

CFRA Leave Expanded to Parents-in-Law



Employees will be able to take leave under the California Family Rights Act (CFRA) to care for a parent-in-law with a serious health condition. A parent-in-law is defined as the parent of the employee's spouse or domestic partner. Currently, parents are covered among the family members an employee can use CFRA leave to care for, but parents-in-law are not.

CFRA applies to employers that have five or more employees. Employees are eligible to take CFRA leave if they have worked for their employer for 12 months and worked at least 1,250 hours during the 12-month period before their leave begins.

Get Ready for State Paid Family and Medical Leave Updates in 2022

Currently, nine states (California, Colorado, Connecticut, Massachusetts, New Jersey, New York, Oregon, Rhode Island, and Washington) and the District of Columbia have a paid family and medical leave (PFML) program. We have compiled a quick overview of each states' requirements and offerings.

California--California provides up to eight weeks of partial wage replacement (60%-70% of an employee's weekly wage) for eligible employees. For 2021, the maximum weekly benefit was \$1,357.

Colorado (Benefits become available in 2024)—All employers with at least one employee working in CO must participate in Colorado's Paid Family and Medical Leave Insurance (PFML) program. Employer/Employee contributions to this program will not begin until January 2023 and benefits will not be payable until January 2024. Benefits will replace 90% of an employee's weekly wage up to 50% of the state average weekly wage (SAWW) and 50% of any amounts exceeding 50% of the SAWW. The total weekly benefit won't exceed 90% of the annually adjusted SAWW. For leave taken in 2024, weekly benefits will be capped at \$1,100.

Connecticut—All employers who employ one or more employees in CT are required to comply with Connecticut's Paid Family and Medical Leave (PFML). CO PFML will provide partial wage replacement for up to 12 weeks, 14 weeks for pregnancy-related health conditions. Contributions to the fund began on January 1, 2021, and on December 1, 2021, the Connecticut Paid Leave Authority began accepting applications for Connecticut residents who want to participate in the state's new paid family and medical leave program. Approved applicants will be eligible to receive benefits beginning January 1, 2022. The 2022 maximum weekly benefit is set at \$780 (increasing to \$840 on July 1, 2022).

Massachusetts—All employers with at least one MA employee must comply with the MA Paid Family and Medical Leave (PFML) program. MA PFML will cover up to 12 weeks (26 weeks for a service member, and up to 20 weeks for an employee's own serious health condition) of leave. Contributions began in 2021.

An employer's contribution responsibilities depend on the average number of covered individuals from the previous calendar year. The 2022 weekly maximum benefit is set at \$1,084.31.

New Jersey—Applies to employers with 30 or more employees (nationally). NJ Family Leave Insurance (FLI) provides up to twelve weeks of wage replacement for eligible employees with a maximum weekly benefit of \$993.



New York—All employers with one or more employees in NY for thirty days or more in a calendar year. Eligible employees can receive up to 12 weeks of partial wage replacement with a maximum weekly benefit of \$1,068.36.

Oregon (Benefits become available January 2023)—All employers with at least one employee working in OR must participate in the Oregon Paid Family and Medical Leave Insurance (PFML). PFML provides up to 12 weeks (14 weeks for pregnancy). Contributions to this program begin on January 1, 2022. Employees pay 60% of the total premium. Employers with over 25 employees will be required to pay 40% of the total premium.

Rhode Island—All employers with employees in RI are required to participate in RI Temporary Caregivers Insurance (TCI). TCI provides up to 4 weeks of leave for eligible employees up to a maximum weekly benefit of \$978.

Washington—All employers with at least 1 employee in WA must participate in the WA Paid Family and Medical Leave (PFML). PFML provides up to 12 weeks (14 weeks for pregnancy) of leave for eligible employees. The 2022 maximum weekly benefit is \$1,327.

District of Columbia—All DC employers who are required to pay unemployment insurance tax must participate. DC PFL provides up to 6 weeks to care for a family member and 8 weeks for parental bonding up to a weekly maximum of \$1,009.

How to Collaborate with a Hybrid Workforce

In the blink of an eye, the COVID-19 pandemic changed the way many Americans work. When the lockdowns hit in March 2020, 31 percent of U.S. employees worked from home some or all of the time. A month later, 70 percent of employees were working remotely, according to Gallup surveys. In between was a dizzying race to get systems in place to allow people to work and communicate from anywhere. Remarkably, many organizations survived the transition. And, for the most part, fears of lost productivity resulting from a mostly remote workforce didn't materialize. In fact, 94 percent of employers responding to a 2020 Mercer survey about flexible work said productivity stayed the same or improved in the months following the lockdowns. Now, as more employees return to physical workplaces, companies and HR leaders are facing a new challenge: how to manage a hybrid workforce.

Do a Soft Relaunch--When offices closed in March 2020, there was barely time to make sure people had the equipment they needed to work at home, much less to come up with best practices for remote work. Now is a perfect time to put thought into how you want your hybrid teams to operate. Consider a soft relaunch for your teams, even though your team is not new, their context now is. Employees can discuss what a hybrid work environment looks like at their company and what role they will play in it.

Whenever Darren Menabney, global employee engagement lead at Ricoh Co. Ltd. in Tokyo, launches a new global project team, he distributes a questionnaire asking employees to rank certain work preferences on a scale of 1 to 10. Topics can include preferences for working independently versus collectively or thinking quickly versus needing time to process. He then shares the results with the team members to help them get to know one another better. He recommends using this knowledge to structure the team, work, and schedule appropriately.

Schedule Interactions--Working in the same office provides plenty of opportunities for chance and planned interactions. People chat while riding the elevator or waiting for a meeting to start. They eat lunch together or go for drinks after work. These encounters, which sometimes reach across departments, often spark great ideas.

In a hybrid workforce, those interactions can still happen, but they must be more intentional. You need to build in time to have watercooler talk," says Amanda Kassler, owner of Innovative HR Solutions in San Antonio. Kassler stresses the need to encourage connectivity and fun at work. As an example, she cites an activity she came up with to celebrate her team's on-time completion of a project despite several setbacks. She created a "mega dessert" made up of all her team members' favorite confections and shipped each person a piece. The team members then dug into their treats while on a video call together.



Allow for Vulnerability-- The pandemic blurred the line between work and home. It shined a light into the personal corners of co-workers' worlds as they went about the messy business of working while juggling barking dogs, patchy child care, a public health crisis and tight living quarters. "We saw each other's puppies and the lunches we created.



while juggling barking dogs, patchy child care, a public health crisis and tight living quarters. "We saw each other's puppies and the lunches we created. We celebrated getting loads of laundry done in between meetings and wore funny hats to surprise someone on their birthday—all through our laptops," says Marley Huckabee, former HR manager, North America, at IBA Proton Therapy in Herndon, Va. Before the pandemic, Huckabee worked in the office full time. But she believes that her team going remote, and then hybrid, strengthened the bonds between its members. Professionalism is important in the workplace, as is a healthy separation between work and home life, but Huckabee believes one positive outcome of the pandemic was that it broke down barriers between team members and between employees and managers. "As leaders, we have to adapt to and allow for people to bring their whole selves to work," she says. Giving employees space to improve their work/life balance is crucial to collaboration, she adds.

Make Meetings More Equitable-- Running a meeting is a lot easier when almost all of the participants are working either remotely or in person. It becomes trickier when the meeting is hybrid and requires interaction or collaboration. By default, in-person attendees draw more focus and remote participants might be treated as a distraction or an inconvenience because of the extra work it takes to include them in the experience, says Tina Marie



Wohlfeld, founder for talent management company TIMAWO. "As a result, virtual attendees might not have the opportunity to be active participants in the conversation," she explains, "and when they aren't, we lose valuable perspectives and collaborative opportunities." That's why Wohlfeld recommends that

companies assign a virtual moderator to every virtual or blended-format meeting. That doesn't have to be a formal, fancy job title; it can simply be handled by one of the team members on a permanent or rotating basis. The virtual moderator basically acts as a second meeting facilitator for the people attending virtually. The role is one part tech support and one part engagement ringleader. Duties include:

- Welcoming the meeting participants.
- Handling any tech snafus, such as video or audio issues.
- Posting polls, additional documents, and questions.
- Sharing participant questions with the meeting facilitator.
- Setting up or running breakout rooms.

"This is also a good chance to recognize that virtual collaboration, whether in meetings or not, can be a more inclusive experience than in-person collaboration", says Darren Menabney, global employee engagement lead at Ricoh Co. Ltd. "Employees who are quiet, who would describe themselves as introverts, or those for whom English is not their first language, feel more enabled and included when collaborating remotely," Menabney says.

Rockwell, K. (2021, November) *How to Collaborate with a Hybrid Workforce*. Retrieved from <https://www.shrm.org/hr-today/news/hr-magazine/winter2021/Pages/how-to-collaborate-with-a-hybrid-workforce.aspx>

2022 Legislative Updates

IRS Releases the 2022 Tax Exclusion Limits

- Health FSA Max election has increased from \$2,750 to **\$2,850**.
- Dependent Care Elections have remains at **\$5,000**.
- The FSA Rollover Allowance has increased from \$550 to **\$570**.
- Commuter Benefits for both Parking and Transit accounts have increased from \$270 to **\$280**.
- The HSA Individual Contribution Limit has increased from \$3,600 to **\$3,650**.
- The HSA Family Contribution Limit has increased from \$7,200 to **\$7,300**.
- The HSA Catch-Up Limit for 55+ employees remains at **\$1,000**.
- 401(k) contribution limits has increased to **\$20,500** for 2022. Employees 50 and older, may contribute up to **\$27,000**

Minimum Wage and Exempt Salary Requirements Update

California Statewide Minimum Wage

California's minimum wage for employers with 25 or fewer employees will increase to \$14 per hour. For employers with 26 or more employees, the minimum wage will be \$15 per hour. A number of cities and counties have minimum wage rates that exceed the state minimum.

Exempt Employee Minimum Salaries and Wages

The minimum salary threshold for exempt employees will increase to \$1,120 per week (\$58,240 per year) for employers with 25 or fewer employees and \$1,200 per week (\$62,400 per year) for employers with 26 or more employees.

Minimum Wage Rates Rise Across Country

56 Cities, Counties, and States Will Raise Minimum Wage Rates on January 1—Many Reaching or Exceeding \$15—With Another 26 Jurisdictions to Lift Pay Later in 2022. Full list, [here](#).

Federal Contractor Minimum Wage

Beginning January 30, 2022, the minimum wage for work performed on or in connection with covered federal contracts will increase to \$15.00 per hour.

“Wage Theft” May Create Criminal Liability for Employers

California Governor Gavin Newsom signed AB 1003, which criminalizes the intentional theft of wages, including gratuities. Effective January 1, 2022, and notwithstanding Sections 215 and 216 of the Labor Code, such violations may be

punishable as “grand theft” if greater than \$950 from any one employee, or \$2,350 in total from two or more employees. It defines “theft of wages” as the intentional deprivation of wages, gratuities, benefits, or other compensation by unlawful means, with the knowledge that such amounts are due under the law.



Real Property Owners May Become Subject to Liens for Wage and Hour Violations

SB 572, which becomes effective January 1, 2022, provides additional enforcement mechanisms to collect wage and hour awards against California employers. Specifically, this new law allows the California Labor Commissioner to obtain a lien on real property for any wage and hour award levied against an employer. Current state law provides for the imposition of various civil penalties on employers for failure to pay minimum wages, to provide for meal

and rest periods, and for failure to pay overtime, among other requirements imposed under the California Labor Code. In claims brought by employees against their employers

for such wage and hour violations, existing law permits the Labor Commissioner, as an alternative to a judgment lien against that employer, to create a lien on real property to recover amounts due under final orders in favor of the employee. Under SB 572, which will add section 90.8 to the California Labor Code, the Labor Commissioner will now also be able to create and implement the same lien on real property to recover amounts due to the Labor Commissioner under any final citation, findings, or decision, for matters brought against employers by the Labor Commissioner. Unless the lien is satisfied or released, a lien would continue until 10 years from the date of creation and may be renewed for additional periods of 10 years at any time before it expires. Employers' timely and thorough responses to Labor Commissioner claims may prevent the possibility of real property judgment liens.



Form I-9 Remote Review Pushed to End of April 2022

U.S. Immigration and Customs Enforcement (ICE) has extended its temporary policy allowing employers to inspect Form I-9 documents virtually through April 30, 2022. The policy was first issued in March 2020 due to the COVID-19 pandemic and it has been extended 12 times. In preparation for in-person document inspection, employers should have maintained a list of all employees who were verified virtually, when they will be returning to work and the deadline for their in-person verification.

OSHA Vaccine-or-Test Mandate is Back with New Deadlines

The Sixth Circuit Court of Appeals has lifted the stay on the OSHA vaccine-or-test mandate (the Emergency Temporary Standard, or ETS), which applies to employers with 100 or more employees. This decision is already being appealed, and the ETS could be put on hold once again. We'll let you know if that happens.

Lifting of the stay means that the ETS is in immediate effect and employers should prepare to comply. The first compliance deadline was December 6 (for policies, notices, masking, vaccination status, etc.), and employers were supposed to begin testing unvaccinated employees by January 4. However, OSHA recognizes that compliance in such a short time frame is not feasible for many employers, so has said the following about enforcement:



“To provide employers with sufficient time to come into compliance, OSHA will not issue citations for noncompliance with any requirements of the ETS before January 10 and will not issue citations for noncompliance with the standard’s testing requirements before February 9, so long as an employer is exercising reasonable, good faith efforts to come into compliance with the standard. OSHA will work closely with the regulated community to provide compliance assistance.”

Masks Required Indoors, Regardless of Vaccination Status, Until January 2022

Beginning December 15, 2021, universal masking will be required in all indoor and public places, regardless of vaccination status, in California beginning December 15, 2021, through January 15, 2022. No person can be prevented from wearing a mask as a condition of participation in an activity or entry into a business. In workplaces, employers are subject to the Cal/OSHA COVID-19 Emergency Temporary Standards (ETS) or in some workplaces, the Cal/OSHA Aerosol Transmissible Diseases (ATD) Standard and should consult those regulations for additional requirements.

The following individuals are exempt from wearing masks at all times:

- Persons younger than two years old. Very young children must not wear a mask because of the risk of suffocation.
- Persons with medical conditions, mental health conditions, or disabilities that prevent wearing a mask. This includes persons with medical conditions for whom wearing a mask could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a mask without assistance.
- Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication.
- Persons for whom wearing a mask would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines.

201 North Civic Drive, Suite 245
Walnut Creek, CA 94596
866-379-7054 – Toll Free
925-280-6332 – Main
www.centricity-solutions.com
support@centricity-solutions.com

Q&A Corner



Now that we’ve become a “remote first” company with most of our employees working from home, we’ve started hiring

remote employees in other parts of the country. We’re covered by FMLA because we have more than 50 employees—even at our headquarters alone. Will our remote employees be eligible for FMLA leave once they’ve worked the required amount of time? Yes, these new remote employees will likely be entitled to take leave under the federal Family and Medical Leave Act (FMLA), but not just yet. To be eligible for leave under the FMLA, an employee must have worked for your company for at least 12 months, have worked at least 1,250 hours during the 12-month period immediately before their leave, and work at a worksite with 50 or more employees within a 75-mile radius. Unlike other situations, for purposes of FMLA, an employee’s home is not a worksite. Rather, their worksite is the office they report to or receive assignments from. So, if your remote employees report to or get their assignments from your headquarters, then they are considered to work at a worksite that has 50 or more employees. If you have multiple physical offices, you’ll need to evaluate which location would be considered each employee’s worksite, and then how many employees fall under that worksite. Bottom line: an employee whose worksite has 50 or more employees will be eligible for FMLA leave once they’ve worked 1,250 hours and hit their one-year anniversary.

An employee worked unauthorized overtime. Do we have to pay them the time and a half for these hours? Yes. Any overtime worked by non-exempt employees must be compensated, regardless of whether the overtime was authorized. We recommend communicating with the employee about work expectations outside of their scheduled workday, making it clear that the company does not expect or permit employees to work unauthorized time and that working without permission is subject to disciplinary action.



Assuming you have a policy that requires overtime be authorized ahead of time, you can (and should) discipline employees for working unauthorized overtime, just as you would for any other violation of your policy. An oral or written warning may suffice for the first offense. Repeated offenses may warrant further corrective action, up to and including termination.

What is a leave entitlement? The term leave can refer to just about any type of time away from work, but it’s often used to describe time an employee is entitled to take by law or company policy. Common leave entitlements include vacation, personal days, and sick days. Other forms include time off taken for bereavement, military service, jury duty, and birth or adoption of a child.



Whether a leave is paid or unpaid depends on what the law or your policy requires for that type of leave. Leave under the Family and Medical Leave Act, for example, is unpaid, though employers may choose to layer paid leaves on top of it (like paid parental leave that the company offers by choice). Most state sick leave laws, on the other hand, require the time off to be paid.