

Leave Laws: Utah

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A Q&A guide to state law on employee leave for private employers in Utah. 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 a number of jurisdictions (see *Leave Laws: State Q&A Tool*).

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.

JURY DUTY LEAVE: UTAH CODE § 78B-1-116

Covered Employers

All Utah employers are covered by this law.

Eligible Employees

All Utah employees are eligible for this leave.

Administration

The statute does not specify an entity to administer the law.

Private Right of Action

An employee discharged from employment for taking jury duty leave can bring a civil action for:

- Reinstatement.
- Lost wages up to six weeks.
- Attorneys' fees.

The employee must bring the civil action within 30 days of the discharge (*Utah Code § 78B-1-116(4)*.)

SUBPOENA LEAVE: UTAH CODE § 78B-1-132

Covered Employers

All Utah employers are covered by this law.

Eligible Employees

All Utah employees responding to a subpoena are eligible for this leave.

Administration

The statute does not specify an entity to administer the law.

Private Right of Action

Employees discharged from employment for taking subpoena leave can bring a civil action for:

- Reinstatement.
- Lost wages up to six weeks.
- Attorneys' fees.

(*Utah Code § 78B-1-132(3)*.)

MILITARY LEAVE: UTAH CODE § 39-1-36

Covered Employers

All Utah employers are covered by this law.



Eligible Employees

Utah employees are eligible for this leave if they are reserve members of the US armed forces who, following military orders enter:

- Active duty.
- Active duty for training.
- Inactive duty training.
- State active duty.

(Utah Code § 39-1-36(1).)

Administration

The statute does not specify an entity to administer the law.

Private Right of Action

The statute does not specify a private right of action.

VOTING LEAVE: UTAH CODE § 20A-3-103

Covered Employers

All Utah employers are covered by this law.

Eligible Employees

All Utah employees are eligible for this leave if they are eligible to vote and have fewer than three hours between the time polls open and close during which they are not employed on the job (Utah Code § 20a-3-103(2)).

Administration

The statute does not specify an entity to administer the law.

Private Right of Action

The statute does not specify a private right of action.

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: UTAH CODE § 78B-1-116

Valid Leave Reasons

An employee may take leave to:

- Respond to a summons for jury duty.
- Participate in the jury selection process.
- Spend time serving on a jury.

(Utah Code § 78B-1-116(1).)

Leave Time for Each Employee

An employee is entitled to jury duty leave for the duration of the employee's period of jury service. For the purpose of responding to a summons for jury duty, an employer may not require an employee to use:

- Annual leave.
- Vacation leave.
- Sick leave.

(Utah Code § 78B-1-116(2).)

Calculating Leave Time

There is no specific method for calculating leave time.

SUBPOENA LEAVE: UTAH CODE § 78B-1-132

Valid Leave Reasons

An employee may take leave from her employment to spend time attending a deposition or hearing in response to a subpoena (Utah Code § 78B-1-132(1)).

Leave Time for Each Employee

An employer must grant an employee leave to respond to a subpoena (Utah Code § 78B-1-132(1)).

Calculating Leave Time

There is no specific method for calculating leave time.

MILITARY LEAVE: UTAH CODE § 39-1-36

Valid Leave Reasons

Following military orders, eligible employees may take military leave to enter:

- Active duty.
- Active duty for training.
- Inactive duty training.
- State active duty.

(Utah Code § 39-1-36(1).)

Leave Time for Each Employee

An employee is entitled to leave for up to five years while in military service (Utah Code § 39-1-36(1)).

Calculating Leave Time

There is no specific method for calculating leave time.

VOTING LEAVE: UTAH CODE § 20A-3-103

Valid Leave Reasons

An employee may take time off to vote (Utah Code § 20a-3-103(1)(a)).

Leave Time for Each Employee

Employees may take leave on election day to give them two consecutive hours when polls are open to vote. The employer may specify the hours during which the employee may be absent. However, if the employee requests the leave of absence at the beginning or end of the work shift, the employer must grant that request (*Utah Code § 20a-3-103(1)*).

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: UTAH CODE § 78B-1-116

An employer may not require an employee to use annual, vacation or sick leave for:

- Responding to a summons for jury duty.
- Time spent participating in the jury selection process.
- Time spent actually serving on a jury.

(*Utah Code § 78B-1-116(1)*.)

SUBPOENA LEAVE: UTAH CODE § 78B-1-132

The statute does not address whether this leave must run concurrently with other leave.

MILITARY LEAVE: UTAH CODE § 39-1-36

The statute does not address whether this leave must run concurrently with other leave.

VOTING LEAVE: UTAH CODE § 20A-3-103

The statute does not address whether this leave must run concurrently with other leave.

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 leaves 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: UTAH CODE § 78B-1-116

Notice

No notice is required.

Certification

No certification is required.

SUBPOENA LEAVE: UTAH CODE § 78B-1-132

Notice

No notice is required.

Certification

No certification is required.

MILITARY LEAVE: UTAH CODE § 39-1-36

Notice

No notice is required.

Certification

No certification is required.

VOTING LEAVE: UTAH CODE § 20A-3-103

Notice

The employee must apply for leave before election day (*Utah Code § 20a- 3-103(1)(b)*).

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: UTAH CODE § 78B-1-116

An employee who is summoned to serve on a jury must not, as a result of the absence:

- Be discharged.
- Incur any adverse employment action.
- Be coerced in anyway about her employment.
- Be required to use her:
 - annual leave;
 - vacation leave; or
 - sick leave.

(*Utah Code §§ 78B-1-116(1) and (2)*.)

SUBPOENA LEAVE: UTAH CODE § 78B-1-132

Employers cannot discharge, threaten or otherwise coerce an employee who in response to a subpoena attends a:

- Deposition.
- Hearing.

(*Utah Code § 78B-1-132(1)*).

MILITARY LEAVE: UTAH CODE § 39-1-36

An employee returning from military service or from hospitalization related to military service is entitled to the same benefits as if the employee had not taken leave, including the same:

- Seniority.
- Status.
- Pay.
- Vacation.

(*Utah Code § 39-1-36(1).*)

VOTING LEAVE: UTAH CODE § 20A-3-103

A Utah employee is entitled to up to two hours of leave to vote. Employers may not deduct from an employee's usual salary or wages because of the leave (*Utah Code § 20a-3-103(1)(d)*).

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 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: UTAH CODE § 78B-1-116**

Any employer who violates this statute is guilty of criminal contempt and if convicted may be:

- Fined up to \$500.
- Imprisoned up to six months.

(*Utah Code § 78B-1-116(3).*)

If any employer discharges an employee in violation of this statute, the employee, within 30 days, may bring a civil action for:

- Wages lost as a result of the violation.
- An order requiring reinstatement.

(*Utah Code § 78B-1-116(4).*)

Damages recoverable may not exceed lost wages for six weeks. If the employee wins, the employee may receive reasonable attorneys' fees fixed by the court (*Utah Code § 78B-1-116(4)*).

SUBPOENA LEAVE: UTAH CODE § 78B-1-132

Any employer who violates this statute is guilty of criminal contempt and upon conviction may be:

- Fined up to \$500.
- Imprisoned up to six months.
- Subject to civil suit.

(*Utah Code §§ 78B-1-132(2) and (3).*)

MILITARY LEAVE: UTAH CODE § 39-1-36

A willful violation of the military leave statute is a class B misdemeanor (*Utah Code § 39-1-36(3)*).

VOTING LEAVE: UTAH CODE § 20A-3-103

Violation of the voting leave statute is a class B misdemeanor (*Utah Code § 20A-3-103(3)*).

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

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

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).**LEAVE TREATED AS WAGES: UTAH ADMIN. CODE R. 610-3-4**

Under Utah law, the following are treated as wages:

- Vacation leave.
- Holiday leave.
- Sick leave.
- Paid time off.
- Severance payments and bonuses.

(*Utah Admin. Code r. 610-3-4(B).*)

The employer must pay the employee for any accrued unused leave time upon the employee's termination unless the employer specifically implements a "use it or lose it policy". The policy must explicitly state that an employee will not get paid for her leave if the leave is not used before employment is terminated. For model policy language, see *State Q&A, Leave Policy Language: Utah: Question 9: Model Utah Vacation Leave Policy*.

For the links to the documents referenced in this note, please visit our online version at <http://us.practicallaw.com/3-524-4195>

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