





California Breakout Session:

New Developments
From the Left Coast

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Presenters



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California Family Rights Act (CFRA)

- Applies to Small Employers: Now applies to employers with 5+ employees (previously applied to employers with 50 or more employees within 75-mile radius)
- Extended Definition of "Family Member": Employee can take leave to care for grandparents, grandchildren, siblings, adult children, and other family members with serious medical conditions
- **Definition of "Child" Expanded:** Leave to care for domestic partner's child and for a child with a serious health condition, regardless of the child's age
- Military Exigency: Added as a qualifying reason (including an employee's registered domestic partner)

California Family Rights Act (CFRA)

continued

- Bonding Leave Expanded: If both parents work for same employer, both entitled to take 12 weeks of parental leave
- Employee Can Take up to 24 Weeks Combined Leave Annually: If eligible under the FMLA and CFRA (e.g., employee takes leave for reason not covered by FMLA [e.g., caring for grandparents], FMLA entitlement remains available for employee to take for FMLA eligible reason [e.g., caring for a spouse])
- Likely to be a challenge for smaller employers as CFRA mandates 12 weeks of unpaid protective leave during a 12-month period
- Several other changes also, so employers will have to revise their policies



Fair Chance Act (Ban the Box)

Fair Chance Act (Ban the Box)

- Imposes restrictions on when and how employers may inquire about and consider an applicant's criminal history.
- Employers with 5+ employees prohibited from asking about an applicant's criminal history until after a conditional offer of employment has been made.
- Definition of "applicant" expanded to include individuals who are conditionally offered employment but begin working while the employer undertakes a post-offer consideration of the individual's criminal history.
- Employer cannot consider an applicant's referral to or participation in a diversion program when making hiring decisions, but may consider the programs as evidence of rehabilitation or mitigating circumstances after making a conditional offer of employment.
- Local laws or ordinances may impose additional limitations.





Pay Data Reporting

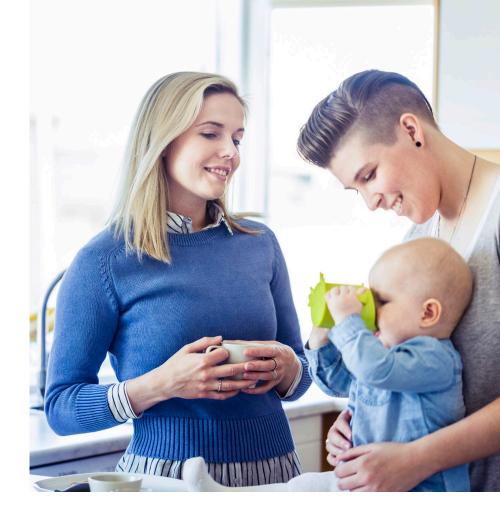
Pay Data Reporting

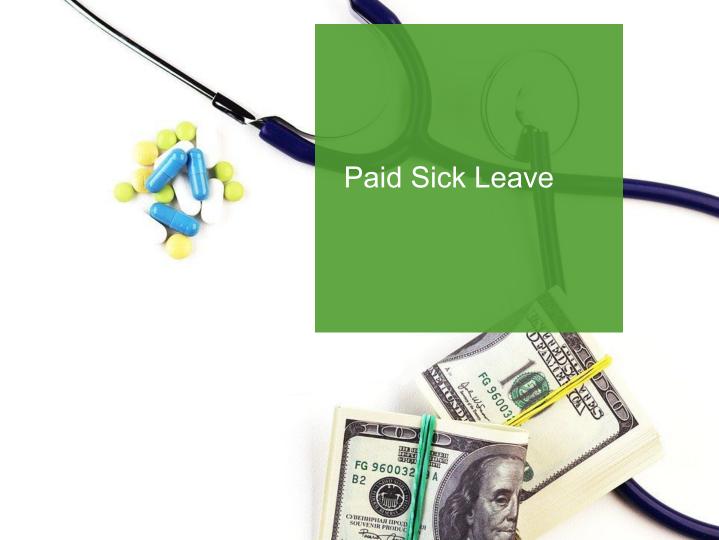
- On or before March 31, 2021, and each year thereafter, private employers with 100+ employees, are required to submit a pay data report to the California Department of Fair Employment and Housing (DFEH) that includes the # of employees by race, ethnicity, and sex in each of the 10 EEO-1 job categories and within each of the "pay bands" used by the U.S. Bureau of Labor Statistics Occupational Employment Statistics classifications.
- Employers will report on their workforce by choosing a single pay period between Oct. 1 and Dec. 31 of each "reporting year".
- Multi-establishment employers must file multiple reports.
- Must exclude out-of-state employees from the submission.



Paid Family Leave

- The Paid Family Leave program provides wage replacement benefits for workers to take time off to care for a seriously ill family member or for baby bonding.
- Military Assist Benefit: Time off for employee who's spouse, registered domestic partner, parent, or child is deployed.
- Employers should also be on the lookout for corresponding changes to the EDD's PFL pamphlet, and ensure that they're using the most recent version.





Paid Sick Leave

- Previously, employees only permitted to use up to one-half of accrued and available sick leave to care for a family member.
- Now, employees can use any amount of sick leave to care for family members and do not need to dedicate it as "kin care".
- If current policies mandate employees'
 use of paid sick leave in certain
 circumstances, employers should update
 their policies and practices as needed.





Victims of Domestic Violence, Sexual Assault, and Stalking



- CA law prohibits an employer from discharging, discriminating, or retaliating against an employee who is a victim of a crime or abuse for taking time off from work to obtain or attempt to obtain relief.
- Existing law is expanded to provide protected leave for employees who
 are victims of domestic violence, sexual assault, or stalking, to include
 leave for victims of other crimes or offenses "that caused physical injury or
 that caused mental injury and a threat of physical injury."
- New legislation also provides protected leave for an employee "whose immediate family member is deceased as a direct result of a crime"
- Expands documents for leave eligibility that an employee may provide to verify that a crime or abuse occurred.

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