



Webinar Series: Guidance on State and Local Paid Sick Leave Laws

Part 11: A Decade of Paid Sick Leave Law Change

October 25, 2023

Seyfarth Shaw LLP

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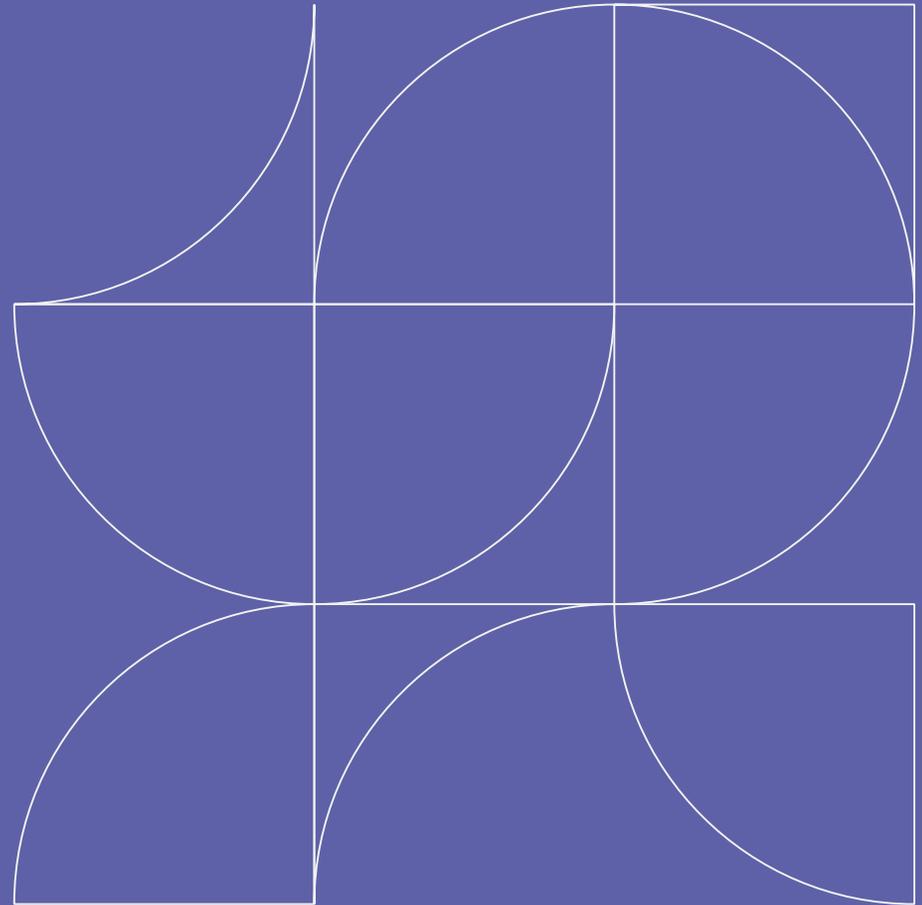
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Agenda

01	Nationwide Paid Sick Leave (PSL) Overview
02	“If Pain, Yes Gain” Article Series—The Last 10 Years
03	Parsing the Patchwork: Lessons Learned in the Last 10 Years
04	What is New in 2024?
05	The Next 10 Years of Paid Sick Leave

Nationwide Paid Sick Leave Overview



Mandatory Paid Sick Leave (PSL) and PTO Laws

Total Mandates

As of Oct. 15, 2023:
58 TOTAL PSL & PTO Mandates in the U.S.

- **Why?** Several jurisdictions have enacted multiple mandates.

Ex: General PSL Law + COVID-19 Temporary PSL Law

But the number is constantly changing due to COVID PSL laws.

As of Dec. 2020:
Approx. 69 TOTAL Mandates in U.S.

Federal

- **Executive Order 13706**
PSL for many EEs of certain federal contractors
- **Families First Coronavirus Response Act**
Emergency PSL for EEs of certain sized ERs (**sunset** as of 12/31/2020; reimbursement for voluntary leave option for select ERs **ended** 9/30/2021)

19 States + DC

PSL:

- Arizona
- California
- Colorado
- Connecticut
- DC
- Maryland
- Massachusetts
- Michigan
- Minnesota
- New Jersey
- New Mexico
- New York
- Oregon
- Rhode Island
- Vermont
- Virginia
- Washington

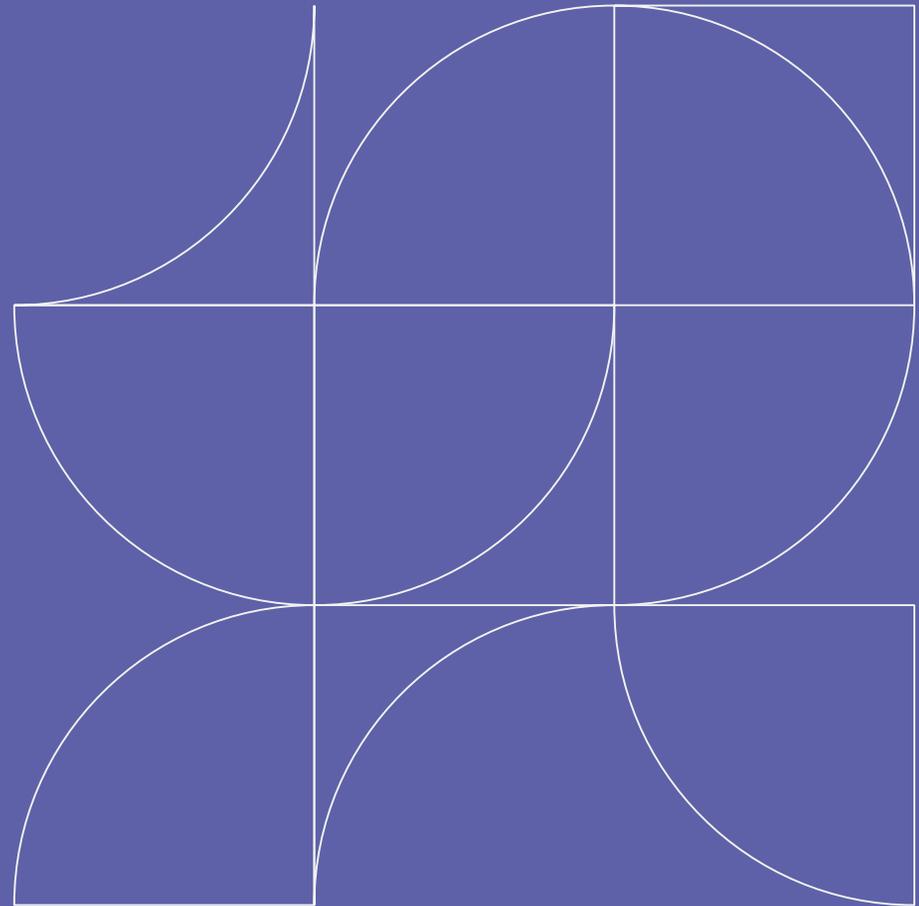
PTO:

- Illinois
- Maine
- Nevada

25 Municipalities

(1) San Francisco, CA; **(2)** Seattle, WA; **(3)** Long Beach, CA; **(4)** SeaTac, WA; **(5)** New York City, NY; **(6)** Los Angeles City, CA; **(7)** Oakland, CA; **(8)** Philadelphia, PA; **(9)** Tacoma, WA; **(10)** Emeryville, CA; **(11)** Montgomery County, MD; **(12)** Pittsburgh, PA; **(13)** Santa Monica, CA; **(14)** Minneapolis, MN; **(15)** San Diego, CA; **(16)** Chicago, IL; **(17)** Berkeley, CA; **(18)** Saint Paul, MN; **(19)** Cook County, IL; **(20)** Duluth, MN; **(21)** Westchester County, NY; **(22)** Bernalillo County, NM (PTO law); **(23)** Allegheny County, PA; **(24)** West Hollywood, CA (PTO law); **(25)** Bloomington, MN

“If Pain, Yes Gain” Article Series: The Last 10 Years



If Pain, Yes Gain – The Stats

113 articles

New Jersey & New York 29 times

Texas 21 times

California 19 times

Illinois 16 times

Washington 13 times

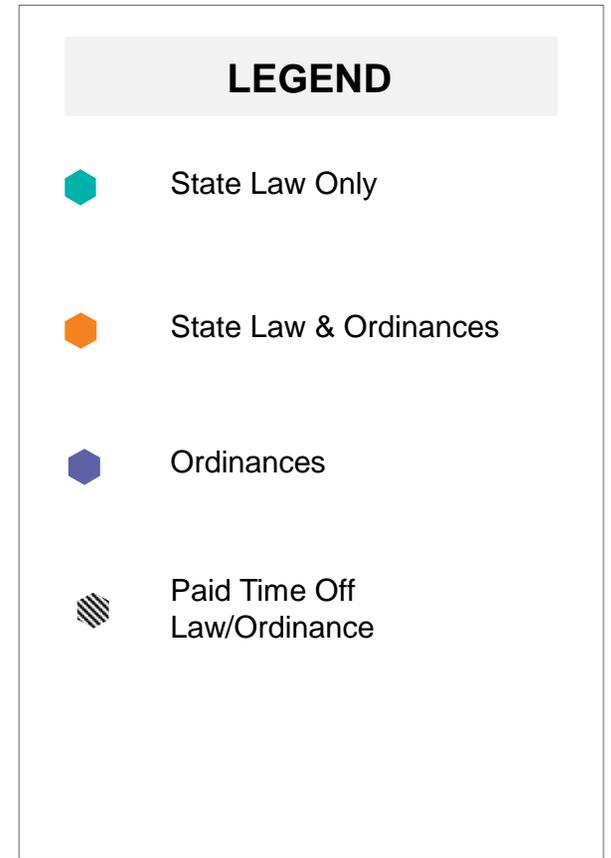
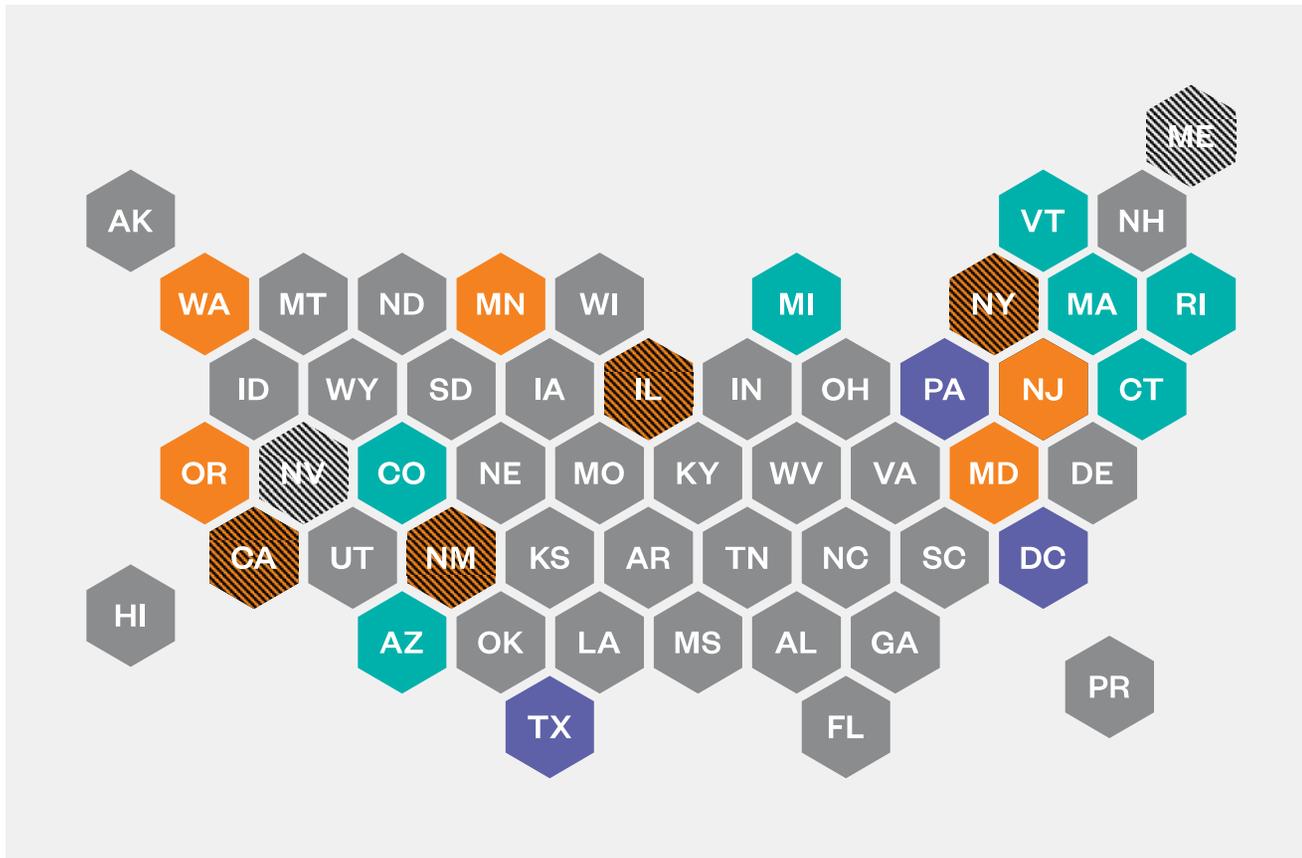
More than 33 authors

Approx. 20,000 readers in the last 4 years

If Pain, Yes Gain – Recap

- **Oct. 2013** – If Pain, Yes Gain [**Part 1**]: Jersey City Passes Paid Sick Time Ordinance
- **Jun. 2015** – If Pain, Yes Gain – **Part X**: Oregon Becomes Fourth State to Enact Paid Sick Leave Laws
- **Oct. 2016** – If Pain, Yes Gain – **Part XXV**: Midwest Still Sick with Sick Leave Laws
- **Jun. 2018** – If Pain, Yes Gain – **Part L**: Seattle Starts Summer with Amended Sick Time Rules
- **Nov. 2019** – If Pain Yes Gain – **Part 75**: San Antonio Releases “Final” Sick & Safe Leave Ordinance
- **Jun. 2022** – If Pain (Or Anything Else), Yes Gain – **Part 100**: Lights, Camera, ... West Hollywood, CA Local Paid Time Off Ordinance
- **Oct. 2023** – If Pain, Yes Gain – **Part 113**: California Officially Expands Statewide Paid Sick Leave Law

If Pain, Yes Gain Overview



Parsing the Patchwork

**Lessons
Learned in the
Last 10 Years**

Using PTO for Compliance

Nationwide One-Size-Fits-All

Unlimited PTO Considerations

**Frontloading vs. Accrual
+
Unused Time at
Year-End**

Enforcement

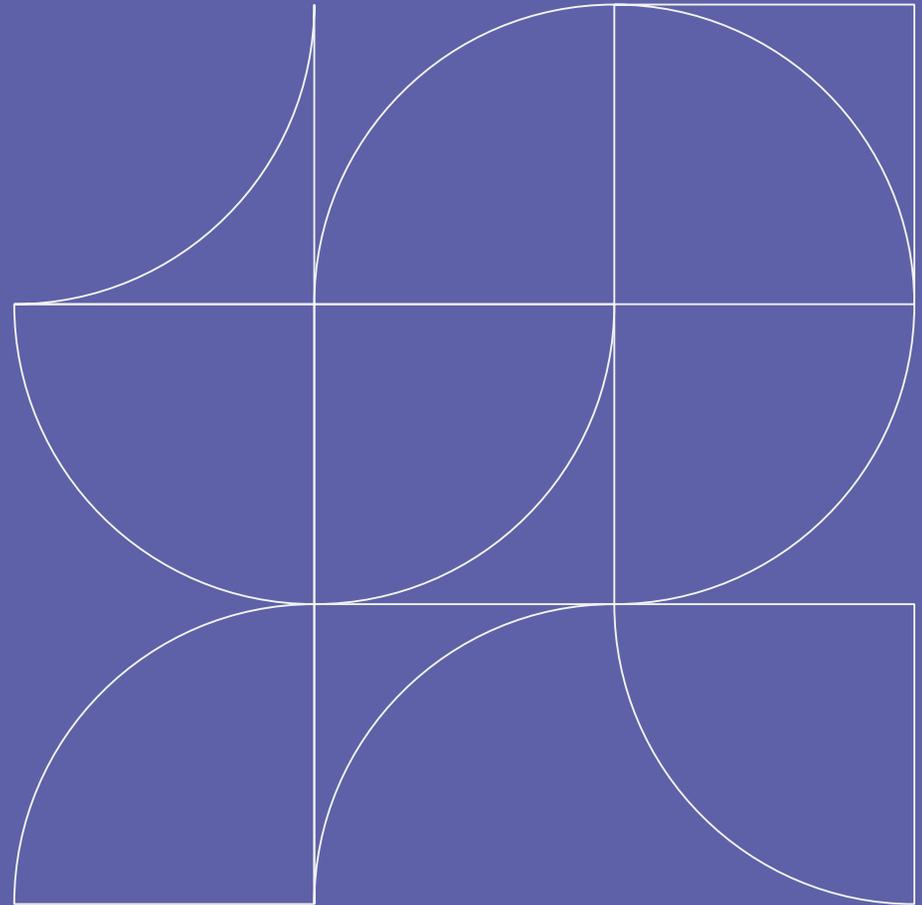
Remote Workers

Payment of PSL

Union Workers

California Peculiarities

What is New in 2024?



California PSL Amendments

Key Amendments to Paid Sick Leave Law

- Governor signed bill into law on October 4, 2023.
- Effective **January 1, 2024**
- **Increased Amount of PSL:** Annual amount of CA PSL increasing from **(a) 3 days or 24 hours** to **(b) 5 days or 40 hours**.
 - Impacts annual usage **and** frontloading
- **Increased “Rolling” Accrual Cap:** Rolling (i.e., point-in-time) accrual cap increasing from **(a) 6 days or 48 hours** to **(b) 10 days or 80 hours**.
 - Will impact all accrual-based policies in local jurisdictions as well, with accrual caps below 80 hours (SF, Oakland, Emeryville, Santa Monica, Berkeley, Los Angeles)

Illinois Paid Leave for All Workers Act

- Effective **Jan. 1, 2024**
 - **Impact on Chicago and Cook County PSL**
 - Carves out ERs covered by existing municipal paid leave mandates, **but** complicated by Cook County “opt outs”
 - ***Accrual & Use***
 - 1 hour per 40 hours worked, up to 40 hours / yr (+ carryover) or Frontload 40 hours (no carryover)
 - Can limit use to 40 hours / yr
 - ***Reasons for Leave***
 - **Any reason!**
 - No documentation
 - ***Separation from Employment***
 - **No payment** upon termination
 - **But**, if using other form of paid time off (e.g., vacation, PTO) traditional IL law applies
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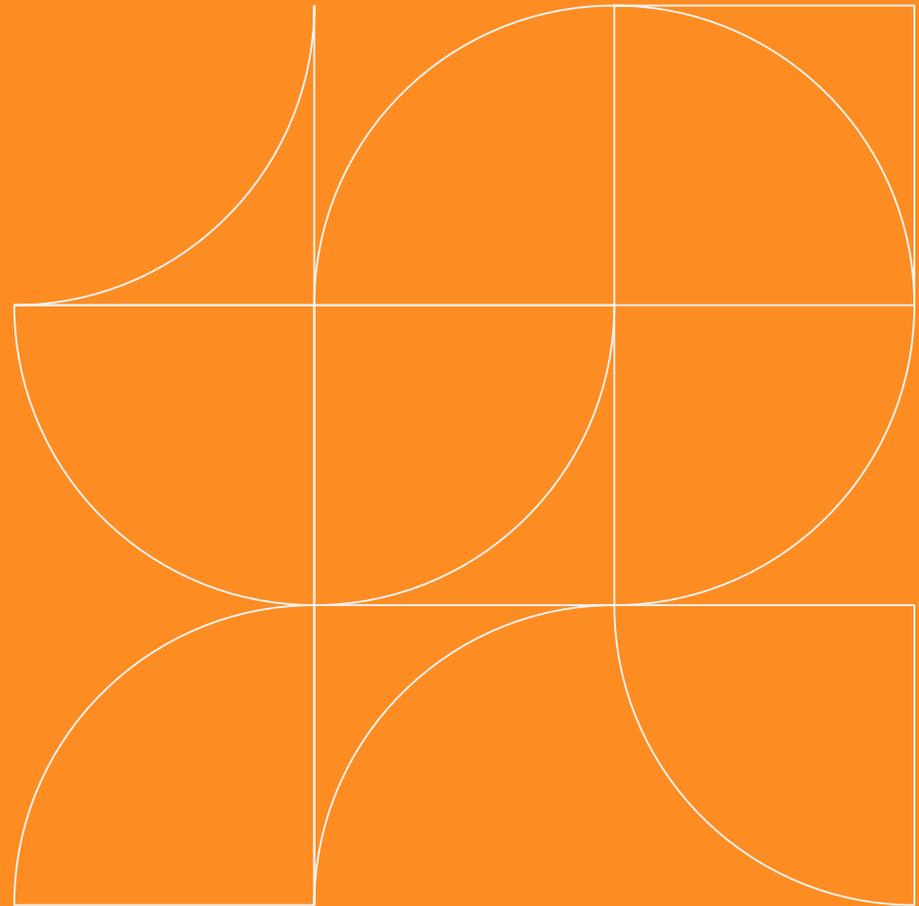
Minnesota Earned Safe and Sick Time Act

- Effective **Jan. 1, 2024**
- **Impact on Local PSL Laws**
 - No preemption
- ***Accrual & Use***
 - 1 hour per 30 hours worked, up to 48 hours / yr and 80 hour “rolling” cap, or Frontload 80 hours
 - No annual usage cap + No waiting period for new hires
- ***Reasons for Leave and Family Members***
 - Broad covered absences (including for “weather” closures)
 - Broad family member definition, including “designated person”
- ***Balance Notification***
 - Certain PSL content **must** be added to EE paystubs
- ***Notice and Posting***
 - Posting requirement + “handbook notice” requirement

Other Notable Recent PSL Activity

- **Colorado:** Amended covered reasons for use (including bereavement leave)
 - **Connecticut:** Amended covered reasons for use (including “mental health wellness day”)
 - **NYC:** Amended Rules, impacting many topics, such as determining employer size, employee eligibility, fractional accrual of PSL, notice procedures, verification methods and procedures, rate of pay, written policy requirements, and penalties
 - **Oregon:** Amended covered family members
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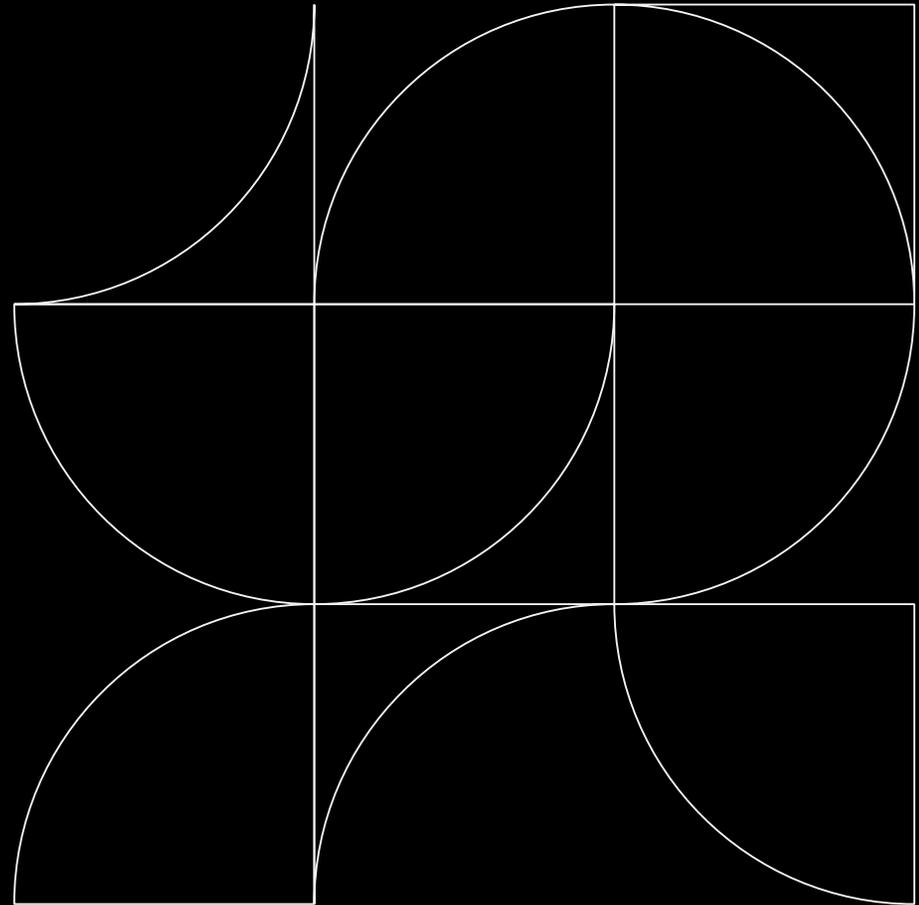
The Next 10 Years of Sick Leave



What is the Future of PSL Laws???

- **Patchwork Expands**
 - **Top State Prospects:** Nebraska, Hawaii, Virginia, Delaware, New Hampshire, Pennsylvania
 - **BUT Running Out of “Blue” and “Purple” States**
 - “Anti-local” PSL laws
 - **Amendments to and Expansion of Existing Laws Continue**
 - PSL laws become PTO laws
 - PTO laws “stacked” on PSL laws
 - **More Litigation / Administrative Enforcement**
 - **Federal Activity – Remedy or Complication?**
 - “Healthy Families Act” – S.1664 (2023)
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Seyfarth Paid Leave Resources



Seyfarth Paid Leave Resources



If you have questions about or would like assistance with the country's **Paid Sick Leave “Patchwork”** here are some ways Seyfarth can help:

(A) Premium PSL Survey: Seyfarth maintains a *comprehensive PSL survey* breaking down the specific requirements of *each* existing state and local PSL law.

For more information contact: paidleave@seyfarth.com

(B) Paid Leave Mailing List: Seyfarth regularly publishes Legal Updates and Blog Posts on PSL and other paid leave law developments.

You can sign up here:

<https://connect.seyfarth.com/9/7/landing-pages/subscription.asp>

Seyfarth Paid Leave Resources



(C) Webinar Series - Guidance on PSL: This webinar series is a great tool for you!

- Part 1 – NY State and Local PSL at the end of 2020
- Part 2 – CO, ME and NY PSL updates
- Part 3 – COVID-19 Supplemental PSL mandates
- Part 4 – Prospects for Federal Paid Leave
- Part 5 – Practical tips on navigating the PSL “patchwork”
- Part 6 – NY COVID and General PSL in 2022
- Part 7 – Navigating Two Years of COVID-19 Paid Leave Mandates, Plus Recent Developments
- Part 8 – NM and West Hollywood, CA
- Part 9 – PSL Law Impact on CBAs Under RLA and NLRA
- Part 10 – What’s New with Paid Sick Leave in 2023
- Part 11 – TODAY!

Note: We have a separate Webinar Series focused on Paid Family Leave guidance.

(D) “Take It or Leave It” Podcast: In late 2021, Seyfarth launched a podcast focused exclusively on workplace leaves, absence management, and accommodations. Episodes streaming on Spotify, SoundCloud, and Apple Podcasts, and available on Seyfarth’s website.

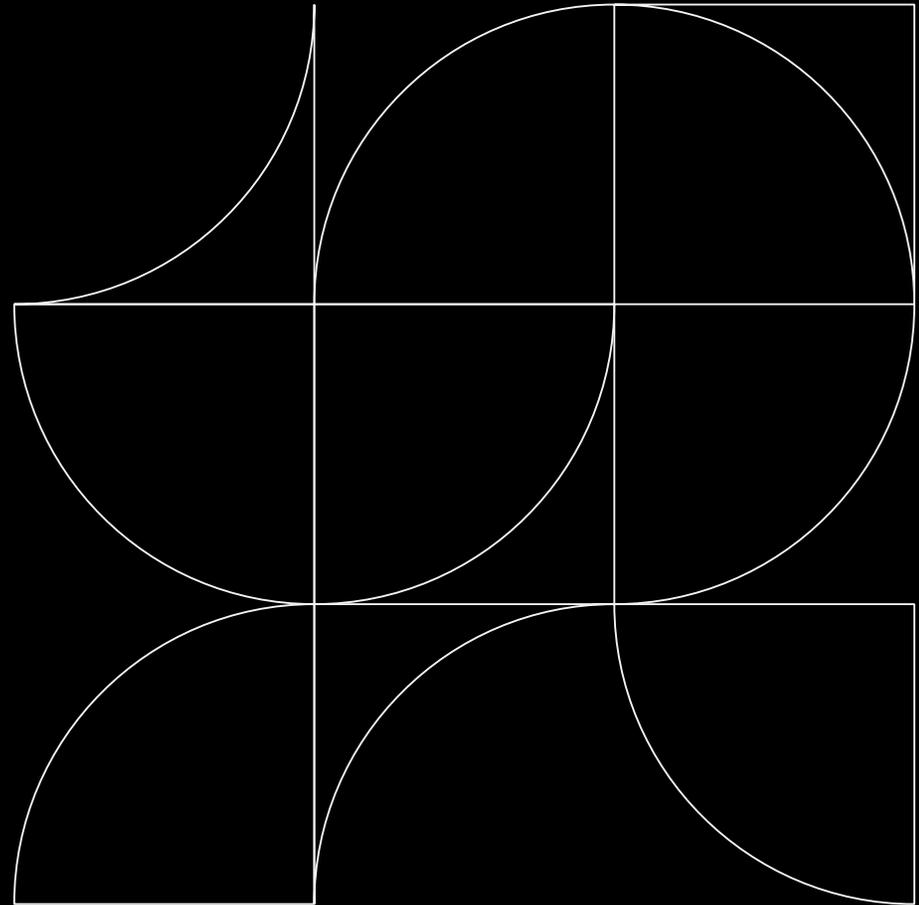
More info at: <https://www.seyfarth.com/trends/take-it-or-leave-it-podcast.html>

Cal-Peculiarities



- **Seyfarth's 2023 Cal-Peculiarities E-Book**
 - <https://communication.seyfarth.com/34/64/landing-pages/2023-cal-pecs---rsvp-blank.asp>
- **Sign Up For Seyfarth's California Labor & Employment Mailing List**
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Questions?



thank
you

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