



For your information®

Volume 36 | Issue 90 | November 18, 2013

California expands paid family leave

California's paid family leave program, funded by mandatory payroll deductions, permits covered employees to receive up to six weeks of wage replacement benefits while taking time off to care for a seriously ill child, spouse, parent, or domestic partner or to bond with a newborn, adopted, or foster child. Beginning July 1, 2014, the program will be expanded to provide benefits to employees who take time off to care for seriously ill grandparents, grandchildren, siblings, and parents-in-law. Employers should carefully review their plans to determine whether they will extend job protections or reinstatement rights to employees who take leave to care for extended family members.

Background

The California Paid Family Leave (PFL) program, a component of the State Disability Insurance (SDI) Program, provides partial wage replacement to eligible workers who take time off to care for a seriously ill child, spouse, parent, or registered domestic partner, or to bond with a newborn, adopted, or foster child. The PFL program, also known as Family Temporary Disability Insurance program, is administered by the [California Employment Development Department \(EDD\)](#).

Generally, workers who contribute to the SDI fund through mandatory payroll deductions are eligible for up to six weeks of benefits in any 12-month period while on leave for caregiving and bonding. Eligible workers may receive a portion of their weekly wages up to a maximum weekly benefit amount. Workers need not take all six weeks consecutively, and PFL can be taken intermittently on an hourly, daily, or weekly basis as needed.

Benefits are available after a 7-day waiting period. Employers may require their employees to use up to two weeks of vacation leave or paid time off (PTO) before receiving benefits. In that circumstance, the first week of vacation or PTO will be applied to the waiting period. PFL leave runs concurrently with leave under the federal Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA).

Expanded paid leave

On September 24, 2013, Governor Brown signed [Senate Bill 770](#) extending PFL eligibility to individuals who need leave to care for siblings, grandparents, grandchildren, and parents-in-law. Under the new law, "sibling" is defined as a person related to another person by blood, adoption, or affinity through a common legal or biological parent. The term "grandparent" is defined as a parent of the employee's parent (including a biological, foster, or adoptive parent, a parent-in-law, a stepparent, a legal guardian, or other person who stood *in loco parentis* when the

employee was a child). The term "grandchild" is defined as a child of the employee's child (including a biological, adopted, or foster son or daughter, a stepson or stepdaughter, a legal ward, a son or daughter of a domestic partner, or the person to whom the employee stands *in loco parentis*). The term "parent-in-law" includes the parent of a spouse or domestic partner.

Unlike FMLA and CFRA, PFL does not provide job protections or reinstatement rights. Rather, it simply provides partial wage replacement for leaves taken for certain qualifying reasons. Neither the FMLA (other than for military caregiver leave) nor CFRA provide job-protected leave with reinstatement rights to care for siblings, grandparents, grandchildren, and parents-in-law. Thus, employees who take leave for those reasons generally will not enjoy job protections or reinstatement rights unless an employer plan provides otherwise.

Buck comment. In certain limited circumstances, leave to care for a grandparent may be protected under CFRA and/or FMLA provisions that extend caregiver leave eligibility to those who stand *in loco parentis*. Thus, an employee may qualify for job-protected leave if the seriously ill grandmother raised the employee. (See DOL [Fact Sheet #28C](#).) FMLA also extends eligibility for military caregiver leave to siblings, grandparents, and other blood relatives of a covered servicemember or veteran provided they are the next of kin. (See DOL [Fact Sheets #28M\(a\)](#) and [#28M\(b\)](#).)

In closing

The new law expanded eligibility for PFL, but did not alter current leave entitlements under CFRA. Whether CFRA will be amended to extend job protections and reinstatement rights to leaves taken to care for extended family members remains to be seen.

Because SDI is funded entirely by employee contributions, the expanded PFL benefit will not impose an additional cost burden on employers. The extent to which, if any, the increased availability of PFL will affect business operations is uncertain.

Authors

Nancy Vary, JD
Amy Dunn, JD

Produced by Buck Consultants' Knowledge Resource Center

The Knowledge Resource Center is responsible for Buck's national multi-practice legal analysis and publications, government relations, research, surveys, training, and knowledge management. For more information, please contact your Buck consultant or email fyi@buckconsultants.com.

This publication is for information only and does not constitute legal advice; consult with legal, tax and other advisors before applying this information to your specific situation.