

## Newest CA Employee Leave Laws

10.29.20 | Linda J. Rosenthal, JD



This year's California Legislature wrapped up its business, as usual, on the final day of August, waiting anxiously to see if Governor Gavin Newsom would give a thumbs-up or thumbs-down, by his end-of-September deadline, to individual bills.

But this legislative session – like everything else during COVID-19 – was anything but usual. There were quarantines and long recesses. The crisis turned the Golden State's January 2020 sunny prospects (with a massive budget surplus) into a difficult scramble for much-depleted resources. Many of the issues that lawmakers had hoped to move front-and-center were waylaid by more urgent priorities. It was tense and unsettling – even in this state with single-party control of the governorship and the Legislature.

For the nonprofit sector, the proposed legislation most directly affecting it has been effectively tabled until next year. See [DAF Reform Again Stalled in CA](#) (October 27, 2020)

However, *some* nonprofit *employers* may be subject (like any other individual or entity that hires workers) to important new employment laws, particularly including worker-leave rights. We'll take a quick look at two high-profile bills that made it successfully through the 2020 legislative session and were signed into law by the governor.

### *Employee Leave*

Before COVID-19, the issue of employee sick leave and pay was controversial; nevertheless, existing California law has provided certain worker relief and protections.

The pandemic brought with it a terrifying new reality: More and more workers and their family members have been affected – (and continue to be at risk) – at an alarming rate by this debilitating and sometimes deadly disease. The early federal response included complex emergency laws mandating expanded benefits. Around the nation, states have moved since then to supplement

worker assistance.

The two important new California laws signed by Governor Newsom in September are:

- SB 1383: Family and medical leave – (now applies to employers with as few as 5 workers)
- AB 1867: Expanded paid sick leave (employers with 500 or more employees)

#### ***Expanded Family & Medical Leave***

*Senate Bill (SB)-1383: Unlawful employment practice: California Family Rights Act (2019-2020)*. [This link includes full text as amended over the course of the session, legislative history, and official analysis.] Signed into law: September 17, 2020. Effective January 1, 2021.

SB 1383 amends the existing Moore-Brown-Roberti Family Rights Act, commonly known as the California Family Rights Act (CFRA). It is “among the most controversial” new laws from this legislative session. The key change is that it significantly expands the *reach* of the law; that is, the number of employers in the state that are subject to it. Existing law – that continues in effect through December 31, 2020 – applies to employers with 50 or more workers. Beginning January 1, 2021, the law will apply to California employers with as few as five employees.

Under the CFRA, a covered employer may not refuse to grant an employee’s request for up to 12 weeks of unpaid, protected leave if the purpose of the leave is to bond with a new child or to care for themselves or a family member. The new law “significantly expands” existing family and medical leave entitlements including the “covered reasons for protected leave and the family members whom employees may take leave to care for ....”

See: *Governor Newsom Signs Bill Extending Job-Protected Family Leave to Nearly 6 Million Californians* (September 17, 2020) Press Release; *New California Law Significantly Expands Employee Entitlement To Family And Medical Leave* (September 18, 2020) Jennifer Grock, Esq., & Susan Groff, Esq., Jackson Lewis P.C.; *Employers Heads Up! These Are The Bills Of Importance On Governor Newsom’s Desk* (September 14, 2020) Jeffrey H. Thomas, Esq., Fox Rothschild LLP.

#### **Supplemental Paid Sick Leave**

*Assembly Bill (AB)-1867: Small employer family leave mediation: handwashing: supplemental paid sick leave.(2019-2020)* [This link includes full text as amended over the course of the session, legislative history, and official analysis.] Signed into law: September 9, 2020. Effective immediately, but no later than September 19, 2020 – (the sick-leave parts of the law.) On January 1, 2024, the law is repealed.

This new law codifies Governor Newsom’s early Executive Order N-51-20, enacted and effective (for a limited time) in April 2020 that applied to food-service workers.

As to private entities (rather than public), AB 1867 requires employers with 500 or more employees to provide supplemental paid sick leave. It “fills gaps left open by the federal Families First Coronavirus Relief Act (“FFCRA”); see here.

See [Governor Newsom Signs Bill Immediately Ensuring Access to Paid Sick Leave for Every California Employee](#) (September 9, 2020) *Press Release*; [California Governor Signs Law Mandating Supplemental Paid Sick Leave for Employees of Companies with 500 or More Employees](#) (September 21, 2020) Jonathan Brenner, Esq. & David Prager, Esq., Epstein, Becker & Green; [California Employment Legislative Update: Time for Governor Newsom to Get to Work](#) (September 4, 2020) Kristina Launey, Esq. & Scott Mallery, Esq., Seyfarth Shaw LLP.

## *Conclusion*

There are many federal, state, and local laws that apply to some or all employers; new ones have been added at all levels of government because of the COVID-19 crisis. It's important for all nonprofits with workers to learn about and get competent advice on these complex matters.

— *Linda J. Rosenthal, J.D., FPLG Information & Research Director*