



# Senate Bill 1383: This One's for the Little Guys! (And also the big...)

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To date, California employers with fewer than 50 employees have had it easy. Well, relatively. They have not had to learn and comply with the federal Family Medical Leave Act (FMLA) or the California Family Rights Act (CFRA). Effective January 1, 2021, that is changing.

With the passage of Senate Bill 1383, employers with five or more employees will now have to comply with the CFRA. While the statute is complex and requires a comprehensive policy, key features smaller employers should be aware of and prepare for now include:

- Job-protected leave of up to 12 weeks during each 12-month period for family and/or medical leave
  1. The leave does not need to be paid
  2. The leave can be used for the employee's own serious health condition or for the employee who is required to care for a family member with a serious health condition
  3. The leave can also be used to bond with a newly born, adopted, or fostered child
  4. If the serious health condition is caused by pregnancy, then Pregnancy Disability Leave and not CFRA applies
- Leave is available to employees in California who have worked for the employer at least 12 months prior to the start of the leave and have put in at least 1250 hours of work

And how does SB 1383 affect larger employers who've already had to comply with the CFRA?

- "Family members" now includes siblings, grandparents, grandchildren and domestic partners
- "Child" now includes the adult children of the employee or the employee's domestic partner
- Because the CFRA provides more expansive leave rights than the FMLA, larger employers may end up having to provide twice as much leave in one 12-month period that is for leave only covered by CFRA and not FMLA, and then for leave that is covered by FMLA
- Employers may no longer deny leave to the highest earning key employees
- Employers are no longer exempt from the leave requirements if their employees are not within 75 miles of the worksite

Some helpful tips to prepare for January 1, 2021:

- Engage California employment counsel to prepare you for the drastic changes
- Draft a new CFRA policy or revise the existing FMLA/CFRA policy
- Create a system of tracking and calculating each employee's total hours worked within a rolling 12-month period to determine if an employee will be eligible for CFRA leave
- Learn each of the grounds that trigger CFRA leave rights
- Exhale



Karina B. Sterman is a partner in the Litigation and Employment Law Departments of [Greenberg Glusker](#). A creative and ardent advocate for her clients, Ms. Sterman defends businesses in class action lawsuits as well as in discrimination, harassment, wrongful termination and other lawsuits. She also defends companies in administrative proceedings in front of the EEOC, Department of Labor, California Labor Commissioner and other jurisdictions.