



KANSAS

QUICK AND EASY GUIDE TO LABOR & EMPLOYMENT LAW

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Disclaimer: These materials do not constitute legal advice and should not be substituted for the advice of legal counsel.

At-Will Employment

Kansas is an at-will employment state; however, there are several public policy exceptions. Exceptions articulated through case law include: (1) filing a claim under the Kansas Workers Compensation Act, Kan. Stat. Ann. § 44–501 *et seq* (effective as amended July 1, 2024)). (*Pfeifer v. Fed. Exp. Corp.*, 304 P.3d 1226 (Kan. 2013)); (2) filing a claim under the Federal Employers Liability Act, 45 U.S.C. § 51 (2006) *et seq.* (*Hysten v. Burlington N. Santa Fe Ry. Co.*, 85 P.3d 1183, *opinion modified and superseded*, 108 P.3d 437 (Kan. 2004)); (3) whistleblowing internally or to law enforcement (*Palmer v. Brown*, 752 P.2d 685 (Kan. 1988) and *Herman v. W. Fin. Corp.*, 869 P.2d 696 (Kan. 1994)); (4) exercising a public employee’s First Amendment right to free speech on an issue of public concern (*Anco Const. Co. v. Freeman*, 693 P.2d 1183 (Kan. 1985)); (5) filing a claim under the Kansas Wage Payment Act, Kan. Stat. Ann. § 44–313 *et seq.* (*Campbell v. Husky Hogs, L.L.C.*, 255 P.3d 1 (Kan. 2011)); and (6) invoking rights under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (2012), or the Kansas Minimum Wage and Maximum Hours Law, Kan. Stat. Ann. § 44–1201 *et seq.* (*Lumry v. State*, 385 P.3d 479 (Kan. 2016)).

There are three scenarios when determining whether a public policy exception to Kansas’ at-will employment exists: “(1) The legislature has clearly declared the state’s public policy; (2) the legislature enacted statutory provisions from which public policy may reasonably be implied, even though it is not directly declared; and (3) the legislature has neither made a clear statement of public policy nor can it be reasonably implied.” (*King v. Unified Sch. Dist.*, 539 P.3d 1045 (Kan. Ct. App. 2023), *review denied* (Feb. 22, 2024)) (quoting *Husky Hogs*, 255 P.3d at 5) (e.g., *Kistler v. Life Care Centers of Am., Inc.*, 620 F. Supp. 1268 (D. Kan. 1985) (holding that testifying against employer at unemployment compensation hearing among public policy exceptions to general at-will employment rule)).

Additionally, Kansas statute prohibits terminations based on race, religion, color, sex, disability, national origin, or ancestry. Kan. Stat. Ann. § 44-1009.

Immigration Verification

Kansas places no additional employment verification procedures on employers beyond federal I-9 compliance. See Immigration Reform and Control Act of 1986 (IRCA) (Pub. L. No. 99-603, 100 Stat. 3359 (1986), as codified as amended in scattered sections of Section 8 of the United States Code (8 U.S.C. § 1255a, *et seq.* (1986)).

Drug Testing

Kansas does not have any law regulating or prohibiting drug testing in the private sector.

- For employers who wish to conduct drug testing for job application purposes, the Kansas Human Rights Commission requires that a conditional job offer be made before requesting a drug screening. Under the Kansas Human Rights Commission, a private employer may require an applicant to submit a drug test, so long as: (1) all entering employees in the same job category face that same requirement; and (2) the information obtained remains confidential except to supervisors/managers, or for safety reasons.

Kan. Stat. Ann. § 75-4362 (effective as amended July 1, 2024) governs drug screening of certain categories of state employees, including safety-sensitive positions and state mental health workers.

Jury Duty Leave

It is unlawful for an employer to fire or threaten to fire an employee for the employee’s jury service, or the attendance or scheduled attendance in connection with the service. This is applicable to all permanent employees who are called to jury duty in any Kansas court. Kan. Stat. Ann. § 43-173.

- If an employer violates this provision, they will be liable for damages for lost wages, actual damages, and other benefits suffered by an employee by reason of the violation. If discharged, the employee shall be reinstated to their prior position without loss of seniority and be entitled to participate in the benefits offered by the employer. Attorney’s fees may be awarded to the prevailing party, but attorney’s fees can

only be awarded to the prevailing employer if the court finds the action was frivolous or brought in bad faith. Kan. Stat. Ann. . § 43-173.

No Kansas state law requires the employer to pay wages while an employee is on jury duty.

Voting Leave

A person who is entitled to vote on election day is entitled to be absent for up to two consecutive hours between the opening and closing of the polls. Additional time may be taken, not to exceed two hours, in the event the polls are open prior to or after the shift to allow the employee to vote. The employee shall not be penalized for going to vote, and no deductions shall be made from the employee's usual salary or wages. Kan. Stat. Ann. § 25-418.

An employer may specify what time during the day an employee may be absent from work to vote, so long as it does not include the employee's regular lunch period.

Parental Leave

The Governor of Kansas, through Executive Order No. 21-24, implemented and expanded Kansas' paid parental leave in 2021. As of June 2024, E.O. No. 21-24 is still in place. The paid parental leave runs concurrently with the Family and Medical Leave Act if the employee is eligible. All State of Kansas employees, whether they work full- or part-time, may take paid parental leave following the birth or adoption of a child or the placement of a foster child (or children).

- The parent who is the primary caregiver receives eight weeks of paid parental leave, while the secondary caregiver shall receive four weeks. If both parents are state workers, then they both receive parental leave, which may be taken at the same time, back-to-back, or at different times.
- The paid parental leave can only be taken up to 30 days before the projected due date of birth or adoption and within the 12 weeks immediately following the birth or adoption of a child.

Domestic Violence Leave

- The State of Kansas requires employers to grant domestic violence leave to eligible employees who: Obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the victim or the victim's children
- Seek medical attention for injuries caused by domestic violence or sexual assault.
- As a result of domestic violence or sexual assault, obtain services from a domestic violence shelter, a domestic violence program; or a rape crisis center.
- Make court appearances in the aftermath of domestic violence or sexual assault.

Eligible employees are entitled to eight days off per calendar year for domestic violence leave. An employee may elect to use accrued paid leave or, if paid leave is unavailable, unpaid leave. Accrued paid time off benefits include vacation, personal time off, and in some cases, sick days, if they would otherwise cover the absence. Kan. Stat. Ann. § 44-1132.

Pregnancy Leave

The State of Kansas does not require employers to have a specific pregnancy leave policy, but under the Kansas Acts Against Discrimination (KAAD), employers generally must treat pregnancy-related conditions in the same manner as they treat other types of temporary disabilities for all employment-related purposes, including leave and other benefits. Kan. Stat. Ann. § 44-501 *et seq* (effective as amended July 1, 2024); Kan. Admin. Regs. § 21-32-6. Kansas pregnancy leave regulations apply to women who are pregnant, have a miscarriage, have an abortion, give birth to a child, or are recovering from any of the foregoing.

Pregnancy leave runs concurrently with FMLA leave, if applicable. If the FMLA is not applicable, the employee is still entitled to pregnancy leave under Kansas state law if the KAAD applies. The KAAD and its regulations do not require leave following the recuperation period for either bonding with the newborn or caring for the newborn if the newborn becomes seriously ill (although, if applicable, the FMLA would require leave).

Additionally, a sex discrimination complaint, which includes pregnancy discrimination, may be filed with the Kansas Human Rights Commission within six months of either the alleged act of discrimination or the last alleged act of discrimination in continuing pattern or practice claims. Filing a complaint is an administrative prerequisite to filing a private civil suit for sex discrimination. Kan. Stat. Ann. § 44-1005.

Military Leave

The State of Kansas does not require employers to include specific language in employers' military leave policies. Private employers are not required to pay employees during military leave, but employers must grant a leave of absence to an eligible employee who is called or ordered to active military duty by the state of Kansas or any other state. While performing this military duty, the employee is considered to be on a temporary leave of absence. After employees have completed service, employers must reinstate or restore the employees to any permanent position of employment that they held when they were called to duty. Kan. Stat. Ann. §§ 48-517(a),(b), 44-1126(a).

Workers' Compensation

The State of Kansas does not require workers' compensation leave for employees who have suffered work-related injuries or illnesses, but an employee may be entitled to leave under the applicable workers' compensation policy. Under the Kansas Workers' Compensation Law, all employers must obtain and maintain insurance for work-related injuries and illnesses that result in total or partial incapacity or death. Kan. Stat. Ann. § 44-501 *et seq* (effective as amended July 1, 2024).

Disability Leave

The State of Kansas does not require employers to have a disability leave policy nor require specific language in a disability leave policy. However, disabled employees may be eligible for leave as a reasonable accommodation under the KAAD. Kan. Stat. Ann. § 44-1009 *et seq*.

Volunteer Emergency Personnel

The State of Kansas does not allow employers to discharge an employee because that employee performs duties as a volunteer firefighter, volunteer emergency medical service provider, or volunteer reserve or part-time law enforcement officer. The law does not apply to full-time firefighters and law enforcement officers. Kan. Stat. Ann. § 44-131.

Other Leave

The State of Kansas does not require private employers to offer employees paid vacation or sick leave and does not have a state equivalent of the Family and Medical Leave Act (FMLA), 29 C.F.R. § 825.100, *et seq*. However, the employer may be subject to the federal FMLA. The FMLA entitles eligible employees to take unpaid, job-protected leave for certain family and medical reasons while requiring employers who provide health coverage to their employees to continue group health insurance coverage.

Smoking Laws

The State of Kansas has made it unlawful to smoke in an enclosed area or at a public meeting place; this includes any place of employment. Employers must also adopt and maintain a written smoking policy that prohibits smoking without exception in all areas of the workplace. The written policy must be provided to all employees upon request. Kan. Stat. Ann. § 21-6110.

Break Time to Express Milk

The State of Kansas allows mothers to breastfeed at any place that they have the right to be. Kan. Stat. Ann. § 65-1,248. Kansas does not have any laws supporting breastfeeding moms in the workplace. However, the FLSA requires certain employers to provide a reasonable break time for an employee to express breast milk for her nursing child for one year after the child's birth. Employers must also provide a place other than a bathroom, for nursing mothers to express breast milk. 29 U.S.C. § 201 *et seq.* (2012).

Meal Breaks

The State of Kansas has no law regulating meal breaks or rest periods.

Minimum Wage, Overtime, and Wage Recordkeeping

Beginning January 1, 2010, the State of Kansas set minimum wage at not less than \$7.25 per hour. Employers must still comply with federal wage laws and regulations. The employer can pay tipped employees \$2.65 per hour as long as the employee's tips bring the total hourly wage up to the state minimum wage. Kan. Stat. Ann. § 44-1203.

Provisions governing overtime pay can be found at Kan. Stat. Ann. § 44-1204. Generally, if an employee works more than 46 hours per week, he or she must be compensated at a rate of one and one-half times the regular rate of pay at which he or she is employed.

For a minimum of three years, every employer must keep a record of the name and occupation of each of its employees, the employee's rate of pay, the amount paid each pay period, and the hours an employee worked per day and per week. Kan. Stat. Ann. § 44-1209.

Final Payments

Whenever an employee quits, resigns, or is otherwise discharged, the employer must pay the employee's earned wages on or before the next regular payday which the employee would have been paid if still employed. Kan. Stat. Ann. § 44-315.

Unemployment Insurance

Unemployment insurance benefits provide income to individuals who have lost work through no fault of their own. The benefits are intended to partially offset the loss of wages while an unemployed worker searches for suitable work or until an employer can recall the employee to work. This benefit is available to unemployed individuals for up to 16 weeks. Nothing is deducted from the employee's wages to pay for this coverage. Unemployment benefits are administered by the Department of Labor and additional information regarding the benefits may be accessed at www.getkansasbenefits.gov/Home.aspx.

Effective July 1, 2024, weekly benefit amounts will be calculated and paid in accordance with Kan. Stat. Ann. § 44-704.

Workers' Compensation

The Kansas Workers' Compensation Act, Kan. Stat. Ann. § 44-501 *et seq.* (effective as amended July 1, 2024) applies to all employers in Kansas, except for certain employers in the agricultural field, not including those where the employer is the state or any department, agency, or authority of the state, and any job where the employer made \$20,000 or less in gross annual payroll for the current calendar year. Employees who suffer injuries and/or occupational diseases arising out of and in the course of their employment may be eligible to receive several types of benefits under the Act. Under the Act, a workplace injury must be immediately reported to the employer; failing to timely report an injury may result in a denial of benefits. The Act is administered by the Kansas Department of Labor Division of Workers' Compensation, and additional information regarding the Act may be accessed [here](#).

Child Labor

With limited exception, children under the age of 14 years of age cannot be employed in Kansas. Kan. Stat. Ann. § 38-601. At the age of 16, a child may be employed for most work unless the work is declared hazardous by the state labor commissioner. Additionally, children under the age of 16 cannot: (1) work before 7:00 a.m., or after 10 p.m., except Fridays, Saturdays, or any other day that is not followed by a school day; (2) work more than eight hours a day; and (3) work more than 40 hours a week. Kan. Stat. Ann. § 38-603. Additional restrictions for employers of minors may be found here.

Gun Laws

Employers in Kansas may prohibit employees from carrying a concealed handgun in a building, but the employer must post a conspicuous notice of the ban in accordance with rules and regulations adopted by the Attorney General. Kan. Stat. Ann. § 75-7c10(a).

Referenced statutes are current through 2024 Session Acts Chapter 111 unless otherwise noted.