

California Family Leave Laws



Know Your Rights!

A Guide for Workers, Parents and Caregivers

WHY THIS GUIDE?

THIS GUIDE IS FOR YOU. If you are a worker, a parent, or a caregiver, or play a role in an organization or union that represents or serves working people, this guide will provide the basics of California's family leave laws. You will learn how the various laws interact with each other and where you can go for more information and support.

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California Family Leave Laws: Know Your Rights!

The California Work and Family Coalition

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The California Work and Family Coalition is a labor/community coalition focused on securing every Californian's right to a job and a life. We educate workers about current law and work together on making jobs more family friendly. We are part of **Family Values @ Work**, a national consortium of state coalitions working on winning the right to paid sick days and family leave for all workers.

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FRAMING THE ISSUE

Job Protection and Income Replacement

Like most workers in California, you have probably heard of the **Family and Medical Leave Act (FMLA)** or California's version of the FMLA, the **California Family Rights Act (CFRA)**. While the FMLA and CFRA provide job-protected family/medical leave for qualifying workers, this time is generally unpaid. In 2002, with the help of a union-led coalition, California passed the **Paid Family Leave Act**, becoming the first state in the nation to provide income replacement when people take time off to care for a close family member or bond with a newborn or newly adopted child.

We created this guide because many California workers do not know about Paid Family Leave or that some laws protect your job only, while others provide wage replacement. In this booklet, you will learn about the different family leave laws in California and how they interact with each other.

Protected Leave

Family and Medical Leave Act (FMLA)
California Family Rights Act (CFRA)
Pregnancy Disability Leave Law (PDL)

Income Replacement

Paid Family Leave (PFL)
Disability Insurance (DI)
Paid Sick Days

Job Protection

SNAPSHOT Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA)

What is the FMLA?

The **Family and Medical Leave Act (FMLA)** provides qualified employees with 12 weeks of job-protected, unpaid leave to

- > bond with a newborn, newly adopted or foster child (or the child of a spouse or domestic partner)
- > care for yourself or a close family member with a serious health condition

What is CFRA?

The **California Family Rights Act (CFRA)** is the state version of the FMLA. CFRA offers the same protections as the FMLA with the following exceptions:

- > CFRA covers same-sex domestic partners (FMLA does not)
- > CFRA provides more privacy protections than FMLA
- > CFRA does not provide leave for pregnancy-related conditions (But FMLA and PDL do)

Do you qualify to take FMLA/CFRA?

You must meet **all** of the following conditions to be covered:

- > your employer employs at least 50 people within a 75-mile radius of your worksite
- > you have worked for your employer for at least 12 months (even on a part-time or temporary basis)
- > you have worked at least 1,250 hours (about 25 hours per week) during the 12 months before the leave

What are valid reasons to take FMLA/CFRA Leave?

You can take FMLA/CFRA Leave for the following reasons:

- > your own serious health condition
- > to care for a child, parent, spouse or domestic partner with a serious health condition
- > to bond with a newborn baby until age 1, or with an adopted or foster child up to age 18 within the first year of placement in your home.

What qualifies as a serious health condition under FMLA/CFRA?

A serious health condition is an illness, injury, impairment or physical or mental condition that:

- > involves an overnight stay at a hospital, hospice or residential care facility; or
- > involves continuing treatment by a health care provider

How do you request FMLA/CFRA from your employer?

Give your employer 30 days notice before taking a family/medical leave when it is foreseeable. Foreseeable leaves include a major surgery scheduled in advance or planning to bond with a new child.

If you need leave suddenly to care for yourself or a family member, you must tell your employer as soon as practicable.

FREQUENTLY ASKED QUESTIONS Family and Medical Leave Act/California Family Rights Act (FMLA/CFRA)

Q Can my employer retaliate against me for requesting or taking leave under the FMLA/CFRA?

A No. If you qualify to take family/medical leave, it is illegal for your employer to:

- > interfere with your right to take a leave
- > harass you for taking leave
- > deny a valid leave request
- > refuse to hire or promote you because you have taken leave
- > retaliate against you for complaining about a violation of family/medical leave laws

Q What information may my employer request about my leave?

A If you take a family/medical leave, your employer is allowed to request the following from you:

- > confirmation of your relationship to a family member, such as a birth or marriage certificate
- > medical certification from a health care provider (such as a doctor's note) regarding you or your family member's serious health condition
- > recertification if the original certification expires, you request an extension of leave, or circumstances change



"Being able to take leave to bond with my son was invaluable to me. It gave me breathing room and peace of mind while I focused on my baby and got into the role of being a new mom. I was able to be there for all of the changes he went through in his first months of life. It would have been so difficult to return to work right away like some moms have to – I really feel for them. Bonding time is important for the whole family."

—Larisa Casillas, new mom

> periodic reports during the leave about your status and intent to return to work

Q Can I take FMLA/CFRA intermittently?

A Yes. You may take leave intermittently as the condition requires. Note that employers may limit bonding leave to two-week increments.

Q How can I get paid while taking FMLA/CFRA?

A Generally, either you or your employer may choose to apply any accrued sick or vacation time or, if you qualify for [State Disability Insurance](#) or [Paid Family Leave](#) benefits, you may receive partial pay through these programs. (See [Income Replacement Section, below.](#))

Q Will my health benefits continue while I am on FMLA/CFRA leave?

A If you have health benefits through your employer, they will continue while on FMLA/CFRA leave. You may need to send in a check for your portion of your premium.

SNAPSHOT Pregnancy Disability Leave (PDL)

What is PDL?

Pregnancy Disability Leave (PDL) is a state law that provides employees the right to take job-protected unpaid leave for a pregnancy-related condition.

Who is covered under PDL?

Employees who meet both of the following conditions are covered by PDL:

- > are disabled due to pregnancy, childbirth or related medical conditions, and
- > work for an employer who employs at least 5 employees

Because PDL covers many more workers, employees who don't qualify for protection under **FMLA/CFRA** may still be entitled to take unpaid leave for a pregnancy-related condition under PDL.

What rights does PDL provide?

- > Up to 4 months of leave for complications, severe morning sickness, or other disabilities related to pregnancy, childbirth, or a related medical condition
- > Generally, health care providers will certify a pregnancy disability leave of 10-12 weeks for a normal pregnancy — 4 weeks before childbirth and 6 weeks after a vaginal delivery, or 8 weeks after delivery by cesarean section. However, if medically necessary, you may take up to 4 months off or longer as a reasonable accommodation of your disability.
- > In addition to leave, pregnant women are entitled to reasonable accommodations at work, such as modified duties, a chair, or frequent bathroom breaks.

FREQUENTLY ASKED QUESTIONS Pregnancy Disability Leave

Q How can I get paid while on Pregnancy Disability Leave?

A If you pay into the State Disability Insurance (SDI) program, you may also qualify for SDI disability payments for the duration of your disability leave, before and/or after delivery, as long as the leave is medically necessary.

Pregnancy and Bonding Leave in California:

In California, eligible pregnant and bonding mothers can take up to 4 months of job-protected pregnancy disability leave under PDL, and up to 12 weeks of bonding leave under CFRA.



Q How long do I have to work to be eligible for pregnancy disability leave?

A Eligibility for PDL does not depend on how long you have worked for your employer nor on the number of hours worked.

Q Will my health benefits continue while I'm on pregnancy disability leave?

A Yes, if you have employer-provided health insurance, you are entitled to continued coverage while on pregnancy disability leave. You may need to send in a check for your portion of your premium.

Income Replacement

SNAPSHOT State Disability Insurance (SDI)

What is State Disability Insurance?

The **State Disability Insurance (SDI)** program is a partial wage-replacement insurance plan for CA workers who:

- > contribute a % of wages to the program (*The majority of California workers pay into SDI. Some public employees do not.*), and
- > lose wages due to their own non-workplace-related injury, illness or disability

What benefits does SDI provide?

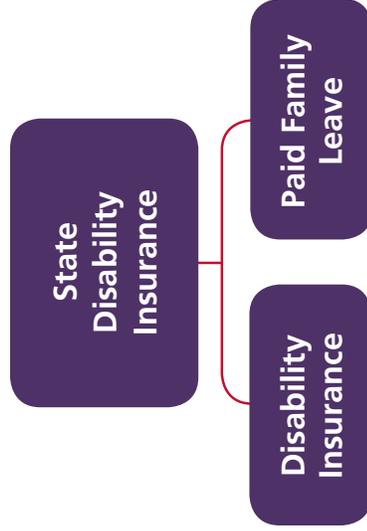
SDI provides 55% of your weekly wages up to a maximum of 52 weeks.

FREQUENTLY ASKED QUESTIONS State Disability Insurance

Q Is my job protected while I am on State Disability Insurance?

A State Disability Insurance does not protect your job on its own. You would have to take the leave concurrently with FMLA or PDL for job protection.

THE STATE DISABILITY PROGRAM



To apply for SDI go to www.edd.ca.gov or call the Employment Development Department (EDD) at **1-800-480-3287**.



"Paid Family Leave was a godsend to me and my family. It made our bonds stronger, and our parenting better." —Eric Antebi, San Francisco

SNAPSHOT Paid Family Leave (PFL)

What is Paid Family Leave?

Paid Family Leave is a California law that provides income replacement if you:

- > pay into the **State Disability Insurance (SDI)** program, and
- > are taking leave to bond with a newborn baby, newly adopted or foster child, or to care for a parent, child, spouse or registered domestic partner with a **serious health condition**.

What does the law provide?

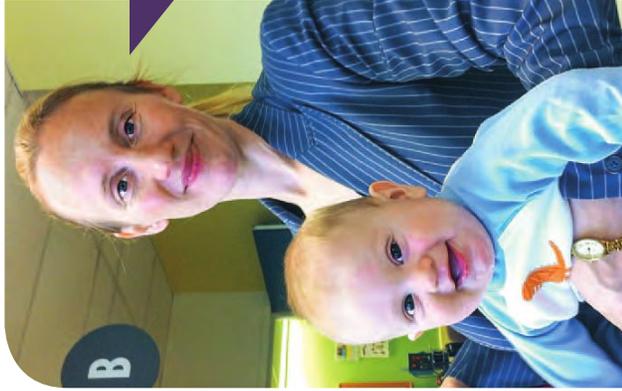
Up to 6 weeks of partial pay—55% of your weekly wage up to a maximum benefit.

What doesn't the law provide?

The law does not guarantee job protection. However, many workers qualify for 12 weeks of job-protected leave under the **Family and Medical Leave Act (FMLA)** and the **California Family Rights Act (CFRA)**. PFL should be taken concurrently with FMLA and/or CFRA to guarantee job protection.

How do I apply for PFL?

Apply online at www.edd.ca.gov. If you have any questions about PFL, you can call the EDD at 1-877-BE THERE (877-238-4373).



“If there was Paid Family Leave a decade ago maybe more moms wouldn’t have left my field. I work as a union representative helping people maintain quality employment and preventing layoffs. I work long hours and having my husband take Paid Family Leave really eased my transition from maternity leave back into work. The partial wage replacement was critical to our family budget and his support was crucial to my peace of mind.”

—Rachele Savola, new mom

FREQUENTLY ASKED QUESTIONS Paid Family Leave

Q Do I have to work a minimum number of hours or days before becoming eligible for PFL benefits?

A No. You are eligible as long as you pay into SDI, regardless of the number of hours or days you work. The amount of PFL benefits you will receive is determined by your wages in a set period.

Q Is there a waiting period for PFL benefits?

A Yes. PFL requires a seven-day, non-payable waiting period. **Note:** Bonding mothers who are transitioning from SDI benefits to Paid Family Leave do not have to serve a separate waiting period.

Q Do I need to take all of my PFL at one time?

A No. The six weeks of benefits do not have to be taken consecutively.

Q Can I take PFL intermittently?

A Yes. You can take your PFL leave in hourly or daily increments as needed.

Q Am I required by law to use my vacation leave before receiving PFL benefits?

A An employer may require you to take two weeks of earned, but unused, vacation leave prior to getting PFL benefits. Vacation leave may include paid time off. One week of the vacation leave can be used during the seven-day waiting period.

Q Can I receive paid sick leave and PFL benefits at the same time?

A Yes. You may combine a portion of your paid sick leave with PFL up to a total of 100% of wages. By combining 45% of sick leave with the 55% PFL benefit, you can get 100% of wages while on leave. The employer should be sure to notify EDD that only 45% of wages are being paid. (If your employer pays you more, your PFL benefits may be reduced.)

Q How is my weekly benefit amount for PFL determined?

A Your weekly benefit amount is determined by your wages in a set period. Visit www.edd.ca.gov to estimate your benefit.

Q Is my employer required to continue my health benefits while I am on PFL?

A The PFL law does not require your employer to provide health benefits while you are receiving PFL. However, your health benefits must be continued if you are eligible for leave under other laws, such as **FMLA** and **CFRA**.

Certification: Paid Family Leave is administered by EDD, not by your employer. You will need to provide appropriate certification such as a birth certificate to EDD when you apply for your benefit.



San Francisco Paid Sick Days

In November 2006 after a successful grassroots campaign, the voters of San Francisco passed a ballot initiative making the city the first in the country to guarantee workers the right to earn paid sick days.

San Francisco Paid Sick Leave Ordinance (effective from February 5, 2007)

- All workers earn one hour of PSL for every 30 hours worked
- > Maximum of 9 days in firms with 10 or more employees, 5 days in smaller firms
- Leave may be used:
 - > For workers' own illness, injury, health conditions, medical appointments
 - > To care for family or a 'designated person'
- Workers accrue leave after 90 days of work
- Unused leave carries over to the next year
- It is unlawful for employers to retaliate against workers for requesting or using PSL
- Employers must post information and maintain records
- The San Francisco Office of Labor Standards Enforcement investigates worker complaints and levies penalties against employers who do not comply (www.sfgsa.org)

PUTTING IT ALL TOGETHER

Workers Taking Family Leave

Maria

For 12 years, Maria has worked full-time for a large phone company in California. Her mother had a stroke and needs round the clock care while recovering. Maria wants to go to her mother's side immediately to care for her. What are Maria's rights?

> Maria can use 12 weeks of **FMLA/CFRA** for job protection. She can get paid during her absence with **Paid Family Leave** for 6 weeks.

Damon

Damon works for a small non-profit (15 people on staff). His one-year-old daughter came down with a serious case of pneumonia and had to be hospitalized for 5 days. He wants to stay at the hospital as much as possible to provide his daughter with psychological comfort and care, and then will need to care for her for 2 more weeks after she is released from the hospital. What are Damon's rights? What would change if he worked for a large company (more than 50 people)?

> Due to the small size of his company, Damon's job would not be automatically protected under **FMLA/CFRA** while taking time off to be with his daughter in the hospital. He can get paid during his absence with **Paid Family Leave**.

> If Damon worked for a large employer and if he met the length-in-service and hours requirements, his job would be protected under **FMLA/CFRA**.

Pregnancy Disability and Bonding Leave for Birth Mother Eligible for FMLA/CFRA

(Typical, uncomplicated pregnancy & childbirth)

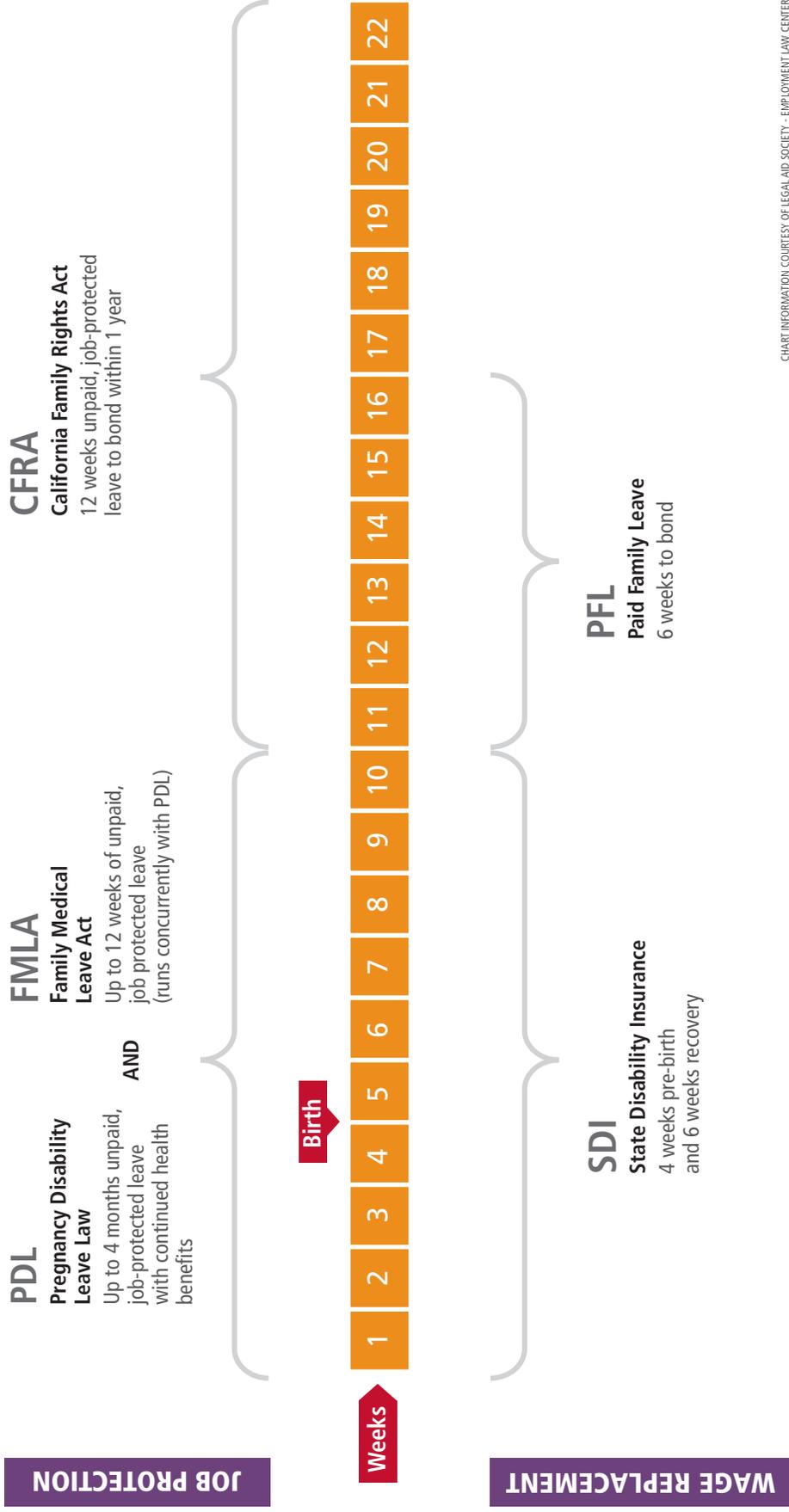


CHART INFORMATION COURTESY OF LEGAL AID SOCIETY - EMPLOYMENT LAW CENTER

Lisa

Lisa has worked as a secretary at a large construction company in California for 2 years, and is expecting a baby. Eight weeks before her due date, she develops complications that require bed rest. Lisa wants to take leave from work because of her condition, but she is worried this will affect the amount of leave she can take after the birth to recover and bond with her baby. If she takes leave, Lisa is worried about making ends meet without her wages.

> During her bedrest and recovery from childbirth, Lisa's job will be protected under **PDL** and **FMLA**, and she can get income replacement from **SDI**. Once she recovers, she can get 12 more weeks of **CFRA** leave to bond with her baby, including 6 weeks of income replacement from **PFL**. (If she has accrued sick leave, she may combine this with her **SDI/PFL** to get her full salary.)

Leticia

Leticia works as a certified nursing assistant in a large hospital. Part of her job includes lifting patients to wash them or adjust their position in bed. She is pregnant with her second child and has had some complications and bleeding early in the pregnancy. Her doctor has restricted her from heavy lifting. What are Leticia's rights?

> If Leticia has a severe complication, she could go out early on **pregnancy disability leave/FMLA** for her own pregnancy-related health condition. She could also receive **SDI** while on leave. However, Leticia can also request an accommodation at the hospital to avoid lifting patients until she is ready to go on leave.



"As a man, an adoptive parent and a member of the LGBT community, I feel that I deserve equal benefits as a birth parent. When you have a new child, parental leave is important whether you are a woman or a man. The needs of the child don't change whether s/he is born to you or adopted by you. I'm glad that both birth parents and adoptive parents can take leave to bond with their babies."

—Raymond Moya, adoptive parent

Other Family Friendly Laws

Kin Care

What is Kin Care?

Kin Care is a California law that allows employees who accrue sick leave to take ½ of sick leave accrued annually to care for an ill close family member.

Which family members are covered under Kin Care?

You can take Kin Care to care for the following family members:

- > spouse, registered domestic partner, parent, or child (includes biological, adopted, foster, step, legal ward or child of a registered domestic partner).

What conditions are covered under Kin Care?

An eligible employee may take Kin Care to care for a family member with an illness such as the common cold or flu as well as serious health conditions covered by FMLA/CFRA

Note: If an employee uses Kin Care to care for a family member with a serious health condition, the absence may be counted as Kin Care and FMLA/CFRA

Lactation Accommodation

What are the rights of breastfeeding mothers at work?

In California, all employers must provide breastfeeding mothers with

- > reasonable break time, and
- > space to pump breast milk.

The space provided should be private and in close proximity to the employee's workstation. It cannot be a bathroom stall. Breastfeeding mothers can use their regular paid breaks to pump milk. If an employed mother needs more time, employers must provide additional break time, but it may be unpaid.



Pregnancy Accommodations

Do pregnant workers have the right to accommodations on the job?

In California, all employers with five or more employees are required to provide pregnant workers with reasonable accommodations. Examples include allowing a pregnant woman to sit on a chair, providing help with heavy lifting, or permitting frequent bathroom breaks.

Employers are also prohibited from forcing a pregnant woman to take leave when she has not requested leave.

Family School Partnership Act

What is the Family School Partnership Act?

The **Family School Partnership Act** is a California law that requires employers with 25 or more employees to allow parents or guardians up to 40 hours of unpaid leave per year to participate in school-approved activities. Examples include field trips and parent-teacher conferences.

Leave for Victims of Domestic Violence & Sexual Assault

What leave rights do victims of domestic violence and sexual assault have?

Victims who work for employers with 25 or more employees are allowed job-protected leave to seek services related to domestic violence or sexual assault and,

All victims of domestic violence and sexual assault, regardless of employer size, are entitled to job-protected leave to attend court and/or obtain a restraining order to protect themselves or their children.

FMLA FOR MILITARY FAMILIES

Military Caregiver Leave allows workers up to 26 weeks of leave if they qualify for FMLA and are the spouse, son, daughter, parent or next of kin of, and need to care for, a covered service member or veteran with a serious injury or health condition incurred or aggravated in the line of duty. This leave extends to those seriously injured or ill members of both the regular Armed Forces and the National Guard or Reserves.

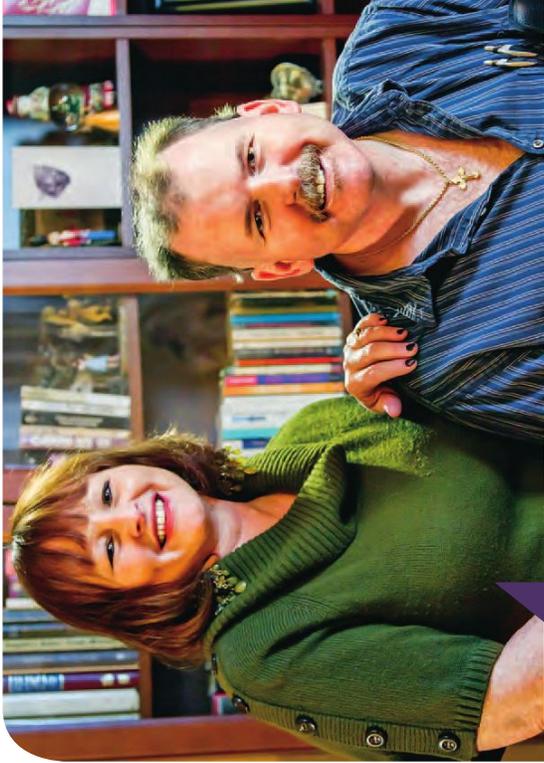
Military Exigency Leave provides up to 12 weeks of leave for family members of service members in the National Guard or Reserves who qualify for FMLA and need time off to take care of situations arising from deployment, service, injury or reintegration. *Example:* arranging child care or moving to a new location.



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California Work and Family Coalition

The **California Work and Family Coalition** unites organizations across the state that organize to improve jobs for working families. **Parent Voices** fights for affordable child care for working parents as well as paid family leave and paid sick days for all workers.



I care for my brother, Robert, who is disabled due to lifelong intractable epilepsy, which means his seizures have never been able to be controlled even after years of trying numerous anti-epileptic drugs and surgeries. Because Robert is my sibling, caring for him does not guarantee me protected leave from my job. I am fortunate that my employer has worked with me while I juggle Robert's numerous neurology appointments, care facility and day program searches, and meetings as well as the inevitable hospitalizations. Not everyone has such an understanding employer and that is why I work with other caregivers and the Work and Family Coalition on expanding job protected and paid leave to benefit all caregivers.

—Trish Hughes Kreis, caregiver

EXPANDING OUR RIGHTS

The California Work & Family Coalition

The California Work & Family Coalition is a labor/community coalition focused on expanding family leave rights and protecting every Californian's right to take time to care for themselves and their families without risking their jobs.

Our Work

We work on transforming California laws to provide all workers critical rights to:

- > Affordable family and medical leave to treat serious and chronic health conditions and care for a seriously ill family member;
- > Affordable pregnancy and bonding leave for new parents;
- > Paid sick days to treat personal illness, care for a sick family member and get preventive care;
- > Workplaces free from discrimination and retaliation against workers with caregiving responsibilities.

If you or your organization would like to get involved in the California Work and Family Coalition, contact us at 510-643-7088 or go to our website www.workfamilyca.org

If You Have a Union

If you are a union member, check your contract to see what provisions you have for taking family leave and paid sick days. Unions can educate members on the rights they have, as well as negotiate to expand them. **Example:** right now, workers who need to take time off to care for a sibling, an adult independent child, parent-in-law, grandchild, or grandparent are not covered by FMLA or CFRA. But, if you have a union, you can negotiate to extend job-protected leave to members who need to care for those family members as well.

To get sample contract language, go to the website www.working-families.org/network/ and click on 'bargaining resources.'

RESOURCES

For Unions

Labor Project for Working Families

1-510-643-7088

www.working-families.org

LEARN Work Family

Labor Education & Resource Network

www.learnworkfamily.org

An online labor education resource network featuring a database of work family contract language

For information on California's Paid Family Leave

English and Spanish:

www.paidfamilyleave.org

For information about a Claim or to Apply for Paid Family Leave:

EDD

1-877-BE-THERE

www.edd.ca.gov

For Questions about Your Rights and Taking Leave

Legal Aid Society – Employment Law Center

Work & Family Helpline

1-800-880-8047 (Spanish/English)

(415) 593-0066 (Chinese)

TTY/TDD Line: (415) 593-0091

www.las-elc.org

Outside California 415-593-0133

Equal Rights Advocates

1-800-839-4372 (Spanish/English)

www.equalrights.org

Information/Support for Breastfeeding at Work

California WIC Association

<http://www.calwic.org/>

California Breastfeeding Coalition

www.californiabreastfeeding.org

Information for Victims of Domestic Violence & Sexual Assault

Legal Aid Society-Employment Law Center

Project SURVIVE helpline

(888) 864-8335 (Spanish/English)

(415) 593-0066 (Chinese)

TTY/TDD Line: (415) 593-0091

www.las-elc.org

Resources for Family Caregivers

Family Caregiver Alliance

(415) 434-3388 or (800) 445-8106

www.caregiver.org

Disclaimer: This guide is intended to provide accurate, general information about Family Leave Laws. Because laws and legal procedures are subject to frequent change and differing interpretations, the Labor Project for Working Families cannot ensure that the information in this guide is current, nor be responsible for any use to which it is put. People who have legal questions should consult an attorney or the appropriate administrative agency. Do not rely on this information without consulting an attorney or the appropriate agency about your rights.



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