

Job-Protected Leave Under the California Family Rights Act Expands to Apply to Employers with Five or More Employees Effective January 1, 2021

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Currently, under the California Family Rights Act (“CFRA”), California employers with 50 or more employees must provide 12 weeks of job protection to employees to care for a seriously ill family member or for one’s own illness, or to bond with a newborn. A previous expansion, called the New Parent Leave Act, required employers with 20-49 employees to provide 12 weeks of job protection for the purposes of bonding with a newborn, only.

On September 17, 2020, Governor Gavin Newsom signed SB 1383, which expands the coverage of this job protected leave to employees at companies with five or more employees. Effective on January 1, 2021, SB 1383 mandates that all businesses with five or more workers provide 12 weeks of job protected unpaid leave to care for a family member, care for their own illness, or bond with a new child.

It has been reported that one of the reasons for the expansion was to allow more workers to benefit from the state’s separate Paid Family Leave (PFL) program. Under that program, all employees, regardless of employer size, pay into the system through payroll taxes and are entitled to receive benefits through the California Employment Development Department. Currently, PFL benefit payments max out at \$1300 per week, and are available for a maximum of eight weeks. The state also has a similar State Disability Insurance program that provide wage replacement to individuals. Neither of these programs guarantee any job protection to the employee using the benefits. Accordingly, the expansion of the CFRA to most California employers under SB 1383 will provide more opportunities for job protected leave, thereby allowing more employees who pay into the PFL and SDI systems to take time off from work and to utilize the state’s wage replacement benefits.

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