



2024 Cal-Peculiarities: How California Employment Law is Different

New Developments in Leaves & Accommodations

Seyfarth Shaw LLP

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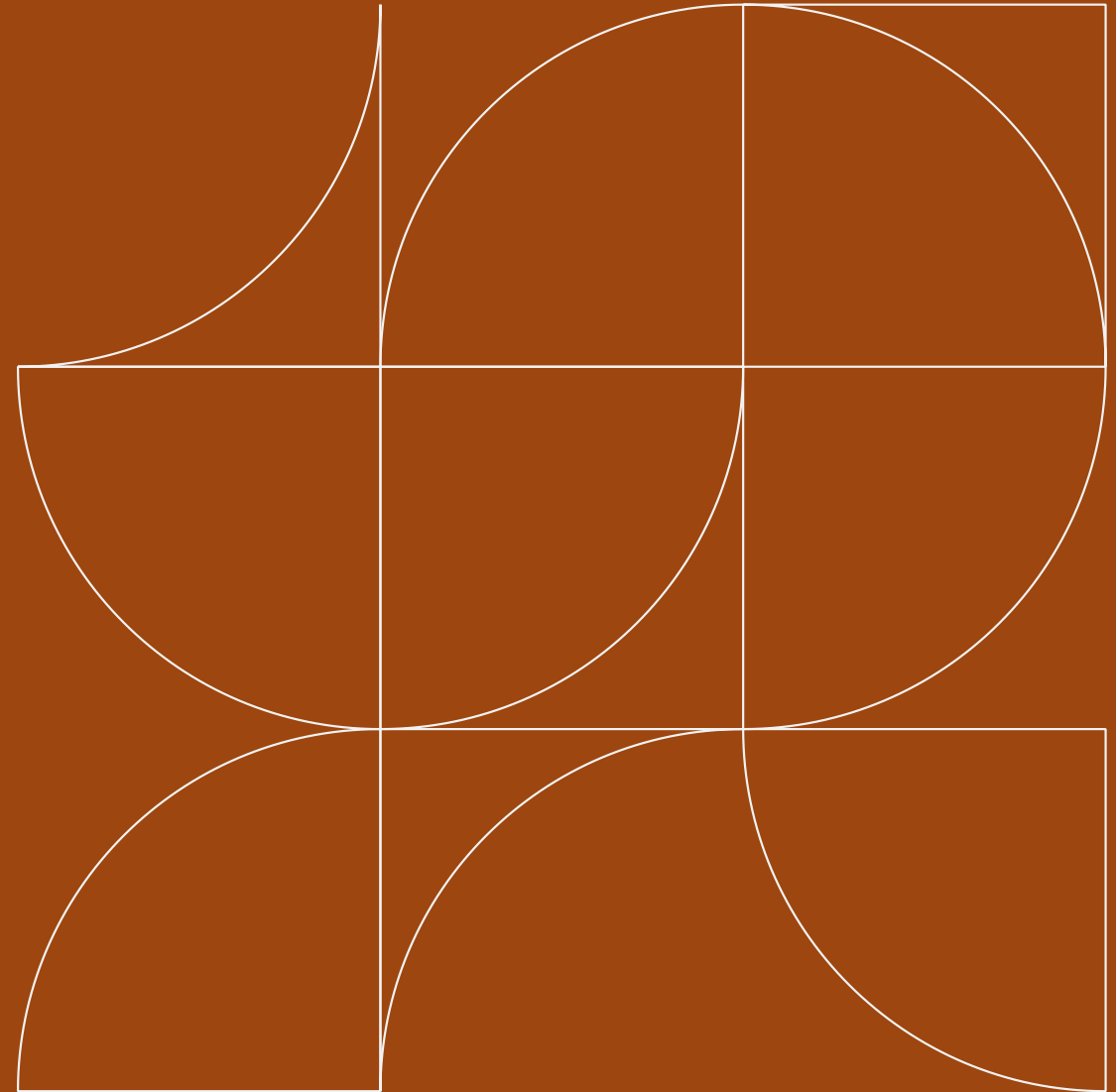
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AGENDA

- Paid Family Leave Updates
- New Reproductive Loss Leave
- California Paid Sick Leave (HWHFA) Developments
- Updates to Jury, Court, and Victim Time Off and Accommodation Updates

Paid Family Leave Updates



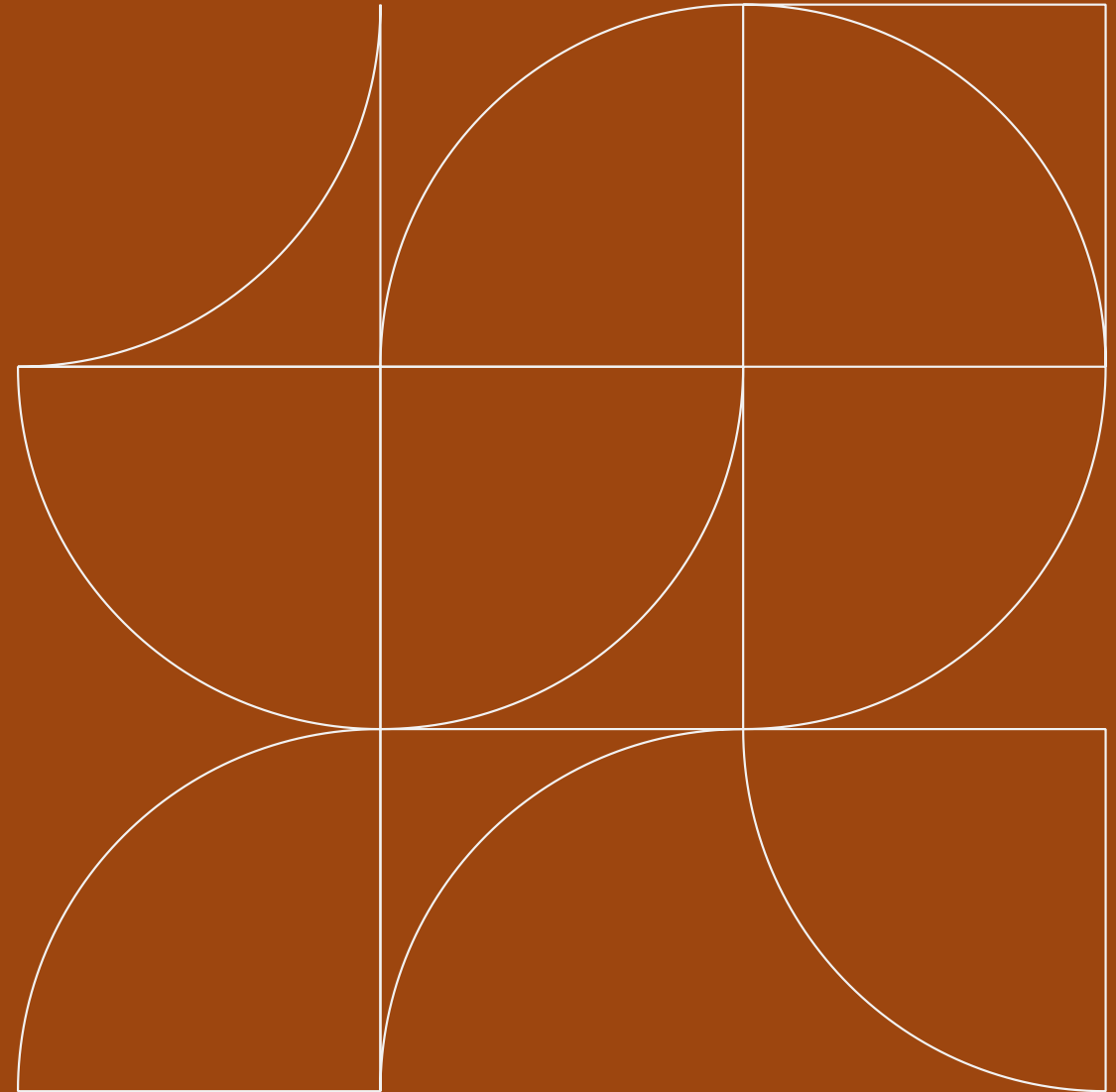
2024 Paid Family Leave Updates

- For claims filed after **January 1, 2024**, the maximum weekly PFL benefit is \$1,620.
- The maximum weekly benefit is projected to remain the same for 2025.
- Effective **January 1, 2024**, the SDI/PFL withholding rate increased from 0.9 percent to 1.1 percent.
- Effective **January 1, 2024**, there is no wage cap on PFL and SDI withholdings. As of **January 1, 2024**, all wages paid are subject to the SDI and PFL payroll tax.
 - In 2023, the wage cap was \$153,164.

2025 Paid Family Leave Updates

- On September 29, 2024, Governor Newsom signed Assembly Bill (AB) 2123.
- Under AB 2123, as of January 1, 2025, employers may no longer require employees to take up to two weeks of accrued, unused vacation before the employee's initial receipt of PFL wage replacement benefits.

New Reproductive Loss Leave



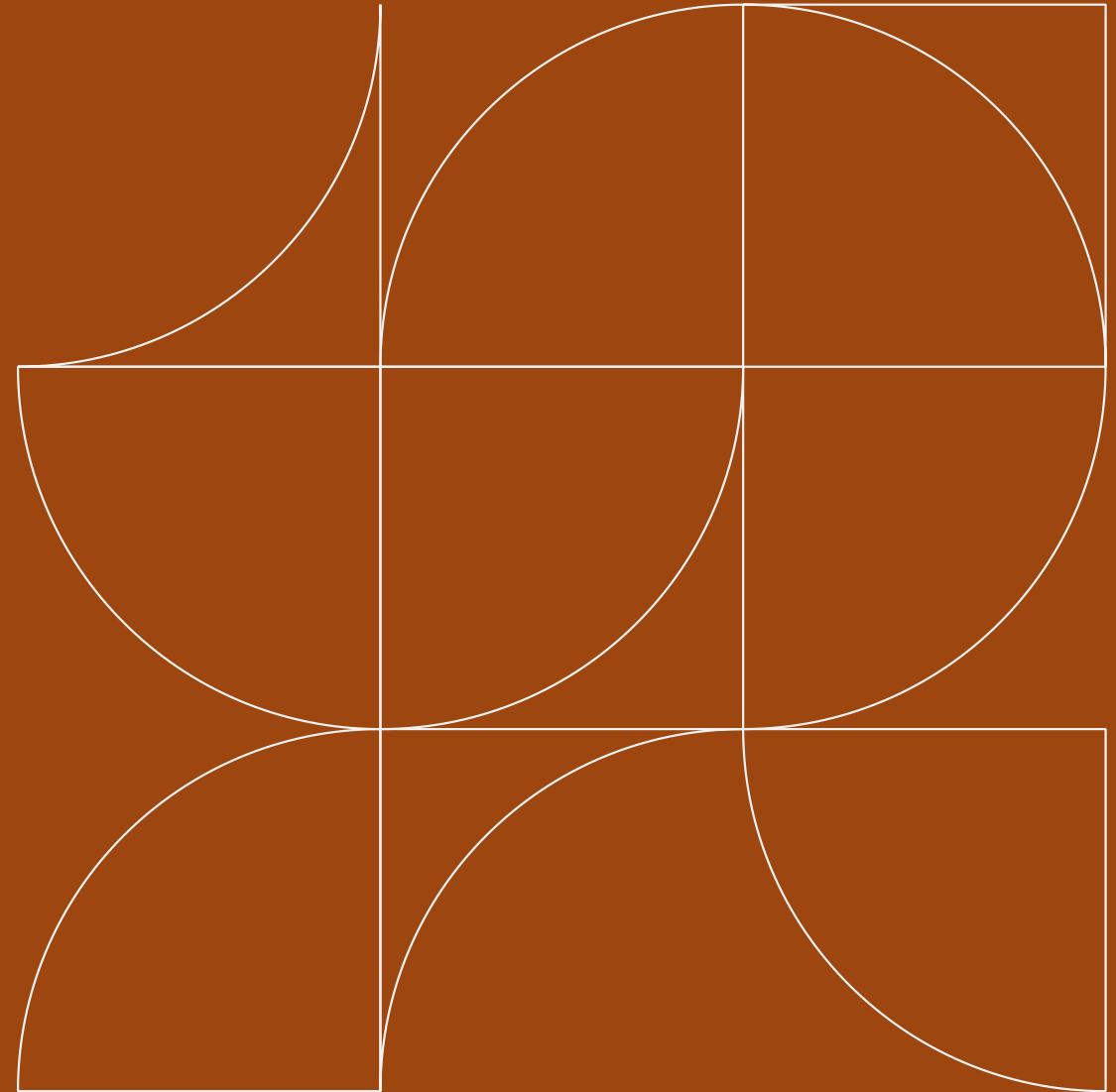
Reproductive Loss Leave

- Effective **January 1, 2024**, all California employees who have worked for the employer for at least 30 days are eligible for up to **five days** of leave after a miscarriage, unsuccessful assisted reproduction, failed adoption or surrogacy, or stillbirth.
- If an employee experiences more than one reproductive loss event in a 12-month period, the employee is entitled to **no more than 20 days** of leave in the 12-month period.

Reproductive Loss Leave

- Employees receive paid leave under the employer's paid bereavement leave **if** the employer offers paid bereavement leave. Otherwise, the leave is unpaid.
- After the employee exhausts paid bereavement leave (or if the employer does not offer paid bereavement leave), the employee may elect to use his/her accrued vacation, PTO, and/or sick leave during otherwise unpaid leave.
- The employer may **not** require documentation to support the employee's need for leave.
- The law prohibits retaliation against an employee who uses the leave or who shares information about it.

California Paid Sick Leave (HWHFA) Developments



2024 Changes to Health Workplaces, Healthy Families Act (HWHFA)

- **Annual Use Limit Increase.** As of **January 1, 2024**, the annual use limit increased to 40 hours or five days, which is **greater**.
- **Maximum Accrual Cap Increase.** As of **January 1, 2024**, the maximum point-in-time accrual cap increased to 80 hours or 10 days, whichever is **greater**.
- **New Covered Family Member.** As of **January 1, 2024**, employees may take paid sick leave for a “designated person.”
 - A “designated person” is “a person identified by the employee at the time the employee requests paid sick days.”
 - An employer may limit an employee to one designated person per 12-month period for the purpose of paid sick leave use.

2025 Changes to HWHFA (AB 2499)

- ***Paid Sick Leave If Family Member Is A Victim.***
 - The HWHFA currently allows employees to take paid sick leave leave if ***the employee*** is a victim of domestic violence, sexual assault, or stalking for the purposes set forth in sections 230(c) and 230.1(a).
 - As of **January 1, 2025**, paid sick leave will be available when the employee’s ***covered family member*** is a victim.
 - Covered family members include the employee’s children (regardless of age or dependency status), parents, spouse, registered domestic partner, grandparents, grandchildren, siblings, and, as of January 1, 2024, “designated person.”
- ***Extension of Victim Status to Additional Crimes.***
 - Domestic violence;
 - Sexual assault;
 - Stalking; ***or***

2025 Changes to HWHFA (AB 2499)

- An act, conduct, or pattern of conduct that includes any of the following in which an individual (third party):
 - Causes bodily injury or death to another individual;
 - Exhibits, draws, brandishes, or uses a firearm, or other dangerous weapon, with respect to another individual; and/or
 - Uses, or makes a reasonably perceived or actual threat to use, force against another individual to cause physical injury or death.
- ***Expanded Reasons for Use for “Safe Time.”***
 - To obtain or attempt to obtain any relief for the family member (including, but not limited to, temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the victim, their child, or a family member);
 - To seek, obtain, or assist a family member to seek or obtain, medical attention for or to recover from injuries caused by a qualifying act of violence;

2025 Changes to HWHFA (AB 2499)

- To seek, obtain, or assist a family member to seek or obtain services from a domestic violence shelter, program, rape crisis center, or victim services organization or agency as a result of a qualifying act of violence.
- To seek, obtain, or assist a family member to seek or obtain psychological counseling or mental health services related to an experience of a qualifying act of violence.
- To participate in safety planning or take other actions to increase safety from future qualifying acts of violence.
- To relocate or engage in the process of securing a new residence due to the qualifying act of violence, including, but not limited to, securing temporary or permanent housing or enrolling children in a new school or childcare.

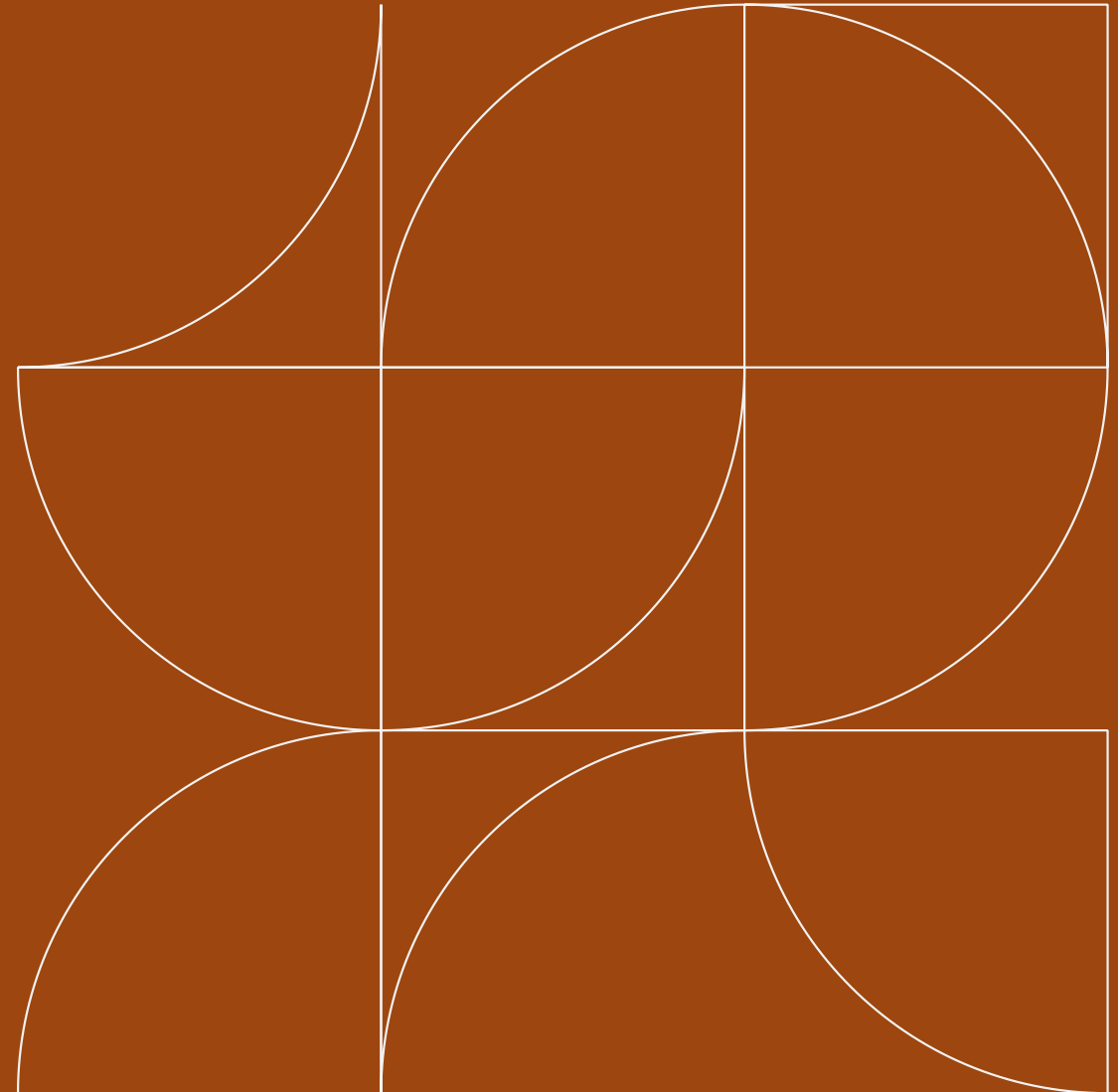
2025 Changes to HWHFA (AB 2499)

- To provide care to a family member who is recovering from injuries caused by a qualifying act of violence.
- To seek, obtain, or assist a family member to seek or obtain civil or criminal legal services in relation to the qualifying act of violence.
- To prepare for, participate in, or attend any civil, administrative, or criminal legal proceeding related to the qualifying act of violence.
- To seek, obtain, or provide childcare or care to a care-dependent adult if the childcare or care is necessary to ensure the safety of the child or dependent adult as a result of the qualifying act of violence.

2025 Changes to HWHFA (SB 1105)

- An ***agricultural employee*** who works outside may use paid sick leave to avoid smoke, heat, or flooding conditions created by a local or state emergency, including but not limited to, when the employee's worksite is closed due to the smoke, heat, or flooding conditions.
- An agricultural employee is defined in Labor Code section 9110.

Updates to Jury, Court, and Victim Time Off and Accommodation Updates



Jury, Court, and Victim Time Off/ Accommodation Updates (AB 2499)

- Unpaid leave and accommodation provisions for (1) victims of domestic violence, sexual assault, stalking, or crimes; (2) those serving on a jury; and (3) those complying with a subpoena or a court order to be a witness are set forth in Labor Code sections 230 and 230.1.
- As of **January 1, 2025**, these provisions are recast as grounds for unlawful practices under the California Fair Employment and Housing Act (FEHA), placing them under the California Civil Rights Department's (CRD) enforcement authority.
- As of **January 1, 2025**, the provisions are moved to new Government Code section 12945.8.

Jury, Court, and Victim Time Off/ Accommodation Updates (AB 2499)

- As of **January 1, 2025**, these provisions are expanded.
- The law prohibits discriminating or retaliating against, or terminating, employees for:
 - Taking time off for jury service, with reasonable notice;
 - Taking time off to appear in court as a witness under a court order;
 - (Where the employee is a victim) Taking time off to obtain relief for the employee's and/or their child's health, safety, or welfare, with reasonable notice unless advance notice is not feasible; or
 - (For employers with 25+ employees) (Where the employee or the employee's family member is a victim) Taking time off for various reasons related to a **qualifying act of violence** (instead of crime/crime or abuse), with reasonable notice unless advance notice is not feasible.

Jury, Court, and Victim Time Off/ Accommodation Updates (AB 2499)

- Employees may use vacation, personal days, and paid sick leave for the otherwise unpaid leave.
- If the absence also qualifies for leave under the FMLA and/or CFRA, then the leaves run concurrently.
- The law expands eligibility for **reasonable accommodations** to include not only employees who are victims but also employees who have family members who are victims of a **qualifying act of violence**.
- **New Notice Requirement.** After the CRD issues a model form online (which must occur **before July 1, 2025**), employers must inform employees of their rights under the law:
 - At the time of hire;
 - Annually;
 - Upon an employee’s request; **and**
 - Any time the employee informs the employer that they or their family member is a victim.



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