLOYEE OBLIGATIONS

5. For each leave law, must an employee seeking leave:

- Give notice to their employer? If so, how much and what kind of notice?
- Provide medical or any other sort of certification?

JURY DUTY LEAVE: OKLA. STAT. TIT. 38, §§ 34 AND 35

Notice

An Oklahoma employee must notify their employer of a jury summons:

- Within a reasonable period of time after receiving it.
- Before their appearance for jury duty.

(Okla. Stat. tit. 38, § 34(A).)

Certification

No certification is required.

MILITARY LEAVE: OKLA. STAT. TIT. 72, §§ 47 AND 48.1

Notice

No notice is required.

Certification

No certification is required.

VOTING LEAVE: OKLA. STAT. TIT. 26, § 7-101

Notice

The employee must give the employer or employer’s representative oral or written notice of their intention to take voting leave at least three days before the day of:

- The election.
- In-person absentee voting.

(Okla. Stat. tit. 26, § 7-101(A)(3).)

Certification

An employer may ask the employee for proof that they voted (Okla. Stat. tit. 26, § 7-101(A)(4)). Employees may typically obtain a form that indicates that the employee has voted from the election judges upon request.

RAILROAD EMPLOYEES’ LEAVE: OKLA. STAT. TIT. 40, § 185

Notice

No notice is required.

Certification

No certification is required.

6. For each leave law, what rights and benefits does the law grant to an employee taking leave under it (for example, pay, right to return to their same position, or right to bonuses that would have otherwise been earned)?

JURY DUTY LEAVE: OKLA. STAT. TIT. 38, §§ 34 AND 35

Under Oklahoma law, an employee who is summoned to serve as a juror and notifies their employer of the summons within a reasonable period of time before their appearance for jury duty must not, as a result of jury service, be:

- Terminated.
- Removed.
- Subject to any adverse employment action.

(Okla. Stat. tit. 38, § 34(A).)

An employer is not required to pay an employee wages for the time that they are on jury duty leave unless the employee uses paid time off for that purpose (Okla. Stat. tit. 38, § 34(C)).

MILITARY LEAVE: OKLA. STAT. TIT. 72, §§ 47 AND 48.1

An employer must:

- Allow an employee to take a leave of absence to fulfill their obligations to the military without loss of status or seniority.
- Restore an employee who returns from military leave to their previous position.

(Okla. Stat. tit. 72, §§ 47 and 48.1.)

Private employers may elect to pay an eligible employee an amount equal to the difference between their full regular pay and their military pay (Okla. Stat. tit. 72, § 48.1).

VOTING LEAVE: OKLA. STAT. TIT. 26, § 7-101

An employee may take up to two hours of leave to vote, and may also receive additional leave time if the voting place is more than two hours away. An employer must not subject the employee to any loss of compensation or other penalty for taking voting leave. (Okla. Stat. tit. 26, § 7-101(A).)

RAILROAD EMPLOYEES’ LEAVE: OKLA. STAT. TIT. 40, § 185

An employee eligible for a leave of absence under this statute is entitled to:

- Retain and accumulate seniority while on leave.
- Be reinstated after their leave of absence without any:
 - loss of seniority;
 - interruption to their service record; or
 - denial of their rights or privileges.

(Okla. Stat. tit. 40, § 185.)

EMPLOYER OBLIGATIONS

7. For each leave law, what obligations does an employer have to inform its employees of their rights to the leave?

None of the Oklahoma laws listed in Question 1 contain any obligations for an employer to inform its employees of their rights to leave.

8. For each leave law, what are possible consequences for employers who violate the law?

JURY DUTY LEAVE: OKLA. STAT. TIT. 38, §§ 34 AND 35

Under Oklahoma law, any employer who discharges an employee, takes other adverse action against an employee, or requires an employee to use sick, annual, or vacation leave because of the employee's absence from employment for jury duty is:

- Guilty of a misdemeanor.
- Liable on conviction for a fine of up to \$5,000.
- Liable to the employee in a civil action for actual and exemplary damages, including:
 - past and future lost earnings;
 - the value of lost leave;
 - mental anguish; and
 - all reasonable damages incurred in obtaining other suitable employment.

(Okla. Stat. tit. 38, §§ 34(C) and 35.)

MILITARY LEAVE: OKLA. STAT. TIT. 72, §§ 47 AND 48.1

If an employer does not comply with this statute, the employee may bring an action in district court for actual and compensatory damages (Okla. Stat. tit. 72, § 48.1).

VOTING LEAVE: OKLA. STAT. TIT. 26, § 7-101

An employer who does not comply with this statute is liable, on conviction, for a fine of between \$50 and \$100 (Okla. Stat. tit. 26, § 7-101(B)).

RAILROAD EMPLOYEES' LEAVE: OKLA. STAT. TIT. 40, § 185

An employer who does not comply with this statute may be either or both:

- Fined between \$50 and \$200.
- Imprisoned between 5 and 30 days in county jail.

(Okla. Stat. tit. 40, § 199(C).)

RECORDKEEPING

9. What are the recordkeeping obligations for each type of leave?

None of the Oklahoma laws listed in Question 1 contain any recordkeeping obligations for employers.

OTHER LEAVE LAWS

10. Please describe other laws relating to leave that employers should consider in your state (for example, laws not requiring leave, but prohibiting discrimination in provision of certain types of leave).

There are no other relevant leave laws in Oklahoma.

11. Please describe any significant leave laws in major jurisdictions within your state that employers should consider.

Under Okla. Stat. tit. 40, § 160, municipalities may not establish a minimum number of sick leave days, whether paid or unpaid. There are no significant leave laws in major jurisdictions within Oklahoma at this time, however, practitioners should always consult relevant local and municipal law.

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