



Senate Bill 1383

Changes to the California Family Rights Act (CFRA)

Agenda

- CFRA and SB 1383 Overview
- Changes to Employee Eligibility
- Expanded Uses of CFRA Leave
- Other Significant Changes
- CFRA's Interaction with FMLA

CFRA and SB 1383 Overview



CFRA Basics

- **California Family Rights Act**

- Up to 12 weeks of job-protected family and medical leave for qualifying purposes in a 12-month period
- Continuation of health insurance benefits during the CFRA leave
- Right to reinstatement to the employee's same or comparable position

Senate Bill 1383

- Signed into law September 17, 2020
- Effective **January 1, 2021**
- Significantly expands CFRA leave:
 - Applicable to all employees who work for an employer with 5 or more employees
 - Adds care for more family members
 - Eliminates previous restrictions on the use of leave



Changes to Employee Eligibility

5 or More Employees

- SB 1383 makes CFRA leave applicable to all employees who work for an employer with **5** or more employees
 - *Existing law requires 50 or more employees in a 75-mile radius*

Employee Eligibility Requirements

1. Worked for the employer for at least 12 months;
and
2. Worked at least 1,250 hours in the 12-month period prior to CFRA leave

Expanded Uses of CFRA Leave



Expands Family Members

- The CFRA provides leave to care for a family member with a serious health condition
 - *Existing law defines family member as parent, child, spouse, or registered domestic partner*
- SB 1383 expands family member to include:
 - **Grandparents**,
 - **Grandchildren**
 - **Siblings**

Expands Family Members

- SB 1383 expands the definition of a child to include an **adult child** (age 18 or over)
 - *Existing law only allows care for an adult child if the adult child is “incapable of self-care because of a physical or mental disability”*
- SB 1383 also expands the definition of a child to include a **child of a registered domestic partner**
 - *Existing law does not include children of registered domestic partners*

Expands Family Members

Family Member	CFRA <u>before</u> 1/1/21	CFRA <u>beginning</u> 1/1/21	FMLA
Parent	Yes	Yes	Yes
Child under age 18	Yes	Yes	Yes
Child 18+ capable of self-care	No	Yes	No
Child of Registered Domestic Partner	No	Yes	No
Spouse	Yes	Yes	Yes
Registered Domestic Partner	Yes	Yes	No
Grandparent	No	Yes	No
Grandchild	No	Yes	No
Sibling	No	Yes	No

Adds Qualifying Exigency

- SB 1383 adds “qualifying exigency” leave related to:
 - Covered active military duty; or
 - Call to covered active duty for an employee’s spouse, registered domestic partner, child, or parent in the United States Armed Forces
- FMLA already includes the “qualifying exigency” leave, however, it does not include registered domestic partner as a family member

Qualifying Reasons for CFRA

1. Birth of a child or placement of a child in connection with adoption or foster care;
2. Employee's own serious health condition;
3. Care for a child (including an adult child and child of registered domestic partner), parent, grandparent, grandchild, sibling, spouse, or registered domestic partner who has a serious health condition; or
4. A qualifying exigency related to the covered active military duty or call to covered active duty of an employee's spouse, registered domestic partner, child, or parent in the United States Armed Forces



Other Significant Changes

Parents Who Work for the Same Employer

- SB 1383 allows parents who work for the same employer to each take 12 weeks of CFRA leave to bond with a newborn, adopted or foster child
 - *Existing law limits these parents to 12 weeks total (shared between the parents)*

Key Employees

- SB 1383 eliminates the “key employee” exception to the right to reinstatement
 - *Existing law allows an employer to deny reinstatement to the highest paid 10% of employees who take CFRA when certain requirements are met*

CFRA's Interaction with FMLA



Interaction with FMLA

- The federal FMLA only applies to employees who work for employers with 50 or more employees in a 75-mile radius
- Whereas, CFRA will apply to employees at smaller agencies with 5 or more employees

Interaction with FMLA

- SB 1383's changes create **differences** between CFRA and FMLA
 - Greater potential that an employee will qualify for CFRA leave and **not** FMLA leave
 - Creates situations when CFRA and FMLA leave will **not** run concurrently
 - Employees may be able to receive 12 weeks of CFRA leave and a **separate** 12 weeks for FMLA leave

Interaction with FMLA

- Is CFRA or FMLA Leave Applicable?

- Leave due to pregnancy disability
 - **FMLA only**
- Leave to care for a serious health condition of an adult child who is not incapable of self-care
 - **CFRA only**
- Leave to care for a serious health condition of a grandparent, grandchild, or sibling
 - **CFRA only**

Interaction with FMLA

- **Is CFRA or FMLA Leave Applicable?**
 - Leave for qualifying exigency for call to covered active duty for employee's registered domestic partner
 - **CFRA only**
 - Leave to care for an employee's parent, child, spouse, or "next of kin" who is a covered servicemember with a serious injury or illness for up to 26 weeks
 - **FMLA only**



Questions?