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# HR Bulletin

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# California Paid Family Leave (PFL) Extended

On June 27, 2019, Governor Gavin Newsom signed California's 2019-20 state budget, which included an expansion of the state's family temporary disability insurance program administered through the Employment Development Department (EDD). Senate Bill (SB) 83 provides certain workers with up to eight weeks, up from six weeks, of California Paid Family Leave (PFL) to be **effective on July 1, 2020**.

## Overview

PFL provides partial wage replacement benefits to employees who need to take time off from work to care for a seriously ill family member (child, parent, parent-in-law, grandparent, grandchild, sibling, spouse, or registered domestic partner) or to bond with a new child entering the family through birth, adoption, or foster care placement.

PFL does not currently provide job protection, only monetary benefits; however, an employee's job may be protected through other federal or state laws such as the Family and Medical Leave Act (FMLA) or the California Family Rights Act (CFRA).

Currently, an eligible employee can receive about 60 to 70 percent (depending on income) of wages earned 5 to 18 months before the claim start date for up to six weeks within any 12-month period. The length of time worked at the employee's current job does not affect eligibility.

**To receive benefits, an employee must:**

- File a claim for PFL benefits using SDI Online or by mail.
- Have earned at least $300 in wages that are subject to SDI deductions (look for "CASDI" on your paystubs) during the 12-month base period of the claim.
- Provide proof of relationship for bonding claims (birth certificate or record, adoption paperwork, etc.).
- Have the care recipient's physician/practitioner certify to the need for care by completing the Physician/Practitioner's Certification for care claims.

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Simplify Compliance

It is important to note that there are some timing components to the new law that are highlighted in the EDD PFL FAQs. Specifically, any PFL claim filed before July 1, 2020 will only be eligible for six weeks of benefits. As a result, some employees that have had or will have children prior to July 1, 2020 are waiting to file their PFL claim until after July 1, 2020 so that they can get eight weeks of benefits instead of six.

Employees transitioning from a Disability Insurance pregnancy claim to a PFL bonding claim that would like to be eligible for eight weeks of benefits instead of six should wait until July 1, 2020 to file the claim. If the claim is filed before July 1, 2020, the employee will only be eligible for a total of six weeks of PFL benefits.

The law also requires the Governor to increase PFL duration "to a full six months by 2021-22". The required proposal will be limited to child bonding purposes, and "six months" represents the total duration of leave if two parents claim PFL benefits (i.e., 3 months each).

**Beyond the changes referenced above, the Governor is also required to organize a task force tasked with assessing:**

- Increasing the wage replacement rate up to 90% for low-wage workers. As noted earlier, the current rate is 60-70%, depending on income.
- How to fund expanded PFL benefits because SB 83 decreased the worker contribution rate, which means the state will decrease the amount held in reserve to fund the program. The Governor's proposal must determine a way to implement and fund this new initiative.
- Built-in job protections for employees because the current iteration of the statute does not provide employment protection for employees who are absent from work.

# San Francisco's Paid Parental Leave Ordinance

SB 83 has also triggered local responses as San Francisco has increased its Paid Parental Leave Ordinance (PPLO) to offer eight weeks of paid parental leave to eligible employees, also effective on July 1, 2020. Since the ordinance was revised to provide for "at least the number of weeks of paid leave that is required by the California Paid Family Leave law, as amended from time to time," it stands to reason that the PPLO will increase to 12 weeks in future years, as well.

The PPLO, passed in April 2016 and in effect on January 1, 2017, was designed to supplement the amount of paid parental leave already offered through California's PFL for new child bonding. As of its last revision on January 1, 2018, employers who employ at least 20 employees (regardless of their location) are considered covered employers with respect to any employee who performs work in San Francisco.

**Any employee who works for a covered employer is eligible for PPLO if he/she meets the following criteria:**

- Is employed with the covered employer at least 180 days prior to the start date of the leave;
- Performs at least eight hours of work per week in San Francisco, including work from home*;
- Works at least 40% of his/her total weekly hours in San Francisco*; and
- Qualifies for California PFL for new child bonding (bonding includes after birth, adoption, or foster care placement)

*If hours are irregular, eligibility is determined by a 3-month lookback method

The purpose of the PPLO is to bridge the gap between what an employee receives via the California PFL benefit and an employee's normal gross weekly wages. Calculations depend on the number of employers that employ the employee and whether the employee receives tips. Because of this, San Francisco's Office of Labor Standards Enforcement has put together instructions for the various scenarios in order to calculate an employee's benefit.

Unlike the California PFL, the PPLO is solely funded by the employer. However, the employer may require the employee to use up to two weeks of unused paid vacation leave during the PPL period. Employers must provide a PPL form to all employees upon notice of a potential qualifying leave. In addition, the employee must post a PPLO Poster in a prominent place at the worksite.

To be properly prepared for these changes, employers in California – particularly those in San Francisco - must review their leave policies, procedures, and practices to determine if any changes need to be made to comply with the expanded leave set to begin on July 1, 2020. This may include review of parental and/or other paid leave benefits and should trigger a review of employee handbooks, posted notices, and the policies contained within.