
EMPLOYMENT LAW ALERT

SB 1383 EXPANDS THE CALIFORNIA FAMILY RIGHTS ACT

The California Family Rights Act (“CFRA”), as currently written, applies to businesses with 50 or more employees who are employed within a seventy-five (75) mile radius of the business’ main location. Under the CFRA, these employers must provide employees who worked 1,250 hours in the previous year with twelve (12) work weeks of unpaid leave (i) for the employee’s serious^[1] health issues, or (ii) to bond with a new child, or (iii) to care for a qualifying family member^[2] with a serious health condition. The employee must have the right to return to the same job at the end of the leave. Employers can refuse such a request from employees who are among the highest paid 10% of the employer’s employees. If the federal Family and Medical Leave Act (“FMLA”) also requires the employer to provide leave, CFRA leave may run concurrently with FMLA leave. The employer may require the employee to provide notice and supporting medical documentation.

In 2018, the Legislature passed the New Parent Leave Act, which expanded the obligation to provide leave to bond with a child to employers with twenty (20) employees or more.

At the end of the 2020 legislative session, the California State Legislature passed Senate Bill 1383. This bill expands the current CFRA in several regards:

- The bill expands the application of the CFRA to employers with five (5) or more employees. There is no longer any requirement that the employees work within 75 miles of the employer’s main location.
- The bill expands the definition of a “qualifying family member” to include grandparents, grandchildren, and siblings.
- The bill also requires employers to grant leave because of a qualifying exigency related to the call to active military duty of an employee’s spouse, domestic partner, child or parent.
- Where both parents work for the same employer and wish to take leave to bond with a child, the current law allows the employer to limit the amount of leave taken to twelve (12) weeks. Under SB 1383, the employer must provide *each* parent 12 weeks’ protected leave – potentially at the same time.
- The exception for highly compensated employees is eliminated under the bill.

If Gov. Newsom signs the bill, the new law would take effect on January 1, 2021. Large employers who were already subject to the requirements of the CFRA will need to update their policies and forms to include the new provisions. Smaller employers who were not previously required to comply with the CFRA will need to implement new policies and leave procedures, and update their systems in order to keep track of employee leave time.

If you have any questions regarding these anticipated changes to the CFRA and how they affect your business, we encourage you to consult with one of our employment law attorneys.

^[1] A “serious” health issue is an illness, injury, impairment, physical or mental condition that involves either inpatient care in a hospital, hospice, or residential health care facility; or one which requires continuing treatment or continuing supervision by a health care provider.

^[2] A “qualifying family member” formerly meant a parent, child, spouse or domestic partner.



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