



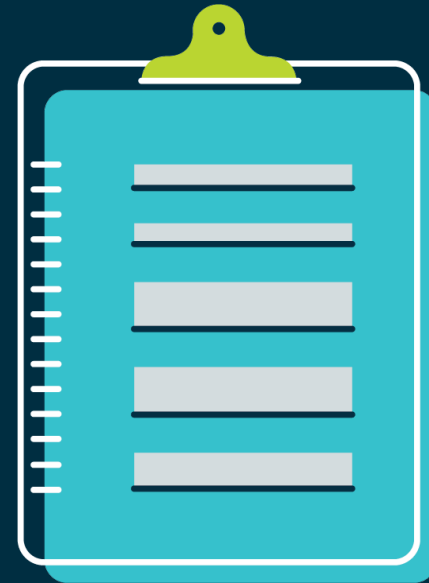
Mandated Paid Leave

October 2021

Presented by:
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Agenda

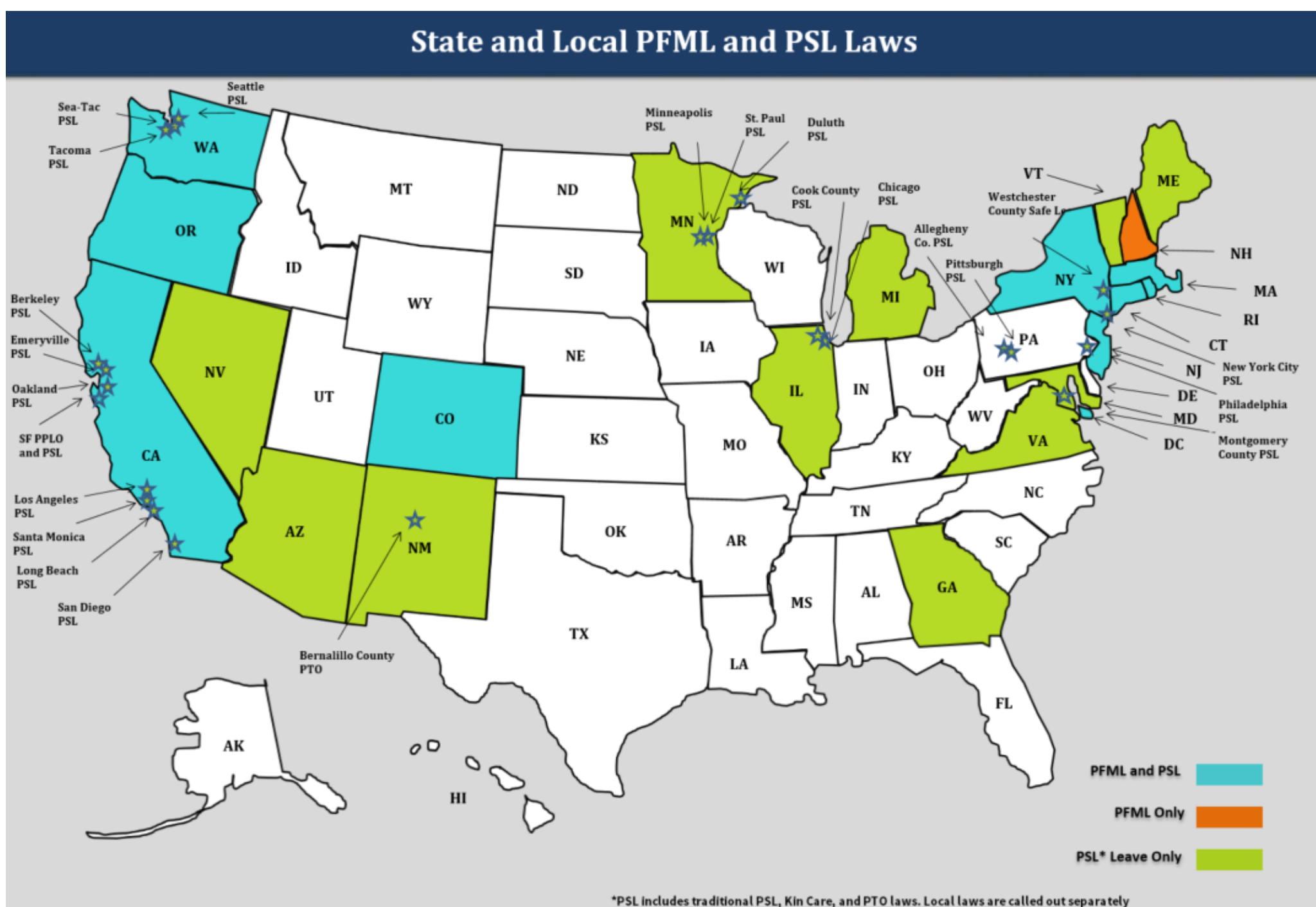
- History and Overview
 - Statutory Disability
 - Paid Family Medical Leave (PFML)
 - Paid Sick Leave (PSL)
- Current Market Trends
- Navigating PFML
- Navigating PSL
- Final Thoughts



Mandated Paid Leave is Complex

Federal, State, and Local Mandates

- **Statutory Disability Laws**
(not illustrated on map)
- **Paid Family and Medical Leave Laws**
- **Paid Sick Leave Laws**
- **Emergency Paid Sick Leave Laws**
(not illustrated on map)





History and Overview



Statutory Disability History

STATUTORY DISABILITY LAWS						PAID FAMILY LEAVE			
Rhode Island Temporary Disability (TDI)	California State Disability (SDI)	New Jersey Temporary Disability Benefits (TBD)	New York Disability Benefits Law (DBL)	Puerto Rico Temporary Disability Insurance (TDI)	Hawaii Temporary Disability Insurance (TDI)	California Paid Family Leave (PFL)	New Jersey Family Leave Insurance (FLI)	Rhode Island Temporary Care Giver Insurance (TCI)	New York Paid Family Leave (PFL)
1942	1946	1948	1949	1968	1969	2002, Effective 2004	2008, Effective 2009	2013, Effective 2014	2016, Effective 2018

Temporary Disability Insurance Laws

- Allow eligible employees access to disability benefits if they are unable to perform work because of physical or mental conditions
- Provide partial income replacement
- Generally do not provide job protection
- Are funded through payroll tax contributions

Paid Family and Medical Leave History

PAID FAMILY and MEDICAL LEAVE LAWS EFFECTIVE							LEGISLATION PASSED, BUT NOT YET EFFECTIVE			
California Paid Family Leave (PFL)	New Jersey Family Leave Insurance (FLI)	Rhode Island Temporary Care Giver Insurance (TCI)	New York Paid Family Leave (PFL)	Washington D.C Universal Paid Leave	Washington Paid Family Medical Leave (PFML)	Massachusetts Paid Family Medical Leave (PFML)	Connecticut Paid Family Medical Leave (PFML)	Oregon Paid Family Medical Leave (PFML)	Colorado Paid Family Medical Leave (PFML)	New Hampshire Paid Family Leave (PFL)
2004	2009	2014	2018	2020	2020	2021	Premiums 1/1/2021 Benefits 1/1/2022	Premiums 1/1/2023 Benefits 9/3/2023	Premiums 1/1/2023 Benefits 1/1/2024	Effective 1/1/2023

Paid Family and Medical Leave Laws

- Allow eligible employees of a covered employer to qualify for paid leave benefits for qualifying reasons
 - Qualifying reasons for PFL generally include caring for covered family members with a serious health condition and bonding with a newly born or placed child
 - Qualifying reasons for PFML generally include *own serious health condition*, caring for covered family members with a serious health condition and bonding with a newly born or placed child
 - Some programs include reasons related to domestic violence
 - Some programs provide broader definitions of family members than the Federal FMLA
- MAY provide both job protection and wage replacement
- Are funded through employer and/or employee payroll tax contributions

Paid Sick Leave History

40+ PAID SICK LEAVE LAWS ENACTED SINCE 2006					PASSED, BUT NOT EFFECTIVE	
San Francisco Paid Sick Leave	Washington D.C. Paid Sick Leave	1 Federal paid sick leave law enacted 18 States enact paid sick leave laws 20 Municipal paid sick leave laws enacted			New Mexico Paid Sick Leave	Allegheny County, PA Paid Sick Leave
2006	2008	2012		2021	2022	90 th calendar day after the employer notice is available

Paid Leave Laws

- There is no federal requirement that private employers offer paid sick leave
- There are requirements for public employers and federal contractors to offer paid sick leave
- Paid sick leave laws allow workers to accrue a certain amount of paid sick leave each year
- Employer bears the cost of paid sick leave
- Each law has slightly different requirements, reasons for use, accrual amount etc. which can make administration challenging

Preemption Laws

- Prohibit municipalities from adopting regulations that expand on state or federal leave requirements
- Existing laws are often grandfathered in

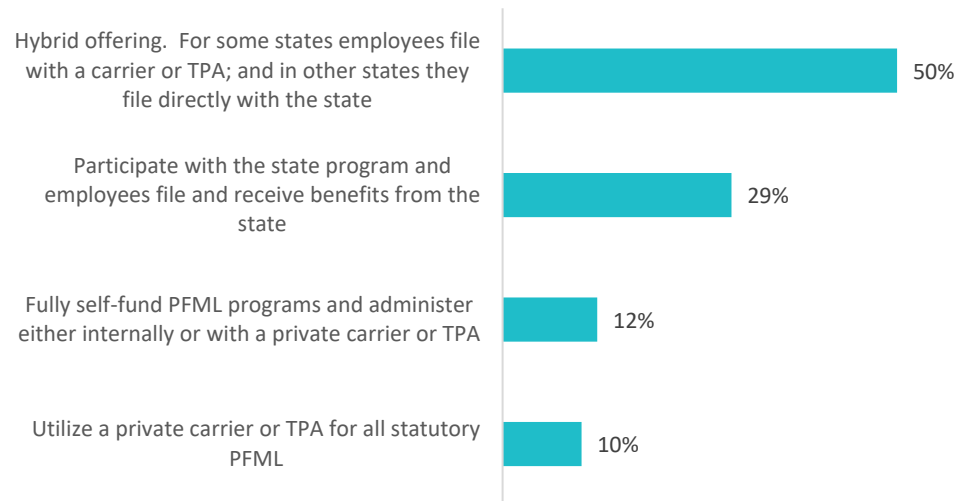


Current Market Trends

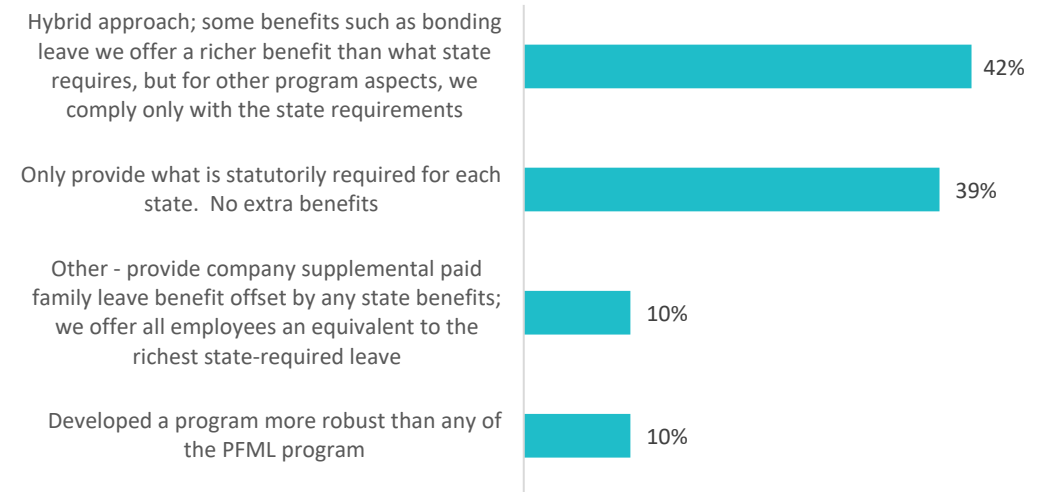
Market Trends¹ – Paid Family and Medical Leave

- 81% of organizations are currently doing business in a state where statutory PFML was implemented.
- 78% of organizations are doing business in more than one state where statutory PFML was implemented.
- 29% of organizations indicate Company paid leave is the most difficult to integrate with PFML programs.
- 49% of organizations have concerns about the timeliness of PFML leaves and payment processing by state programs.

How Organizations Handle PFML Leave



Compliance with PFML Requirements

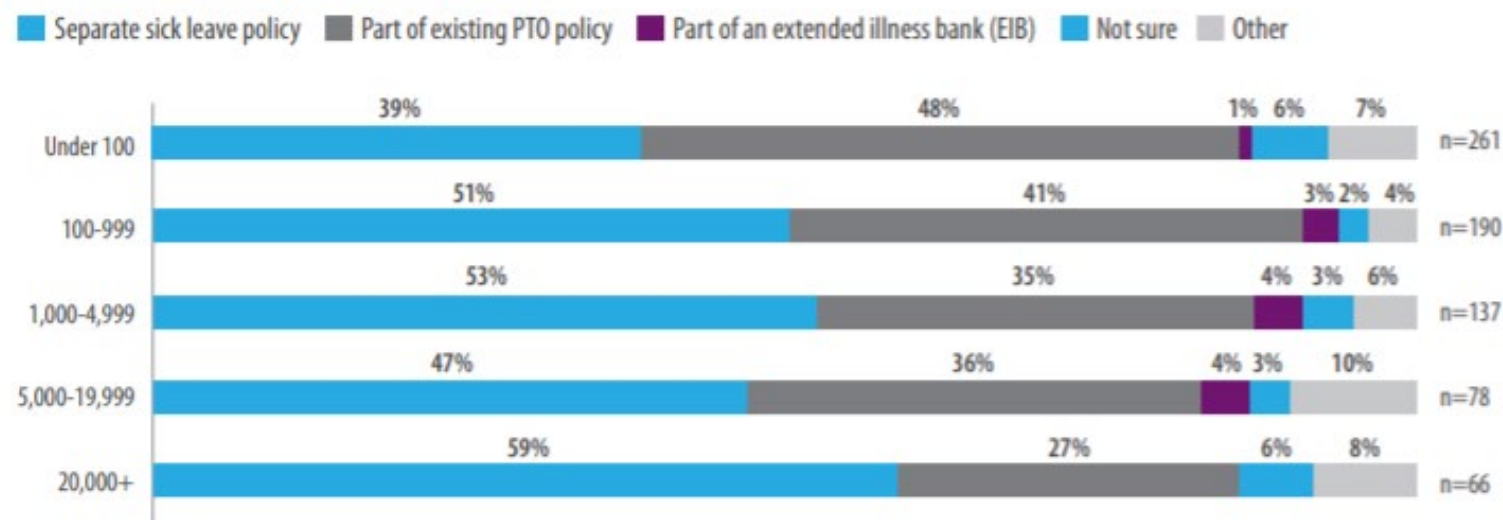


1. 2021 DMEC Paid Family and Medical Leave Pulse Survey

Market Trends – Paid Sick Leave

- Paid sick leave was available to 77% of private industry workers in March, 2021. ²
- Employers either structure their paid sick leave as a separate policy or as part of their existing PTO Policy.³
 - Mid to large size employers (100-19,999) and jumbo employers (20,000 +) tend to have a separate sick leave policy more than other size employers.³

PAID LEAVE POLICY STRUCTURE BY SIZE*



*Percentages are unweighted.

2. U.S. Bureau of Labor Statistics; bls.gov/ncs/ebs/data.htm
3. 2020 DMEC Employer Leave Management Survey White Paper



Navigating PFML

Navigating PFML



Are we required to comply?

Are you a covered employer?

Plan options

- Coverage options
 - State fund, public fund (D.C), self-fund
- Types of plans allowed
 - Self- insured, fully- insured, none

Funding and contributions

- Employer contributions
- Maximum employee contributions

Benefit amount

Each state establishes an equation for the weekly benefit amount, which is typically a percentage of an employees average weekly wage and most often equation includes the state's average weekly wage. Generally, a minimum and maximum benefit amount is established and is adjusted on an annual basis in relation to the state's average weekly wage annual adjustment.

Elimination period

There may or may not be an elimination period for benefits to be paid.

Navigating PFML



Employee eligibility

Often times this is based on an earnings requirements, earnings in a base period/qualifying period, hours worked and/or a combination of the two.

Amount of leave/benefit duration

Amount of leave varies per state and reason for leave. Each state program establishes maximum durations of leave and benefit periods.

Qualifying reasons for use

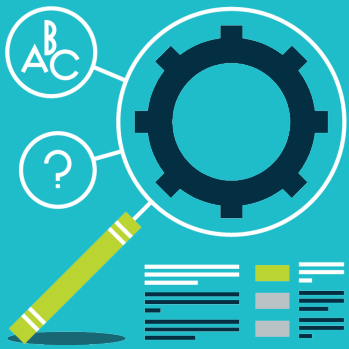
Differences among each state exist in reasons for use:

- Medical leave
- Family leave
- Parental leave
- Safe leave (domestic or sexual violence/stalking)
- To donate an organ or bone marrow
- Qualifying exigency leave
- Reasons related to public health emergency

Covered family members

- Who is a covered family member and the definition of each varies among state PFML programs
- We are seeing broader coverage than the FMLA

Navigating PFML



Notice and reporting requirements

- Notice: requirement to notify employees about program benefits and employee rights and responsibilities
- Reporting: employer responsibility to provide various contribution, wage and payroll tax reporting

Interaction with other leave laws and corporate policies

- Interaction with Federal FMLA and state leaves
- Understanding rules regarding use of PTO
- Interaction of STD and PFML

Record keeping requirements

Various employer requirements, including retaining employee records, wages paid, premiums paid on behalf of employees, notices sent to employees, posters posted in the workplace etc.

Discrimination and anti-retaliation

Most paid family leave programs expressly contain some form of anti-retaliation provision.



Navigating PSL

Navigating PSL



Are we required to comply?

Are you a covered employer?

Paid and unpaid leave

May have a requirement to provide paid, unpaid leave, or both

Employee eligibility

Ordinance or paid sick leave laws define “employee”

Amount of leave

- The number of hours of sick leave earned in a certain period (year, 12 month period)
- Typically a maximum number of hours or cap placed on the hours an employee can earn and use in a given year

How is leave earned?

- Accrual method
- Frontload method

Navigating PSL



Carryover provisions

Some PSL laws allow for employees to carry over a certain amount of unused sick leave to the following year.

Qualifying reasons for use

Differences among each PSL law exist for reach for use:

- Employee medical condition (diagnosis/care)
- Family member's medical condition (diagnosis/care)
- Domestic violence, sexual assault, stalking, or human trafficking
- Specified reasons related to a public health emergency

Can we request documentation?

- Some PSL laws allow an employer to require documentation to verify sick leave.
- Typically after 3 or more days of sick leave has been used

Interaction with other leave laws and corporate policies

PSL may interact with paid and unpaid family and medical leave

Navigating PSL



Preexisting sick leave and PTO policies

May not have to provide additional sick leave beyond existing sick leave or PTO policies if existing policies meet all PSL requirements.

Notice requirements

Requirement to notify employees about program benefits and employee rights and responsibilities.

Record keeping requirements

Various employer requirements, including retaining employee records, hours worked, sick time taken, notices sent to employees, posters posted in the workplace etc.

Discrimination and anti-retaliation

PSL laws generally include anti-retaliation language which prohibit retaliation against employees for the use of PSL, filing a complaint with any agency or court or informing others of their rights.



Final Thoughts

Final Thoughts

- Take the necessary time to fully review **ALL** relevant PSL laws to ensure you fully understand and comply with requirements.
- Consult with experts and your legal counsel if you need help understanding these complex laws.
- Questions?



Contact Information

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