



# Name That Law: What to Do When a Leave Is Covered By More Than One Law!

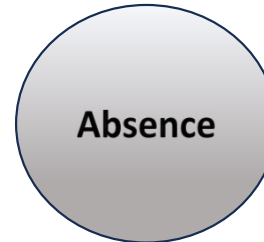
**Carla O'Sullivan & Sheri Pullen**  
**March 27, 2024**





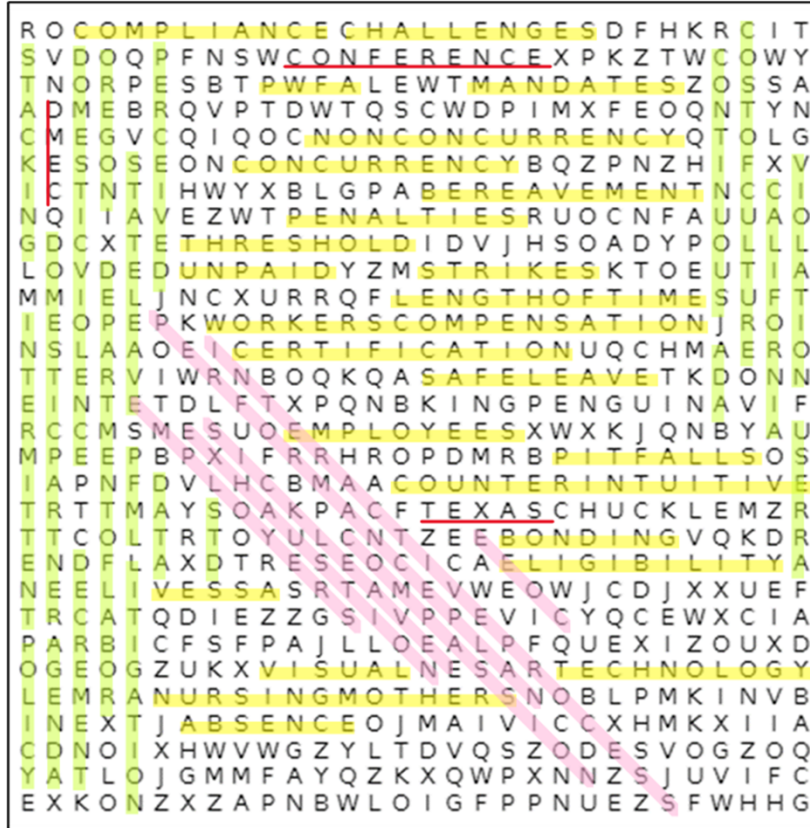
# Leave Law Lingo Game

- You each should have a “Lingo Card”
- Lingo words will be highlighted on the slides
- Cross off the cards as you find them
- If you get “LINGO” vertical, horizontal, or diagonal – YOU WIN!!





# Combining Leaves Is So Puzzling!

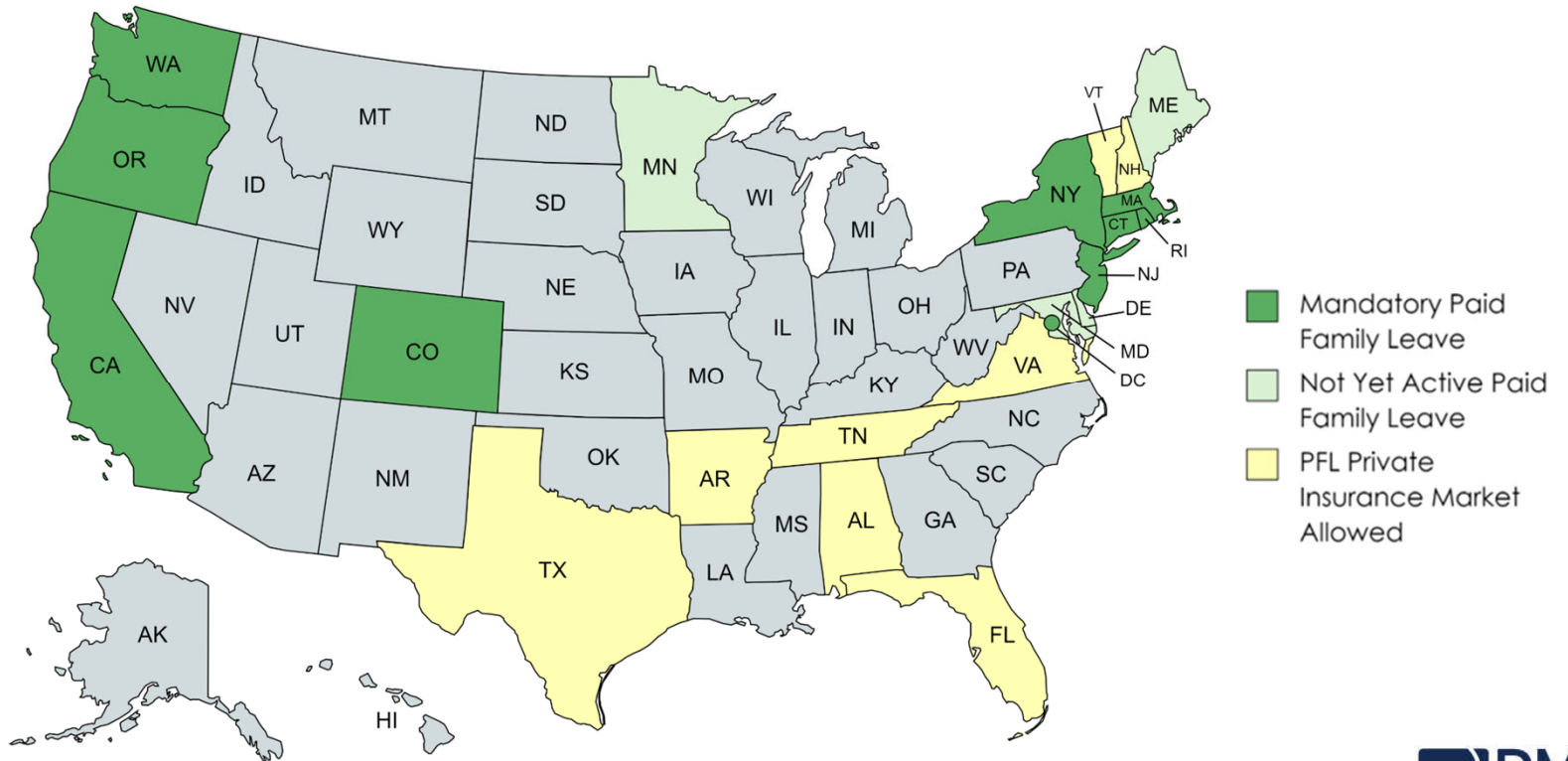


- PFML
  - Unpaid
  - ADA
  - PWFA
  - STD
  - LTD
  - Workers' Compensation
  - Paid Sick Leave
  - Intermittent
  - Continuous
  - Decrement
  - Concurrency
  - Nonconcurrency
  - Stacking
  - Litigation
  - Visual
  - Counterintuitive
  - Threshold
  - Bonding
  - Domestic Partner
  - VESSA
  - State Leaves
  - Texas
  - Oregon
  - California
  - DMEC
  - Employers
  - Employees
  - Department of Labor
  - EEOC
- Compliance
  - Penalties
  - Certification
  - Eligibility
  - Length of Time
  - Strikes
  - Violation
  - Conference
  - Agenda
  - Cost of Culture
  - Bereavement
  - Compassion
  - USERRA
  - Interactive Process
  - Perceived
  - Performance Plan
  - Challenges
  - Mandates
  - Policy
  - Pitfalls
  - Absence
  - Nursing Mothers
  - Safe Leave
  - Domestic Violence
  - Technology
  - Data
  - Exhaustion





# Paid Family & Medical Leave

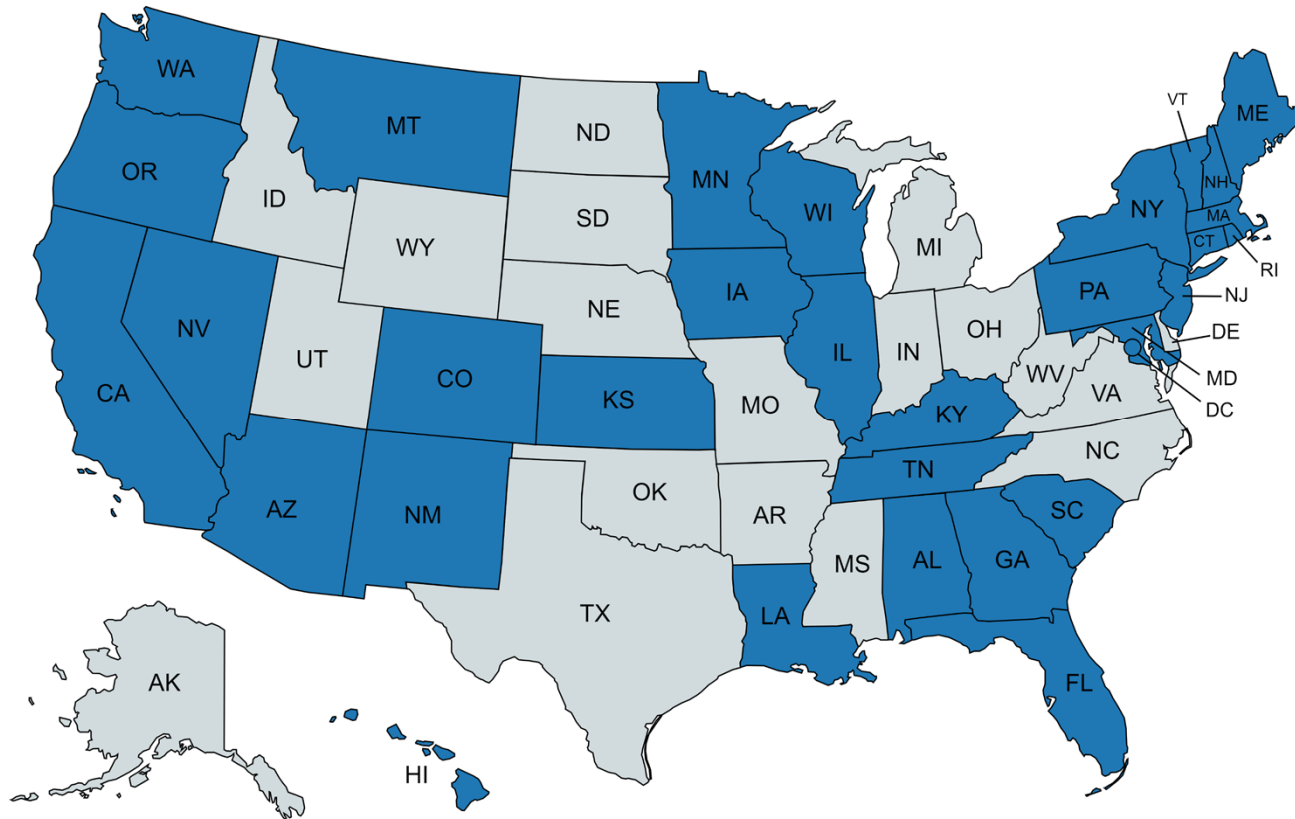


State Leaves





# FML-Like, Sick Leave, or PDL

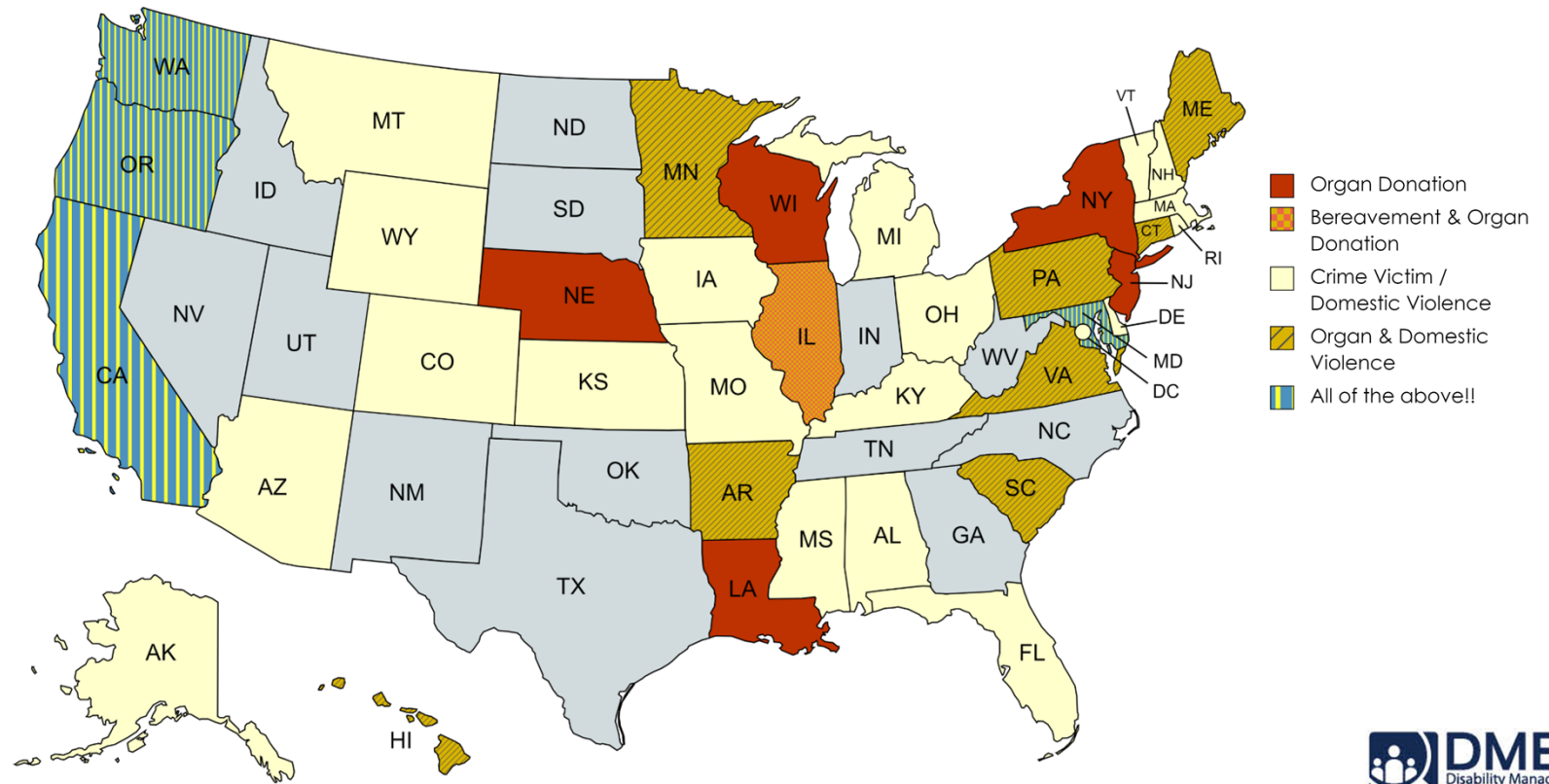


State Leaves





# Bereavement, Donation, & Crime / Domestic Violence

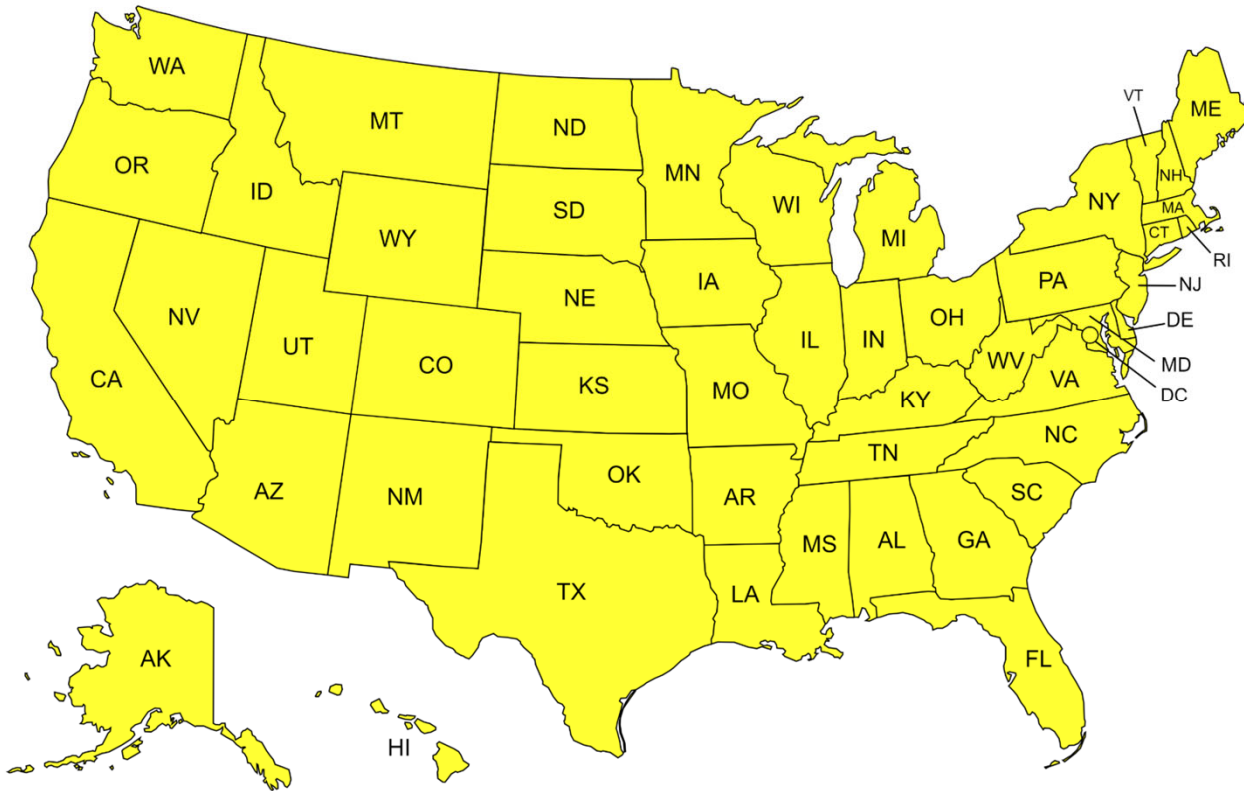


State Leaves





# Federal FMLA, ADA, and PWFA



State  
Leaves







## Case Law

- EEOC v. TrueBlue and PeopleReady
- Anderson v. Nations Lending Corporation
- RUIZ v. RSCR California Inc
- Schultz v. NW Permanente P.C.

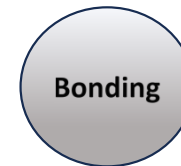






## EEOC v. TrueBlue and PeopleReady (2022)

- Leave laws in play: FMLA and ADA
- Employee fired for psychiatric disability despite being cleared to RTW after approved leave
- Employee needed accommodation for intermittent ADA leave, which employer did not consider
- Employee awarded \$125k
- Employer required to implement ADA policy, provide training, and provide periodic reports to the EEOC





# Leave Law Lingo Check-In

The list the words we've highlighted up to this point:

PFML

ADA

PWFA

Bonding

Stacking

State Leaves

Employer

Eligibility

USERRA

Policy

Nursing Mothers

Safe Leave

Interactive Process





# Anderson v. Nations Lending Corporation

No. 21-1885 (7th Cir. March 9, 2022)

Exhaustion

- Leave laws in play: FMLA and ADA
- Employee with performance deficiencies also experienced health problems
- She was granted FMLA leave, which she exhausted
- Performance issues continues after return to work and did not improve despite additional training
- After employee was terminated she sued, alleging violations of the ADA and FMLA

Employee



## RUIZ v. RSCR CALIFORNIA INC 10 (2023)

- Leave Laws in Play: CFRA, FEHA, FMLA
- Employee requested to leave “to visit her sick brother”
- Employer denied request without asking for further details
- Employee resigned and then sued, alleging violations of CFRA and FEHA
- Employer lacks comprehensive handbook/policy detailing leave options
- HR staff was not aware of any other leave law that applied aside from FMLA





## Schultz v. NW Permanente P.C.

Certification

- Laws in Play: FMLA, OFLA, OSLA, OFEPA, STD, LTD
- Employee took medical leave in 2017, returning in January 2018
- Employee then requested additional leave
- Employer granted all leave requests but sent Stillwell a “final warning” letter in April 2018 and then terminated him in June 2018
- Employer eventually settled after district court refused defendants’ request for summary judgment

Paid Sick  
Leave





## Where Employers Go Wrong

- 100% Healed Policies
- Lumping applicable leaves together for a “maximum total”
- Counting leave for domestic partner/other family members against FMLA
- Not having clearly articulated leave policies
- Not Considering discrimination law when drafting parental leave policies (Estee Lauder, JP Morgan Cases)





# Tips and Strategies for Easier Leave Management

- Policies
- Communication
- Training
- Centralized Administration (one department to handle leave requests)
- Consider Outsourcing







# Thank You!

DMEC

- Questions welcome!
- Crossword Puzzle
- Visit the Aight booth for the answer key.
- Be the first one to the Aight booth with a correctly completed crossword puzzle and win a prize!