



*Advocating for workers,
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RECOMMENDATIONS ON WORKPLACE POLICIES FAMILY MEDICAL LEAVE

CALIFORNIA WORKING FAMILIES POLICY SUMMIT
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INTRODUCTION

Hundreds of thousands of California workers are unable to provide care for seriously ill loved ones because of an overly narrow definition of family under existing law, a lack of awareness about workers' leave rights, and unfair retaliation by employers. Over half of employed Californians expect to need to take a family or medical leave from work in the next five years.¹ California's diverse population includes a variety of familial arrangements with unique caregiving needs. Sixteen percent of all California households include at least one person providing care to someone over the age of 50, and about half of these caregivers are in the workforce.² California has the second highest percentage of multi-generational households in the country.³ Almost half of Californians are single,⁴ and their closest relative may be a sibling. Nearly 40 percent of California employees work for businesses with fewer than 50 employees,⁵ and are thus not protected by the anti-retaliation provisions of the California Family Rights Act and the federal Family and Medical Leave Act. Extending existing law to protect these vulnerable workers would further the state's compelling interest in enabling workers to care for their families without jeopardizing their economic security.

POLICY OBJECTIVE #1

Expand Paid Family Leave to add siblings, grandparents, grandchildren, and parents-in-law, and to prohibit retaliation against workers who claim benefits.

Background

California's Paid Family Leave law (PFL) provides critical wage replacement benefits to workers who need to take time off work to care for seriously ill parents, children, spouses, and domestic partners. However, the law currently excludes significant family members—siblings, grandparents, grandchildren, and parents-in-law—as potential care recipients. Expanding the PFL to recognize the importance of these extended family relationships will allow many more Californian families the opportunity to care for one another while preserving their economic well-being. Further, many employers have retaliated or threatened to retaliate against employees for claiming Paid Family Leave benefits, in violation of the Legislature's intent to help workers balance the demands of work and family.

Recommended Actions

The Legislature and Governor should enact legislation to amend the Paid Family Leave law to:

- A.** Expand the list of family members eligible to receive care to include siblings, grandparents, grandchildren, and parents-in-law.
- B.** Prohibit employers from retaliating against workers who file or state their intention to file a claim for Paid Family Leave benefits.

POLICY OBJECTIVE #2

Expand the California Family Rights Act to strengthen protections for working families.

Background

The California Family Rights Act (CFRA) provides workers with the crucial right to take job-protected family or medical leave to care for their own or a family member's serious health condition. Unfortunately, however, far too many employers and workers are unaware of the job protection rights afforded by the CFRA, despite the affirmative obligation of employers to provide information about these rights. As a result, workers who are in fact eligible for leave are denied job protection, and lose their jobs when they take the time that their family obligations require. These devastating outcomes have been exacerbated by several court rulings that have narrowly construed what it means to care for a family member. Moreover, many employers—particularly large employers headquartered in other states—do not know that California's privacy rules for workers during the medical certification process are stronger than those under federal law. Amending the CFRA to address these issues will clarify and strengthen the critical protections the law provides to working families.

Recommended Actions

The Legislature and Governor should enact legislation to amend the California Family Rights Act to:

- A.** Require employers to promptly provide accurate information to workers who have notified their employers that they may need a family care or medical leave.
- B.** Define the concept of "care" to include all of the assistive activities that are ordinarily needed by a seriously ill family member.
- C.** Protect workers' privacy by prohibiting employers from seeking intimate information about an employee's diagnosis or course of treatment in seeking medical certification.
- D.** Define "employer" and "employment in the same or comparable position" to conform the CFRA to the federal Family and Medical Leave Act.
- E.** Expand the list of family members eligible to receive care to include siblings, grandparents, grandchildren, and parents-in-law.

ENDNOTES

¹ Paid Family Leave: New Survey Findings, California Family Leave Research Project, UCLA Institute of Industrial Relations, May 10, 2006.

² A Profile of Family Caregivers: Results of the California Statewide Survey of Caregivers, Scharlach, A. Ph.D., Sirotnik, B. Ph.D., Bockman, S. Ph.D., Neiman, M. Ph.D., Ruiz, C. M.A., Dal Santo, T. Ph.D., Center for the Advanced Study of Aging Services, Univ. of Cal., Berkeley, CA, Inland Empire Research Consortium, Cal. State Univ., San Bernardino, CA, Jan. 31, 2003.

³ Households and Families 2000: Census 2000 Brief, U.S. Census Bureau, Sept. 2001, p. 7.

⁴ California: Marital Status, 2005 American Community Survey, U.S. Census Bureau.

⁵ Labor Market Information Division, Employment Development Department, Third Quarter, 2004.