

New California Law Significantly Expands Employee Entitlement to Family and Medical Leave

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California employers with as few as five employees must provide family and medical leave rights to their employees under a new law signed by Governor Gavin Newsom on September 17, 2020. The new law significantly expands the state's existing family and medical leave entitlements and goes into effect on January 1, 2021.

[Senate Bill 1383](#) (SB 1383) also expands the covered reasons for protected leave and the family members whom employees may take leave to care for under the law.

Expanded Eligibility to Small Employers

Under pre-existing law, employers were not required to provide family care and medical leave under the California Family Rights Act (CFRA) (Cal. Gov. Code section 12945.2), if the employee seeking leave worked at a worksite with fewer than 50 employees within a 75-mile radius. Similarly, employers were not required to provide "baby bonding" leave under the New Parent Leave Act (NPLA) (Cal. Gov. Code section 12945.6), if the employee seeking leave worked at a worksite with fewer than 20 employees within a 75-mile radius.

SB 1383 repeals CFRA and NPLA and expands the obligation to provide leave to small employers not covered before. The new law requires employers with at least five employees to provide an otherwise eligible employee with up to 12 workweeks of unpaid job-protected leave during any 12-month period for certain covered reasons. The employer must maintain and pay for the employee's coverage under a group health plan for the duration of the leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of the leave.

Additional Covered Family Members and Expanded Reasons for Leave

SB 1383 also expands the covered family members and potential reasons for which an eligible employee may take leave. Under SB 1383, eligible employees may take leave to bond with a new child of the employee or to care for themselves or a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner.

Under the prior CFRA statute, leave for purposes of caring for a family member was available only if the family member was the employee's child, a parent, spouse, or domestic partner.

With the enactment of SB 1383, all eligible employees will be able to care for grandparents, grandchildren, and siblings, unlike under the prior CFRA statute.

SB 1383 contains other significant changes. It requires an employer that employs both parents of a child to grant up to 12 weeks of leave to each employee. Under pre-existing law, the employer only had to grant both employees a combined total of 12 weeks of leave.

The new law also requires employers to provide up to 12 weeks of unpaid job-protected leave during any 12-month period due to a qualifying exigency related to the covered active duty or call to covered active duty of an employee's spouse, domestic partner, child, or

parent in the Armed Forces of the United States. Lastly, SB 1383 does not permit an employer to refuse reinstatement of “key employees” as was previously allowed by the CFRA under qualifying circumstances.

Under SB 1383, employees will still need to meet eligibility requirements, including 12 months of service and 1,250 hours worked for the employer in the previous 12-month period, to qualify for family and medical leave.

Jackson Lewis attorneys will continue tracking state legislation that is relevant to employers. If you have questions about the effects of this or other recent legislation contact a Jackson Lewis attorney to discuss.

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