



2023 Brings More Changes to California Leave Laws

Insights

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Californian employers are no stranger to complex protected leave laws—so it may come as no surprise that 2023 will bring even more changes to leave laws in the Golden State. In 2022, employers were tasked with making a number of changes related to the California Family Rights Act (CFRA), which was expanded to include businesses with five or more employees and more permissive uses. For 2023, the California Legislature implemented a number of updates that throw even more uncertainty into the mix. For instance, California employees now have the right to take leave to care for a “designated person” in addition to the previously defined list of family members under CFRA and the California Paid Sick Leave (PSL) law. Additionally, California employees now have the option to take up to five days of job protected leave for bereavement. What do employers need to know about these shifts to stay in compliance for 2023?

“Designated Person” under the California Family Rights Act

As of January 1, 2023, employees may take job-protected leave under CFRA to care for a “designated person.” Previously, eligible employees were only able to take CFRA leave to care for a child, parent, parent-in-law, grandparent, grandchild, sibling, spouse, or registered domestic partner. Now, eligible employees can take CFRA leave for “any individual related by blood or whose association with the employee is the equivalent of a family relationship.”

Unfortunately, the bill does not further describe what “equivalent of a family relationship” means. Until further guidance is provided, the conservative approach is to let the employee decide who meets this definition. Employees may identify the “designated person” at the time they request leave, and employers can limit the employee to one designated person per 12-month period.

“Designated Person” under the California Paid Sick Leave Law

California’s PSL law requires employers to provide at least 24 hours or three days off work for employees who work for the same employer for at least 30 days and complete 90 days of employment before taking any paid sick leave.

As you may know, PSL may be used to care for a family member who is ill or needs medical diagnosis, treatment, or preventative care. Starting in 2023, employees can now use their PSL for a “designated person.” For the purposes of paid sick leave, a “designated person” is defined as a “person identified by the employee at the time the employee requests paid sick days.” This definition

varies from CFRA's designated definition as it does not require that the person be "the equivalent of a family relationship," nor does it require that the person be related by blood or affinity as required by some local paid sick leave laws. Employers are permitted, however, to limit an employee to one designated person per 12-month period.

Bereavement Leave (AB 1949)

The new bereavement leave law requires California employers with five or more employees to provide up to five days of unpaid leave to eligible employees for the death of a spouse, child, parent, sibling, grandparent, grandchild, domestic partner, or parent-in-law of the employee. This leave does not need to be taken consecutively but must be completed within three months of the death of the family member. Under this new law, some employees may take a full workweek off, while others may take the leave sporadically over the three-month period. To confirm the need for leave, employers can request documentation, such as a death certificate; a published obituary; or verification of death, burial, or memorial services from a funeral home.

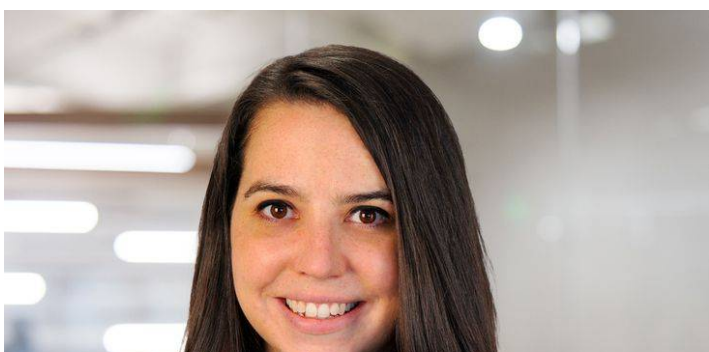
While the leave is unpaid, employees are entitled to use any vacation, personal leave, accrued and available sick leave, or other available paid time off (PTO). Employers should update their handbooks and sick leave policies to include bereavement leave as a qualifying reason to use their sick leave benefits.

Next Step for Employers

As 2023 begins, employers should review and revise their handbooks and policies to reflect the new leave laws. Additionally, employers should train their supervisors and human resources staff on these updates to ensure the company is in compliance with all the changes and prepared to respond to requests for bereavement leave or leave related to "designated persons."

We will continue to monitor developments in this area, so make sure you are subscribed to [Fisher Phillips' Insight system](#) to keep up with the most up-to-date information. Please contact your Fisher Phillips attorney, the author of this Insight, [any attorney in our California offices](#), or any attorney in our [Employee Leaves and Accommodations Practice Group](#) should you have any questions.

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