

Leaves of Absence in California – A 2023 Summary

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	FMLA Family and Medical Leave Act - 29 U.S.C. § 2601, et seq.	CFRA California Family Rights Act - Gov. Code § 12945.2
Covered Employer	50 or more employees within a 75-mile radius	5 or more employees
Eligible Employee	Employee worked for a Covered Employer: <ul style="list-style-type: none"> • for at least 1 year, and • for 1,250 hours over the previous 12 months, and • at least 50 employees work for the employer within 75 miles. 	Employee worked for a Covered Employer for: <ul style="list-style-type: none"> • 1,250 hours over the previous 12 months.
Qualifying Events	<ul style="list-style-type: none"> • Birth of child of employee • Placement of child with employee for adoption or foster care. • Employee’s own serious health condition. • Care for certain family members with a serious health condition. <p>Military Exigency: Employee with a spouse, son, daughter, or parent on active duty or call to active-duty status may use the 12-weeks to address certain “qualifying exigencies,”</p> <p>Military Caregiver: Employee may take up to 26 weeks of leave to care for a covered service-member who has a serious injury or illness.</p>	<ul style="list-style-type: none"> • Birth of child of employee • Placement of child with employee for adoption or foster care. • Employee’s own serious health condition. • Care for certain family members (including a designated person who is the equivalent of family) with a serious health condition <p>Military Exigency: Leave related to the covered active duty or call to covered active duty of an employee’s spouse, domestic partner, child, or parent in the Armed Forces of the United States.</p> <ul style="list-style-type: none"> • Not cover pregnancy (see PDL) • Employer with both parents – each parent gets full 12 weeks of baby bonding.
Length of Leave	12 weeks in a 12-month period. Generally, can be intermittent. Military Caregiver Leave is 26 weeks. *Employer maintains group health coverage*	12 weeks in a 12-month period. Generally, leave can be intermittent. *Employer maintains group health coverage*
Reinstatement Rights	Guaranteed in absence of defense to same or comparable position.	Guaranteed in absence of defense to same or comparable position. No ‘key employee’ exception (generally)

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	ADA Americans with Disabilities Act 42 U.S.C. §§ 12101, et seq.	FEHA Fair Employment and Housing Act Gov. Code § 12945	Organ and Bone Marrow Donation Labor Code §§ 1508-1513	Religious Accommodation Gov. Code § 12945, et seq.
Covered Employer	15 or more employees	5 or more employees	15 or more employees	5 or more employees
Eligible Employee	All	All	All	All
Qualifying Events	Physical or mental disability that limits a major life activity for which time off is a form of reasonable accommodation	Physical or mental disability that makes a major life activity more difficult for which time off is a form of reasonable accommodation	Employee who donates organ or bone marrow due to medical necessity	Religious event or observation
Length of Leave	Case by case for “reasonableness”	Case by case for “reasonableness”	Paid time off up to 30 business days per year for organ donor; 5 business days per year for bone marrow. And up to an additional 30 days unpaid time off.	An employer must reasonably accommodate an employee’s religious beliefs or observances, unless undue hardship would result The duration and timing of the religious leave is controlled by the religious observance or practice itself
Reinstatement Rights	Generally guaranteed subject to undue hardship exception but not necessarily same or comparable position	Same as ADA	Yes	Yes

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	PDL - Pregnancy Disability Leave Gov. Code § 12945	PSL - Paid Sick Leave Labor Code §§ 245-249	Kin Care Labor Code §§ 233-234
Covered Employer	5 or more employees	All	All employers who offer more than PSL minimum
Eligible Employee	All	Anyone who works 30+ days in California within a year of starting work. Can use the PSL after 90 consecutive days.	All employees who are eligible for sick leave and use it to attend to a sick child, parent, spouse, or domestic partner.
Qualifying Events	Pregnancy-related disability preventing work (includes morning sickness, prenatal care, post-partum issues and end of pregnancy matters)	<p>Paid Time Off for:</p> <ul style="list-style-type: none"> • Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee’s family member or a designated person. • Employee who is a victim of domestic violence, sexual assault or stalking to obtain relief, including medical attention and psychological counseling. <p>“Family member” includes the employee’s child (biological, adopted, foster child, stepchild, legal ward, or a child to whom the employee stands <i>in loco parentis</i>. Regardless of age or dependency status); parent (biological, adoptive, foster parent, stepparent, legal guardian, or a person who was in loco parentis when the employee was a minor); parents in-law through an employee’s spouse or registered domestic partner; spouse; registered domestic partner; grandparent; grandchild; and sibling.</p>	<p>Use of eligible portion of sick leave to attend to sick qualified family member.</p> <p>It is up to the employee, in their sole discretion, to designate the leave as kin care.</p>
Length of Leave	Length of pregnancy-related disability, up to “four months” *Employer maintains group health coverage*	Minimum is 3 days/24 hours (grant method) or 1 hour for every 30 hours worked (accrual method). If accrual, can have cap of no less than 48 hours and can limit annual use to 24 hours.	Up to half of sick leave time (above PSL minimum)
Reinstatement	Guaranteed to same position	Yes	Yes

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	Military Leave Law USERRA 38 U.S.C. § 4301, et seq.	California Military Leave Mil. & Vet. Code § 394- 395	Spousal Military Leave Mil. & Vet. Code § 395.10	Reserve Emergency Personnel: Volunteer Firefighters, Peace Officers, Emergency Rescue Personnel Labor Code § 230.3-230.4	Civil Air Patrol Labor Code §§ 1500- 1507
Covered Employer	All employers	All employers	25 or more employees	All employers; 50 or more triggers greater obligations	15 or more employees
Eligible Employee	All employees who enlist in military service or perform military or reserve duties (also, some public health duties)	Members of a reserve corps or who have other specified military obligations	Spouses of qualified members of Armed Forces, National Guard or Reserves who work at least 20 hours/week	All employees	90 days employment
Qualifying Events	Enlistment or call to perform military duties	Need to perform military duty	A qualified leave period of a qualified member of the military	Emergency duty; plus, training time if 50+ employees	Employee authorized to respond to emergency operational mission of California Wing of Civil Air Patrol
Length of Leave	Time needed, up to 5 years cumulative	17 days for private employees; 180 days for public employees	10 days	Time necessary for emergency duty; if 50+ employees, also entitled to up to 14 days off to train annually	Up to 10 days per year
Reinstatement	Guaranteed	Guaranteed	Yes	Yes	Yes

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	Crime Victims Labor Code §§ 230(b) and 230.2	Victims of Domestic Violence, Sexual Assault, Crimes or Abuse Labor Code §§ 230(c)-(d) and 230.1, 230.2, 230.5	Drug/Alcohol Rehabilitation Leave Labor Code §§ 1025-1028
Covered Employer	All	All If 25 or more employees, additional protections	25 or more employees
Eligible Employee	All	All	All
Qualifying Events	Subpoena or court order to attend judicial proceedings	Stalking, domestic violence, sexual assault. Crime that caused physical injury or that caused mental injury and threat of physical injury. Death of immediate family member because of a crime.	Voluntary enrollment in a residential drug or alcohol rehabilitation program (not AA) in program
Length of Leave	Length of court appearance	Undefined – Enough time off to obtain or attempt to obtain relief to help ensure the health, safety, or welfare of the victim or victim’s child. If 25 or more employees, time for the following: <ul style="list-style-type: none"> • To seek medical attention for injuries caused by crime or abuse. • To obtain services from a domestic violence shelter, program, rape crisis center, or victim services organization or agency because of the crime or abuse. • To obtain psychological counseling or mental health services related to an experience of crime or abuse. • To participate in safety planning and take other actions to increase safety from future crime or abuse, including temporary or permanent relocation. 	Time necessary unless it would cause an undue hardship
Reinstatement	Yes	Yes	Yes

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	Visit School Authorities Labor Code § 230.7	Family School Partnership Act Labor Code § 230.8	Employee Literacy Education Assistance Act Labor Code §§ 1040-1044	Time Off to Vote Elections Code §§ 14000-14002	Jury and Witness Duty Labor Code § 260(a) and § 230(b)	Bereavement Leave
Covered Employer	All	25 or more employees	25 or more employees	All	All	5 or more employees
Eligible Employee	All	Employees with children or custody of children in day care or K-12	Employees who enroll in adult literacy education assistance program	All	All	Employee worked for employer for at least 30 days prior to commencement of leave.
Qualifying Events	Employee must be a parent or guardian who has been asked to visit school because of child discipline.	Participation in school or child day care activities	Enrollment and participation in program	Employee unable to vote in statewide election due to work schedule	Subpoena or Court Order	Death of a qualifying family member: Spouse, child, parent, sibling, grandparent, grandchild, domestic partner, or parent-in-law. (See CFRA for definitions).
Length of Leave	Usually, a day or less	Up to 8 hours per month and 40 hours per year	Time necessary to enroll and participate. It could be a reasonable accommodation from employer to permit employee to leave work early, arrive late, or take and extended lunch.	Time necessary to vote (~2 hours)	Length of jury or witness duty	Up to 5 days (unpaid) for each qualifying occurrence (meaning each death of a family member). No annual limit.* Not need to be taken consecutively; must complete the time off within 3 months of the family member's death. May ask for proof of date.
Reinstatement	Yes	Yes	Yes	Yes	Yes	Yes

Notes

- This chart does not include leaves, paid sick leave, etc. for COVID-19 absences. If the leave is COVID related, please check current employer obligations under Cal/OSHA, FFCRA, California Extended Paid Sick Leave.
- Generally, the leaves in the chart are unpaid. Paid Sick Leave and Organ / Bone Marrow Donation leave are paid. Employees can replace wages through vacation, PTO, sick leave, and government provided programs such as SDI and Paid Family Leave.
- * Bereavement leave is an unpaid benefit; if the employer offers a paid bereavement leave benefit (say, 3 days paid per year), the employee is entitled to the difference (2 days) unpaid. If more than one occurrence per year, the employer only needs to provide the statutory amount. (That is, the employer does not need to offer more paid time off if already exhausted)>