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Employee Leave Law - Overview

Employers may provide their employees with various types of paid or unpaid leave as part of their overall compensation packages, including vacation time, personal leave and sick leave. Employers have some flexibility when it comes to establishing or negotiating employee leave policies.

However, federal laws such as the Family and Medical Leave Act (FMLA) require covered employers to provide employees with job-protected leave in certain situations. In addition, California has employee leave laws regarding:

- **Jury duty, witness and crime victim leave;**
- **Voting leave;**
- **Domestic violence, sexual assault and stalking victim leave;**
- **Military and military spouse leave;**
- **School activity leave;**
- **Alcohol or drug rehabilitation leave;**
- **Volunteer firefighter, reserve police and emergency rescue personnel leave;**
- **Civil air patrol leave;**
- **Organ and bone marrow donor leave;**
- **Pregnancy disability leave;**
- **Family sick leave;**
- **Family and medical leave;** and
- **Paid sick leave.**

The following chart provides a high-level overview of California's employee leave laws and suggests compliance steps for employers in the state.

OVERVIEW OF CALIFORNIA EMPLOYEE LEAVE LAWS

TYPE OF LEAVE	REQUIREMENTS
Jury Duty, Witness and Crime Victim Leave	All employers are prohibited from discharging or in any way discriminating against employees who take time off from work to serve on a jury, comply with a valid subpoena or attend judicial proceedings related to a felony crime. Notice requirements apply. Leave is unpaid .
Voting Leave	All employers must allow employees who do not have sufficient time outside of working hours to vote in a statewide election to, on an election day, take enough time off from work in order to vote. Employers must pay employees for up to 2 hours of leave for voting purposes. Notice requirements apply.

This guide is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. It is provided for general informational purposes only. It broadly summarizes state statutes and regulations generally applicable to private employers, but does not include references to other legal resources unless specifically noted. Readers should contact legal counsel for legal advice.

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<p>Domestic Violence, Sexual Assault and Stalking Victim Leave</p>	<p>All employers must grant leave to employees who are victims of domestic violence, sexual assault or stalking so that they may obtain any relief (such as a restraining order) to help ensure the health, safety or welfare of either themselves or their children. Employee notice and certification requirements apply.</p> <p>Employers with at least 25 employees must grant leave, up to the amount of FMLA leave available, to employees who are victims of domestic violence, sexual assault or stalking, so that they can:</p> <ul style="list-style-type: none"> • Seek medical attention for related injuries; • Obtain services from a domestic violence shelter, program or rape crisis center; • Obtain psychological counseling; or • Participate in safety planning and take other actions to increase their safety. <p>Employer notice requirements upon hire and upon request apply. Employee notice and certification requirements also apply.</p> <p>Employers are not required to provide leave over or in addition to FMLA leave, but may require an employee to use vacation, personal leave or compensatory time off that is otherwise available to him or her, unless a collective bargaining agreement provides otherwise. These leave protections apply equally to men and women.</p>
<p>Military and Military Spouse Leave</p>	<p>In addition to federal law, California law provides employment protections for California and U.S. military members.</p> <ul style="list-style-type: none"> • All employers must provide temporary unpaid leave to military members for periods of military duty, as follows: <ul style="list-style-type: none"> ○ Up to 17 days per year for U.S. Reserve members. ○ Up to 15 days per year for State Military Reserve members. • Employers with 25 or more employees must provide up to 10 days of unpaid leave to eligible spouses of military service members when their spouses are on leave from deployment. Notice and certification requirements apply. • As of Jan. 1, 2016, all employers must reemploy National Guard members of any state following a period of state military service.
<p>School Activity Leave</p>	<p>Employers with 25 or more employees must provide employees with up to 40 hours of unpaid leave per year to attend or otherwise be involved with their child's school or day care facility. Notice and certification requirements apply.</p> <p>As of Jan. 1, 2016, the school activity leave law specifically allows a parent to take time off from work (up to the annual 40-hour maximum) for the following child-related activities:</p> <ul style="list-style-type: none"> • To find, enroll or reenroll his or her child in a school or with a licensed childcare provider, or to participate in activities of the school or childcare provider, limited to 8 hours per month; or • To address a school emergency or childcare provider emergency (including a situation where a child cannot stay at school or with a

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	<p>childcare provider due to behavioral or discipline problems).</p> <p>This law extends leave protections to nontraditional family relationships. The law defines a “parent” as a parent, guardian, stepparent, foster parent, or a grandparent of, or a person who stands <i>in loco parentis</i> to, a child.</p> <p>Finally, all employers must permit employees to take time off from work to appear at their child’s school after the child has been suspended. Notice requirements apply.</p>
Alcohol or Drug Rehabilitation Leave	<p>Employers with 25 or more employees must reasonably accommodate any employee who wishes to voluntarily enter and participate in an alcohol or drug rehabilitation program, unless the accommodation would impose an undue hardship on the employer.</p>
Volunteer Firefighter, Reserve Police and Emergency Rescue Personnel Leave	<p>All employers must permit an employee who is a volunteer firefighter, reserve peace officer or emergency rescue personnel to be absent from or late for work to perform emergency duty.</p> <p>Employers with 50 or more employees must permit an employee who is a volunteer firefighter, reserve peace officer or emergency rescue personnel to take up to 14 days per year off from work to engage in fire, law enforcement or emergency rescue training.</p>
Civil Air Patrol Leave	<p>Employers with more than 15 employees must provide employees who are Civil Air Patrol (CAP) members with leave to respond to an emergency operational mission of the California Wing of the CAP.</p> <p>An employee is eligible for CAP leave if he or she:</p> <ul style="list-style-type: none"> • Has been employed for at least 90 days before beginning leave; • Is a volunteer member of the California Wing of the CAP; and • Is responding to an emergency operational mission of the California Wing of the CAP. <p>An employer may not require an employee to exhaust any other type of leave before providing CAP leave. Notice and certification requirements apply. Leave is unpaid.</p>
Organ and Bone Marrow Donor Leave	<p>Employers with 15 or more employees must provide employees who are organ or bone marrow donors with:</p> <ul style="list-style-type: none"> • Up to 30 business days of leave per year to donate an organ; and • Up to five business days of leave per year to donate bone marrow. <p>Leave must be paid. Notice and certification requirements apply.</p> <p>Leave may not run concurrently with FMLA or California disability leave, but an employer may require employees to take accrued sick leave, paid time off or vacation leave for organ or bone marrow donation.</p>
Pregnancy Disability Leave	<p>Employers with five or more employees must provide a reasonable period of leave of up to 4 months per pregnancy to female employees who are disabled by pregnancy, childbirth or a related medical condition.</p> <p>Leave runs concurrently with FMLA leave. Notice and certification requirements apply. Leave is unpaid.</p>

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	Other job protections also apply to employees taking pregnancy disability leave.
Family Sick Leave	<p>All employers that provide sick leave for employees must permit employees to use their accrued sick leave to care for an ill child, parent, spouse or domestic partner of the employee. Leave is limited each year by the amount of sick leave the employee would accrue in six months.</p> <p>Leave runs concurrently with leave under the California Family Rights Act and the FMLA.</p> <p>The definition of "family member" includes a child, parent, spouse, domestic partner, stepparent, parent-in-law, grandparent, grandchild or sibling. An employee must be permitted to use family sick leave for the same purposes as required under the paid sick leave law, including for the preventive care of a family member.</p> <p>A San Francisco ordinance requires employers to provide paid sick leave to all employees, including temporary and part-time employees.</p>
Family and Medical Leave	<p>Under the California Family Rights Act (CFRA), employers with 50 or more employees must provide eligible employees with family and medical leave.</p> <p>To be eligible for family and medical leave, an employee must:</p> <ul style="list-style-type: none"> • Have more than 12 months of service with the employer (as of July 1, 2015, the 12-month service requirement is relaxed so that employees must have at least a total of 12 months of service with the employer); • Have worked at least 1,250 hours in the 12-month period prior to the date of the requested leave; and • Be employed at a worksite with 50 or more employees within 75 miles of the employee's work site. <p>Eligible employees may take up to 12 weeks of CFRA leave in a 12-month period for:</p> <ul style="list-style-type: none"> • Childbirth; • Adoption; or • Caring for the serious health condition of the employee or of the employee's child, parent, spouse or registered domestic partner. <p>Leave runs concurrently with FMLA leave. Notice and certification requirements apply. Leave is unpaid.</p> <p>Other job protections also apply to employees taking family and medical leave.</p>
Paid Sick Leave	<p>All employers must provide eligible employees with 24 hours (or three workdays) of paid sick leave per year. Employees may use this leave for:</p> <ul style="list-style-type: none"> • Preventative care for, or the diagnosis, care or treatment of an existing health condition of, the employee or a family member. <p>Employers are also required to provide paid sick leave to employees who are victims of domestic violence, sexual assault or stalking.</p>

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	To be eligible for paid sick leave, an employee must work in California for 30 or more days for the same employer within a year from the start of his or her employment. Eligible employees may use accrued sick days beginning on their 90th day of employment .
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SPECIAL NOTE: California has a paid family leave insurance program that provides **up to 6 weeks** of wage replacement benefits to eligible employees who take time off from work to care for a newborn, a newly adopted child or foster child, or a seriously ill family member. Under this program, employees may receive a percentage of their wages during their absence, up to a certain maximum per week. Workers who contribute to the State Disability Insurance (SDI) fund are eligible for the program. The program is separate from the federal FMLA and California's family and medical leave laws, which govern the terms of employee family and medical leaves.

In addition, **San Francisco** enacted a [Paid Parental Leave Ordinance](#), which requires employers in that city to provide "supplemental compensation" to employees who receive wage replacement under California's paid family leave insurance program. Employers subject to this ordinance must pay employees the difference between their normal gross weekly wage and the weekly amount they receive from the SDI, so that they receive 100 percent of their regular wages (rather than a lower percentage).

More information on the SDI is available on the California Employment Development Department's [website](#).

COMPLIANCE STEPS

It is important for California employers to understand when their employees are entitled to take time off from work and the legal protections associated with such leaves. Employers that violate state or federal leave law requirements may be subject to government investigations, fines, employee lawsuits and significant penalties, fees and damage awards.

To minimize these risks, employers should review applicable federal and state leave law requirements and determine whether they have any compliance gaps to correct. This compliance review may be complex, especially in areas where federal and state leave laws overlap.

As part of the compliance review, employers should confirm that:

- Employee handbooks and written policies and procedures have been updated to accurately describe employee leaves;
- Human resources personnel, as well as managers and supervisors, are educated on how to administer employee leaves and receive ongoing training;
- Employee leaves are administered on a consistent basis, and employees are educated on leave rights and requirements;
- Recordkeeping systems accurately track and document employee leaves; and
- Required notices and posters regarding leave laws are provided.