

# Leave Laws: Utah

**CHRISTINA M. JEPSON, PARSONS BEHLE & LATIMER,  
WITH PRACTICAL LAW LABOR & EMPLOYMENT**

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 several jurisdictions (see Leave Laws: State Q&A Tool (<http://us.practicallaw.com/9-505-9585>)).

## 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 attend 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 to vote on election day for two consecutive hours when polls are open. 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(2).)

**SUBPOENA LEAVE: UTAH CODE § 78B-1-132**

This leave does not run concurrently with other leave laws.

**MILITARY LEAVE: UTAH CODE § 39-1-36**

This leave does not run concurrently with other leave laws.

**VOTING LEAVE: UTAH CODE § 20A-3-103**

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 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)-(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 or a 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(2).)

**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 punished by either or both:

- A fine up to \$500.
- Imprisonment for 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 on conviction may be punished by either or both:

- A fine up to \$500.
- Imprisonment for up to six months.

(Utah Code § 78B-1-132(2).)

An employer who violates this statute is also subject to a civil suit (Utah Code § 78B-1-132(3)).

**MILITARY LEAVE: UTAH CODE § 39-1-36**

A willful violation of the military leave statute is a class B misdemeanor and an employer who violates this statute may be punished by either or both:

- Imprisonment for up to six months.
- A fine up to \$1000.

(Utah Code §§ 39-1-36(3), 76-3-204, and 76-3-301.)

**VOTING LEAVE: UTAH CODE § 20A-3-103**

Violation of the voting leave statute is a class B misdemeanor and an employer who violates this statute may be punished by either or both:

- Imprisonment for up to six months.
- A fine up to \$1000.

(Utah Code §§ 20A-3-103(3), 76-3-204, and 76-3-301.)

**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.

**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).**

**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 on 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 (<http://us.practicallaw.com/6-524-0879>).

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

While there are no major local requirements in Utah at this time, practitioners should always consult relevant local and municipal law.

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