



# National Kidney Foundation<sup>®</sup>

## **Donor Leave Laws and Tax Deductions/Credits for Living Donors**

The National Kidney Foundation is a strong supporter of policies to provide donor leave and reimbursement for direct expenses related to living donation.

### **Federal Legislation**

**Donor Leave Laws:** Employees of the federal government receive 30 days paid leave for organ donation and 7 days for bone marrow donation. The leave is over and above the employee's sick and annual leave. ([5 U.S.C. 6327](#))

**Pending Legislation:** The Living Donor Protection Act ([S. 511/H.R. 1224](#)) will prohibit discrimination based on an individual's status as a living organ donor in the offering, issuance, cancellation, coverage, price, or any other condition of a life insurance policy, disability insurance policy, or long-term care insurance policy. The bill also codifies that any living organ donors may use time granted through the Family and Medical Leave Act (FMLA) to recover from donation.

### **State Legislation**

**Donor Leave Laws:** Modeled after federal law (for federal employees), most states have begun to offer state employees up to 30 days leave (paid or unpaid) for serving as a living organ donor. This leave is considered separate from any annual or sick leave already accrued by an employee.

16 states and DC (Arkansas, California, Colorado, Connecticut, Hawaii, Louisiana, Maine, Minnesota, Nebraska, New Jersey, New York, Oregon, Pennsylvania, South Carolina, West Virginia, and Wisconsin) have organ or bone marrow donor leave policies impacting private sector employees.

**Tax Deductions or Credits:** 21 states have also enacted tax deductions or credits to living donors; please see below for more information.

**Living Donor Protection Act State Legislation:** Currently 12 states have versions of the Living Donor Protection Act insurance non-discrimination language (Arizona, Arkansas, California, Colorado, Idaho, Illinois, Kansas, Maine, Maryland, New York, Oklahoma, and Oregon). Several other states are considering versions of this legislation currently.

**Note:** This information is provided as a guide only. Prior to donation, potential donors should double-check that the information for their state is accurate and determine any additional provisions or restrictions that may apply to their situation. If you have any additions or

corrections to this information, or would like to improve kidney disease policies, please email [nkfadvocacy@kidney.org](mailto:nkfadvocacy@kidney.org).

State	State Tax Deductions (and/or Tax Credits)	Donor Leave Laws and Other Assistance (Note: most of this legislation applies only to <u>state employees</u> )	State Living Organ Donor Protection Laws
<i>Alabama</i>			
<i>Alaska</i>	Not applicable (there is no state income tax in Alaska)	State employees (working 30 or more hours per week) are allowed a minimum of 40 hours and a maximum of 80 hours of paid leave for screening, organ donation, and bone marrow donation. (§39.20.275)	
<i>Arizona</i>		State employees are allowed up to 30 days paid leave for organ donation and 5 days for bone marrow donation. (§41-706, R2-5A-B609)	Prohibits discrimination against living organ donors in life, disability, or long-term care insurance. (Signed)
Arkansas	Up to \$10,000 Organ Donation Tax Deduction: A taxpayer may take a tax deduction to cover the unreimbursed cost of travel, lodging, lost wages, and medical expenses for organ or bone marrow donation. (§26-51-2103)	State and public school employees are allowed up to 30 days of paid leave for organ donation and 7 days for bone marrow donation. (§21-4-215) Private employers (with one or more employees) must grant organ and bone marrow donors unpaid leave up to 90 days. If the employer grants paid leave, the employer is entitled to a tax credit of 25% of the regular salary of the employee during their leave. (§11-3-205)	Prohibits discrimination against living organ donors in life, disability, or long-term care insurance. (§23-66-206)
<i>California</i>		State employees, including education employees, are allowed up to 30 days of paid leave for organ donation and 5 days for bone marrow donation if they have exhausted all available sick leave. (§19991.11, §89519.5, § 9211.5) Private employers (with more than 15 employees) must grant up to 30 days of paid leave for organ donation and 5 days for bone marrow donation. Employers may require employees use up to two weeks of earned but unused sick leave, vacation, or paid time off for organ donation and up to five days of earned but unused sick leave, vacation, or paid time off for bone marrow donation. (§ 1510)	Prohibits discrimination against living organ donors in life, disability, or long-term care insurance and provides up to 30 days of unpaid leave for organ donation. (Passed, Not signed)

Colorado		State employees are allowed up to two days of paid leave for organ and bone marrow donation (§24-50-104) Employer Tax Credit: Employers may take a tax credit equal to 35% of wages paid to an employee or temporary replacement help for an employee on paid leave for organ donation. (Colo. Rev. Stat. § 39-22-540)	Prohibits discrimination against living organ donors in life, disability, or long-term care insurance. (Signed)
Connecticut	Up to \$10,000 Organ Donation Tax Deduction: A taxpayer may take a tax deduction to cover the unreimbursed cost of travel, medical, lodging and lost wages for organ or bone marrow donation. (§229-12-701)	State employees are allowed up to 24 weeks of non-paid leave for organ and bone marrow donation. (§67-5-248a) State employees are allowed up to 15 days of paid leave for organ donation and up to 7 days of paid leave for bone marrow donation, in addition to unpaid leave. (§5-248K) Private employers must provide up to 16 weeks of non-paid leave for organ and bone marrow donation. (§31-511l)	
Delaware		State employees, teachers, and school employees are allowed up to 30 days of paid leave for organ donation and 7 days for bone marrow donation. (29 Del. C. § 5122; 14 Del.C. § 1318B)	
District of Columbia		City employees are allowed up to 30 days of paid leave for organ donation and 7 days for bone marrow donation. (§1-612.03b) If a private employer offers a donor paid leave, it may claim a tax credit equal to 25% of a donor's salary during a period of up to 30 days for organ donation and 7 days for bone marrow donation. (§47-1807.08)	
Florida	Not applicable (there is no state income tax in Florida)		
Georgia	Up to \$10,000 Organ Donation Tax Deduction: A taxpayer may take a tax deduction to cover the unreimbursed cost of travel, lodging and lost wages for organ or bone marrow donation. (§48-7-27)	State employees are allowed up to 30 days of paid leave for organ donation and 7 days for bone marrow donation. (§45-20-31)	

Hawaii		State or county employees are allowed up to 30 days of paid leave for organ donation and 7 days for bone marrow donation. (§78-23.6) Private employers with 50+ employees must offer up to 30 days of paid leave for organ donation and 7 days for bone marrow donation. Donors can be required to take unused leave as a condition of this benefit. This benefit cannot be used concurrently with the Family and Medical Leave Act. (SB1233)	
Idaho	Up to \$5,000 Organ Donation Tax Credit(not deduction): A taxpayer may take a tax deduction for themselves, or a dependent, to cover the unreimbursed all expenses for organ or bone marrow donation. (§63-3029K)	Full time state employees are allowed up to 30 days of paid leave for organ donation and 5 days for bone marrow donation. (§67-5343)	Prohibits discrimination against living organ donors in life, disability, or long-term care insurance. (§41-1852)
Illinois		State employees are allowed up to 30 days of paid leave for organ and bone marrow donation. (5 ILCS §327/20)	Prohibits discrimination against living organ donors in life, disability, or long-term care insurance and provides up to 30 days of unpaid leave for organ donation. (Signed)
Indiana		State employees are allowed up to 30 days of paid leave for organ donation and 5 days for bone marrow donation. (§4-15-16-8)	
Iowa	Up to \$10,000 Organ Donation Tax Deduction: A taxpayer may take a tax deduction to cover the unreimbursed cost of travel, lodging and lost wages for organ or bone marrow donation. (§422.7(44))	State employees are allowed up to 30 days of paid leave for organ donation and 5 days for bone marrow donation. (§70A.39)	
Kansas	Up to \$5,000 Organ Donation Tax Deduction: A taxpayer may take a tax deduction for themselves, or a dependent, to cover the unreimbursed cost of travel, lodging and medical expenses for organ or bone marrow donation. (§79-32,117(c)(xxi))	Executive branch state employees are allowed up to 30 days of paid leave for organ donation and 7 days for bone marrow donation. (EO2001-02)	Prohibits discrimination against living organ donors in life insurance. (Bill Status: law 4.19.19)
Kentucky			

Louisiana	Up to \$7,200 Organ Donation Tax Credit (not deduction): A taxpayer may take a credit up to 72% of the unreimbursed cost of travel, lodging, and lost wages because of donation by the taxpayer or their spouse. (§47:297(N)(1))	State, local, and private employers (with more than 20 employees on at least one site) must grant employees (working more than 20 hours per week) paid leave up to 40 work hours for bone marrow donation. (§40:1263.4) Employer Tax Credit: Employers may take a tax credit equal to 25% of wages paid to an employee on leave for bone marrow donation. (§47:287.758)	
Maine		Any employee covered by the Family and Medical Leave Act may take up to 10 weeks unpaid leave for organ donation. (26§844)	Prohibits discrimination against living organ donors in life, disability, or long-term care insurance. (§24-A2159)
Maryland	Up to \$7,500 Organ Donation Tax Credit: A taxpayer may take a credit for the unreimbursed cost of travel, lodging, and lost wages because of donation. (§10-208(w))	State employees are allowed up to 30 days of paid leave for organ donation and up to 7 days for bone marrow donation. (§9-1106)	Prohibits discrimination against living organ donors in life, disability, or long-term care insurance. It also provides certain employees up to 60 days of unpaid leave for living organ donation. (Signed)
Massachusetts	Up to \$10,000 Organ Donation Tax Deduction: A taxpayer may take a tax deduction to cover the unreimbursed cost of travel, lodging and lost wages for organ or bone marrow donation. (62§3(B)(a)(16))	State and local employees are allowed up to 30 days of paid leave for organ donation. (149§33E)	
Michigan			
Minnesota	Up to \$10,000 Organ Donation Tax Deduction: A taxpayer may take a tax deduction to cover the unreimbursed cost of travel, lodging and lost wages for organ or bone marrow donation. (§290.01(19b)(12))	State and local employers (with 20+ employees) must grant employees (working 20+ hours per week) paid leave up to 40 work hours for organ donation. (§181.9456) State, local, and private employers meeting the above qualifications must grant paid leave up to 40 work hours for bone marrow donation. (§181.945)	
Mississippi	Up to \$10,000 Organ Donation Tax Deduction: A taxpayer may take a tax deduction to cover the unreimbursed cost of travel, lodging and lost wages for organ or bone marrow donation. (§27-7-18)	State employees are allowed up to 30 days of paid leave for organ and bone marrow donation. (§25-3-103)	

Missouri		State employees are allowed up to 30 days of paid leave for organ donation and 5 days for bone marrow donation. (§105.266)	
Montana			
Nebraska		Employers are encouraged to grant paid leaves to an employee who seeks to donate bone marrow. §71-4820)	
Nevada	Not applicable (there is no state income tax in Nevada)		
New Hampshire	Not applicable (there is no state tax on paychecks in N. Hampshire)		
New Jersey	Up to \$10,000 Organ Donation Tax Deduction: A taxpayer may take a tax deduction for themselves, or a dependent, to cover the unreimbursed cost of travel, lodging and lost wages for organ or bone marrow donation. (S.4188/A.6075)	State employees are allowed up to 30 days of paid leave for organ and five days for bone marrow donation. Employer Tax Credit: Employers may take a tax credit equal to 25% of wages paid to an employee on paid leave for organ donation. (S.4188/A.6075)	
New Mexico	Up to \$10,000 Organ Donation Tax Deduction: A taxpayer may take a tax deduction for themselves, or a dependent, to cover the unreimbursed cost of travel, lodging and lost wages for organ or bone marrow donation. (§7-2-36)	State employees are allowed 20 days of paid leave for organ and bone marrow donation, after using their (or donated) leave. (§24-28-3)	
New York	Up to \$10,000 Organ Donation Tax Deduction: A taxpayer may take a tax deduction to cover the unreimbursed cost of travel, lodging and lost wages for organ or bone marrow donation. (§612(c)(38)(A))	State employees are allowed 30 days for organ donation and 7 days of paid leave for bone marrow donation. (§202-b) Private employers (with more than 20 employees on at least one site) must grant employees (working more than 20 hours per week) up to 24 hours leave to donate bone marrow. (§202-A)	Prohibits discrimination against living organ donors in life, accident, and health insurance; authorizes FMLA for donors; and directs the creation of materials relating to the benefits of being a living organ donor. (ICS§25-2616, WKC§9-201, PBH§43B-4365)
North Carolina		State employees may be granted up to 30 days paid leave for organ and reasonable leave for bone marrow donation. (State Human Resources Manual)	

North Dakota	Up to \$10,000 Organ Donation Tax Deduction: A taxpayer may take a tax deduction for themselves, or a dependent, to cover the unreimbursed cost of travel, lodging and lost wages for organ or bone marrow donation. (§57-38-30.3(2)(j))	State employees may be granted up to 20 days paid leave for organ and bone marrow donation, after using their (or donated) leave. (§54-06-14.4)	
Ohio	Up to \$10,000 Organ Donation Tax Deduction: A taxpayer may take a tax deduction for themselves, or a dependent, to cover the unreimbursed cost of travel, lodging and lost wages for organ or bone marrow donation. (§ 5747.01(A)(25))	Full time state employees are allowed 240 hours of paid leave for donation of a kidney or portion of their liver. Up to 56 hours of paid leave are allowed for bone marrow donation.(§124.139)	
Oklahoma	Up to \$10,000 Organ Donation Tax Deduction: A taxpayer may take a tax deduction for themselves, or a dependent, to cover the unreimbursed cost of travel, lodging and lost wages for organ or bone marrow donation. (68§2358(E)(20))	State employees are allowed 30 days paid leave for organ donation and 5 days for bone marrow donation. (74§840-2.20B)	Prohibits discrimination against living organ donors in life, disability, or long-term care insurance. (Signed)
Oregon		Private employers must grant employees (working 20+ hours per week) already accrued paid leave up to 40 work hours for bone marrow donation. (§659A.312)	Prohibits discrimination against living organ donors in life, disability, or long-term care insurance. It also provides certain employees up to 60 days of unpaid leave for living organ donation. (Signed)
Pennsylvania		Employer Tax Credit: Employers may take a tax credit equal to the wages paid to an employee on leave for organ and bone marrow donation, and temporary employees hired. (72 §8803)	
Rhode Island	Up to \$10,000 Organ Donation Tax Deduction: A donor may take a tax deduction to cover the unreimbursed cost of travel, lodging and lost wages for organ or bone marrow donation. (§44-30-12(c)(7))		



South Carolina		State employees are allowed 30 days of paid leave for organ donation. (§8-11-65) Private employers (with more than 20 employees on at least one site) may offer employees (working more than 20 hours per week) up to 40 hours of paid leave for bone marrow donation. (§44-43-80)	
South Dakota	Not applicable (there is no state income tax in S. Dakota)		
Tennessee	Not applicable (there is no state tax on paychecks in Tennessee)		
Texas	Not applicable (there is no state income tax in Texas)	State employees are allowed 30 days of paid leave for organ donation and 5 working days paid leave for bone marrow. (§661.916)	
Utah	Up to \$10,000 Organ Donation Tax Credit (not deduction): A donor may take a tax credit to cover the unreimbursed cost of travel, lodging and lost wages for organ or bone marrow donation. (§59-10-1015)	State employees are allowed up to 30 days of paid leave for organ donation and 7 days for bone marrow donation. (§67-19-14.5)	
Vermont			
Virginia	Up to \$5,000 Organ and Tissue Donation Tax Deduction: A donor may take a tax deduction for unreimbursed out of pocket expenses directly related to the donation that arose within 12 months of donation, provided the donor has not taken a medical deduction with the provisions of IRS Code § 213. A bone marrow donor may deduct the fee for initial screenings. (§58.1-322(D)(13))	Full time state employees are allowed up to 30 days of paid leave for organ or bone marrow donation. (§ 2.2-2821.1)	
Washington	Not applicable (there is no state income tax in Washington)	State employees are allowed up to 5 days of paid leave per two years for organ or bone marrow donation. (EO02-01)	
West Virginia		Full time state employees are allowed up to 120 hours of paid leave for kidney and liver donation. Full time state employees are allowed up to 56 hours of paid leave for bone marrow donation. The legislature encourages political subdivisions and private employers to grant full-time employees paid leave similar to the paid leave granted to full-time state employees. (§29-6-27 & §29-6-28)	

Wisconsin	<p>Up to \$10,000 Organ Donation Tax Deduction:</p> <p>A taxpayer may take a tax deduction for themselves, or a dependent, to cover the unreimbursed cost of travel, lodging and lost wages for organ or bone marrow donation. (§71.05(10)(i))</p>	<p>State employees are allowed up to 30 days of paid leave for donating organs, or 5 days for donating bone marrow. (§230.35(2d))</p> <p>An employee is entitled up to six weeks of unpaid leave for organ donation. To be eligible, the employee must have worked with the same employer for 52 weeks and the employer must have at least 50 employees. (Wis. Stat. § 103.11)</p>	
Wyoming	Not applicable (there is no state income tax in Wyoming)		