



Six Things You Need To Know About California's New Parent Leave Act

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On October 12, 2017, Governor Jerry Brown signed the New Parent Leave Act ("NPLA") into law. Effective January 1, 2018, the NPLA will create new parental leave rights for employees working for smaller businesses – those with as few as 20 employees.

For over 20 years, the California Family Rights Act ("CFRA") and federal Family and Medical Leave Act ("FMLA") have required employers with 50 or more employees to provide eligible employees with up to 12 weeks of leave to bond with a new child following the child's birth, adoption or foster care placement. Under the NPLA, these obligations will now also apply to employers with 20 to 49 employees.

Which Employees Are Eligible For Leave Under The NPLA?

To be eligible to take leave under the NPLA, an employee must meet all of the following conditions:

- 1) Have worked at least 12 months for the employer;
- 2) Have worked at least 1,250 hours for the employer during the preceding 12 months;
- 3) Work at a location where there are at least 20 employees within 75 miles; and
- 4) Request leave to bond with a new child within one year of the child's birth, adoption or foster care placement.

The NPLA states that it does not apply to employees who are subject to the CFRA and FMLA. One ambiguity created by this exception is whether the NPLA is intended to apply to an employee who works for an employer that is overall large enough to trigger CFRA/FMLA

obligations but the employee's particular work site, while not employing enough people to trigger CFRA/FMLA protections (i.e., at least 50 employees in a 75-mile radius), has at least 20 employees within a 75-mile radius.

Must The Employer Guarantee Reinstatement?

Yes. If, on or before the commencement of the bonding leave, the employer does not provide a guarantee of employment in the same or a comparable position upon the termination of the leave, the employer shall be deemed to have refused to allow the leave.

Is The Leave Paid?

The employer is not obligated to provide paid parental leave. But employees must be permitted to use any available vacation, sick time or paid time off. In addition, employees can apply for benefits under California's Paid Family Leave insurance program through California's Employment Development Department.

Must The Employer Continue Providing Insurance Benefits During The Leave?

Yes, benefits must be continued pursuant to the same terms and conditions as would apply if the employee were actively working.

How Much Leave Is Available?

An eligible employee may take up to 12 weeks of parental leave under the NPLA. Parents jointly employed by the same employer are entitled to a combined total of 12 weeks of parental leave. The employer may, but is not required to, grant simultaneous leave to both parents. Additional leave may be available to the mother under California's Pregnancy Disability Leave Law, which provides up to 4 months of leave for pregnancy-related disabilities, and under the California Fair Employment and Housing Act.

What Is The Effective Date Of The NPLA?

The NPLA is effective on January 1, 2018. Employers covered by the new law are strongly advised to ensure that their leave policies are in writing, have been reviewed and approved by employment counsel, and are communicated to all employees in an easy-to-understand manner. When an employee requests leave under the NPLA, employers should provide a letter advising the employee of his or her rights under the NPLA, including the employee's guarantee of reinstatement.