



Oct 16, 2020

Categories:

[Publications](#)

Authors:

[Theodore E. Bacon](#)

[Jonathan M. Werner](#)

New CFRA Leave Requirements: Family Care and Medical Leave Will Soon Apply to Much Smaller California Employers

What California Employers Need to Know:

- Significant amendments to the California Family Rights Act (CFRA) go into effect on January 1, 2021, affecting all California employers with 5 or more employees.
- Employers with 5 or more employees must now provide 12 weeks of unpaid family care and medical leave under the CFRA.
- The amended CFRA eliminates the requirement that employees must work at a location that has 50 employees within a 75-mile radius.
- The new law expands the definition of “family member” to now include individuals such as grandparents, grandchildren, and siblings.

Effective January 1, 2021, the number of employers subject to the California Family Rights Act (CFRA), the Golden State’s version of the federal Family Medical Leave Act (FMLA), will be significantly expanded. Going forward, employers with **as few as 5 employees** will be required to provide qualified employees up to 12 weeks of unpaid, job-protected leave if they:

- (a) are suffering from a serious medical condition;
- (b) need to care for a family member with such a condition;
- (c) wish to bond with a newborn baby or adopted child; or
- (d) need leave because of a qualifying exigency related to the covered active duty of their spouse, domestic partner, child, or parent in the U.S. armed forces.

Previously, the CFRA only applied to companies with 50 or more employees.

The revised law also eliminates the 75-mile geographic radius formerly used to determine employee headcount for coverage purposes. Whereas previously, an employer with 30 employees in San Francisco and 25 in Los Angeles would not be subject to the CFRA, they now are. Going forward, if an employer has at least five employees—regardless of their location—that employer is subject to the CFRA.

The definition of “family member” has also been expanded to include grandparents, grandchildren, siblings, and domestic partners, as well as all adult children, including children of domestic partners.

For those employers already covered by the FMLA, this expanded definition potentially creates a “pyramiding” problem

. For example, imagine an employee working for an employer with 50 or more employees who needs to take leave to care for a seriously ill brother. Leave to care for the employee’s brother is covered under the amended CFRA, but such leave is **not** currently required under the FMLA. In this case, the employee could take up to 12 weeks under the CFRA to care for the brother, and **then take an additional 12 weeks** in the same year to care for their own serious health condition or that of their child, parent, or spouse.

Finally, while the prior law exempted the obligation to reinstate “key” employees, that exception will not apply in the new year. There are several additional changes to the CFRA, which employers should carefully review to ensure full compliance.

What should employers do?

With a limited amount of time for California employers to comply with the new obligations under the amended CFRA, it is critical to begin preparations now, especially for those companies that have never previously provided CFRA leave. Covered employers should contact competent employment counsel for guidance on updating employee manuals and developing proper forms, policies, and procedures to comply with the new law.

DISCLAIMER: *The information contained herein is intended for informational purposes only and should not be construed as professional counsel or legal advice. Seek legal counsel for advice with respect to any legal matter. The information in this document may not reflect the most current developments as the subject matter is extremely fluid and may change daily. The content and interpretation of the issues addressed herein are subject to change.*

© 2026 FBT Gibbons LLP. May be considered attorney advertising in some jurisdictions.