



COMPLIANCE BULLETIN

HIGHLIGHTS

- Effective **Jan. 1, 2018**, California employers with 20-49 employees must provide parental leave.
- Employers must grant up to 12 weeks of unpaid leave for parents to bond with a new child.
- Leave may be taken within one year of a child's birth, adoption or foster care placement.

IMPORTANT DATES

October 12, 2017

California enacted the New Parent Leave Act.

January 1, 2018

Employers with 20 to 49 employees within 75 miles must comply with the New Parent Leave Act.

California Extends Parental Leave to Smaller Employers

OVERVIEW

A new law will require California employers with **20 or more employees** to grant up to 12 weeks of unpaid, job-protected leave for employees to bond with a new child.

The [New Parent Leave Act](#), enacted on Oct. 12, 2017, extends the state's parental-bonding leave requirements, which currently apply only to employers with 50 or more employees, to smaller employers starting on **Jan. 1, 2018**.

The law will allow employees who are employed at a worksite where the employer has 20 or more employees within 75 miles to take parental leave within the first year after their child is born, adopted or placed with them for foster care.

ACTION STEPS

California employers with 20 to 49 employees should become familiar with the new law and revise their leave policies as necessary to ensure compliance.

Provided By:
Touchstone Consulting Group

COMPLIANCE BULLETIN

Employers Subject to the New Law

An employer is subject to the [New Parent Leave Act](#) if it:

- ✓ Has at least **20 employees** working within **75 miles** of each other; and
- ✓ Is **not** subject to the California Family Rights Act (CFRA) and the Family Medical Leave Act (FMLA).

Thus, the New Parent Leave Act generally applies to all California employers that have **between 20 and 49 employees**.

Employees Entitled to Leave Under the New Law

Under the New Parent Leave Act, an employee will be eligible to take leave if he or she:

- ✓ Has more than **12 months** of service for the employer;
- ✓ Has at least **1,250 hours** of service with the employer during the previous 12 months; and
- ✓ Works at a worksite in which the employer has at least 20 employees within 75 miles.

In addition, an employee that wishes to take leave under the New Parent Leave Act must request and take the leave **within the first year after**:

- ✓ The birth of the employee's child;
- ✓ The employee's adoption of a child; or
- ✓ The placement of a child for foster care with the employee.

An employer may require at least 30 days' advance notice when the need for leave is foreseeable due to an expected birth or placement of a child for adoption or foster care. If 30 days' advance notice is not possible, an employee may be required to provide notice as soon as practicable. Employers must respond to an employee's leave request no later than **five business days** after receiving it.

Leave Requirements

Before the start of an employee's leave under the New Parent Leave Act, the employer must provide the employee with a **guarantee of employment** in the same or a comparable position following the leave. An employer that fails to provide this guarantee may be deemed to have unlawfully refused the employee's leave request.

Employers are **not required to pay** an employee while he or she is on leave under the New Parent Leave Act. However, employees may use, and employers may require employees to use, any accrued vacation pay, paid sick time, other accrued paid time off, or other paid or unpaid time off negotiated with the employer, during a period of parental leave.

COMPLIANCE BULLETIN

Like the CFRA and FMLA, the New Parent Leave Act requires employers to **maintain and pay for continued group health coverage** for an employee while he or she is on parental leave. The health coverage must be continued at the same level and under the same conditions as those provided prior to a leave period. An employer may recover the costs of maintaining an employee's health coverage if the employee fails to return to work following a parental leave period for any reason other than a serious health condition or circumstances beyond the employee's control.

If both parents of a new child are employed by the same employer, the employer is **not** required to grant more than a total of 12 weeks of leave under the New Parent Leave Act. However, an employer may allow both employees to take up to 12 weeks of leave at the same time.

Prohibited Practices

The New Parent Leave Act prohibits employers from:

- ✓ Interfering with, restraining or denying an employee's rights under the law; and
- ✓ Discharging, fining, suspending, expelling, refusing to hire or discriminating against an employee for exercising his or her rights under the law, or for providing information or testimony in any inquiry or proceeding related to the rights guaranteed under the law.

Enforcement

If an employer violates the New Parent Leave Act, an affected employee may file a complaint with the California Department of Fair Employment and Housing (DFEH), which may order the employer to:

- Hire, reinstate or upgrade the employee, with or without back pay;
- Refrain from committing any further violations; and
- Pay a fine of up to \$25,000 for any discrimination.

The DFEH may also file or grant an employee the right to file a civil lawsuit against an employer for violations of the New Parent Leave Act. **Until Jan. 1, 2020**, however, employers will have the right to request that all parties participate in [mediation](#) before an employee is allowed to file a lawsuit. An employer that receives a right-to-sue notice from the DFEH will have **60 days** to submit a mediation request.

Interaction with Existing State Laws

Currently, the CFRA and the FMLA require California employers with 50 or more employees to provide up to 12 weeks of unpaid, job-protected leave for employees to bond with a new child born to, adopted by or placed for foster care with them. The New Parent Leave Act, which was signed into law on Oct. 12, 2017, will require smaller employers in California to provide the same leave.

COMPLIANCE BULLETIN

Unlike the CFRA and the FMLA, however, the New Parent Leave Act will **not** require employers to provide leave for an employee's own serious health condition or for the serious health condition of a family member.

Under another existing state law, California employers with five or more employees must grant up to four months of unpaid, job-protected leave to female employees who are disabled by pregnancy, childbirth or a related medical condition. Because of this, an employee cannot take leave under the CFRA for these conditions. Likewise, an employee will **not** be allowed to take leave for those conditions under the New Parent Leave Act.

However, an employee who works for an employer with 50 or more employees may take CFRA leave to bond with a new child (or to deal with a serious health condition) once her pregnancy disability leave ends. Under the New Parent Leave Act, employees who work for smaller employers will also be allowed to take parental leave after a period of pregnancy- or childbirth-related disability leave.

More Information

Contact Touchstone Consulting Group or visit the DFEH [website](#) for more information on California's leave laws.