

Changes to California Family Rights Act
(as of September 22, 2020)

Comparisons	CFRA before 1/1/21	CFRA as amended, effective 1/1/21	FMLA compared to CFRA, as amended
Employers Covered	50 employees for most reasons; 20 employees for baby bonding	Five or more employees ¹	50 employees for each working day during at least 20 calendar weeks in the current or preceding calendar year
Employee Eligibility	Employed 1 year + 1,250 hours worked during 12 months preceding leave, and employee must work at a location that has 50 employees within a 75-mile radius	Employed 1 year + 1,250 hours worked during 12 months preceding leave (can be non-consecutive; note that there is no longer a 75-mile radius requirement) ²	Employed 1 year + 1,250 hours worked during 12 months preceding leave, and employee must work at a location where 50 employees are within a 75-mile radius
Exceptions to Employee Eligibility	Employee is salaried and among the highest paid 10%	None	Employee is salaried and among the highest paid 10%
Amount of Leave	No change	12 weeks within a 12-month period; 12 months need not be consecutive; leave can be taken intermittently	Same as CFRA
Reason for Leave – Employee's Own Health	No change	Employee's own serious health condition	Same as CFRA
Reason for Leave – Family Member's Health	Serious health condition of: child (minor or dependent adult), parent, spouse	Serious health condition of: child of any age, parent (broadly defined), grandparent, grandchild, sibling (broadly defined), spouse, domestic partner	Serious health condition of: child (minor or dependent adult), parent, spouse

¹ It is unclear whether the five employees must be in California or can be elsewhere. Guidance is likely to be forthcoming.

² Special eligibility rules apply to flight deck or cabin crew members employed by an air carrier.

Reason for Leave – Bonding With Child	Born, adopted, or foster-placed within one year of event – only one parent eligible	Born, adopted, or foster-placed within one year of event – both parents eligible	Born, adopted, or foster-placed within one year of event – only one parent eligible
Reason for Leave – Military Exigency	Not covered	12 weeks of leave in a 12-month period for reasons related to deployment or military activities of employee's spouse, domestic partner, child or parent who is a member of the Armed Forces	Same as CFRA except domestic partner not covered
Military Caregiver Leave	Not covered	Not covered	FMLA provides up to 26 weeks per 12-month period to care for ill service member with a "serious injury or illness." The first 12 weeks may run concurrently with CFRA if the family member is covered under both CFRA and FMLA
Relationship to Pregnancy Leave	No change	Pregnancy disability leave up to 4 months per pregnancy subject to medical confirmation of disability is a separate right and does not count as CFRA leave	Time taken for pregnancy disability counts as FMLA leave
Documentation Permitted – Employee's Own Health	No change	Limited to date condition commenced, probable duration, statement that employee is unable to perform employee's position; 2 nd and 3 rd tie-breaking opinions allowed	Employer can require information about diagnosis (not allowed under CFRA)

Documentation Permitted – Family Member's Health	No change	Limited to date condition commenced, probable duration, estimate of the time employee needs to provide care, confirmation that health condition warrants participation of a family member	Employer can require information about diagnosis (not allowed under CFRA)
Health Insurance During Leave	No change	Premiums paid by employer as though employee were working	Same as CFRA
Payment During Leave	No change	Unpaid. ³ For employee's own health condition, employee must be permitted to and can be required to use sick leave and vacation. For other purposes, employee must be permitted to and can be required to use vacation, but sick leave use is by mutual agreement	Same as CFRA
Reinstatement	No change	Reinstatement to the same or a comparable position	Same as CFRA
Relationship to Collective Bargaining Agreement	N/A	No change required during the life of existing contract	N/A

³ Employee may be eligible for State Disability Insurance (SDI) if leave is for employee's own health condition, to Paid Family Leave (PFL) insurance if leave is to care for a baby or a family member with a health condition, or for military exigency. Local ordinance (e.g., San Francisco) may provide for additional payment from employer during leave for baby bonding.