

Publications

California Employers May Not Require Employees to Use Vacation Time Before They Receive Paid Family Leave

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In 2004, California became the first state to enact a Paid Family Leave (PFL) program. This program was designed to extend disability compensation to individuals who take time off work to care for a seriously ill child, spouse, parent, domestic partner, or to bond with a new minor child. Since then, California has made several changes to its PFL program, including expanding the program to cover individuals taking time off work to assist a military family member under covered active duty or call to covered active duty.

Most recently, on September 29, 2024, Governor Newsom signed into law Assembly Bill (AB) 2123 to make further changes to the PFL program. The law now prohibits employers from requiring an employee to use up to two weeks of earned but unused vacation before they can receive PFL benefits. This new prohibition applies to any period of disability *commencing* on or after January 1, 2025. However, the option for employees to **voluntarily** use their vacation time remains available. Employees may prefer to use their vacation and receive 100% wage replacement, as opposed to the lower percentage they would receive under PFL. Practically speaking, employees may do this less beginning January 1, 2025, as they will be eligible for 70-90% wage replacement (previously 60-70%) under the PFL program. Employers may still allow employees to use their vacation, sick, paid time off, or other leave along with PFL benefits to enable employees to receive up to 100% pay.

As we are less than three months away from the AB 2123's effective date, employers should begin reviewing their policies relating to leaves of absence and vacation/paid time off. Should you require assistance or have any questions about paid or unpaid leaves of absence, contact your Vorys attorney.