

Electronic Alert

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California Family Rights Act Expanded to Include More Northwest Employers

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On January 1, 2021, California Senate Bill 1383 went into effect, expanding the California Family Rights Act (“CFRA”) – the California counterpart to the Oregon Family Leave Act (“OFLA”). If you are a Northwest employer, why should you care? Now, employers with 5 or more employees **anywhere in the country** need to comply with CFRA for their California employees, even if they have only one California employee. To comply, employers with one or more California employees must have a written CFRA policy and provide up to 12 weeks of unpaid protected CFRA leave to those California employees with qualifying reasons to take family or medical leave.

More Employers Now Covered by CFRA

CFRA previously applied to companies with 50 or more employees. Because the law applied to larger operations with employees in California, it was not usually a compliance concern for most companies based in the Northwest (even those with a California employee or two). However, because the coverage size is now much smaller and because non-California-resident employees are included in the threshold employee count, many more employers may be affected by the law.

More Employees Now Covered by CFRA

The amendments also eliminated the requirement for employees to be working at a site with 50 or more employees within a 75-mile radius. This mileage requirement used to exclude from coverage remote California employees because their worksite was their home or a small satellite office. Even California employees of large, out-of-state employers who were previously excluded from coverage may be newly covered under this expansion.

All CFRA Policies Need Updates

If your CFRA knowledge is old hat, be aware that the updates also expanded qualifying reasons and eliminated previous exceptions. All CFRA policies will need a refresh to include the correct eligibility requirements.

What this Means for Northwest Employers

Leave obligations to out-of-state employees are usually informed by the jurisdiction where the employee works. This means that an Oregon or Washington employee working remotely in California during the pandemic might now be a covered worker for CFRA purposes.

Employers should evaluate whether they are (1) a covered employer under the California leave law; and (2) whether the individual employee is eligible for leave. The expansion of the California Family Rights Act could mean your California employees can use CFRA leave for the first time, if:

- You have 5 or more employees anywhere in the U.S.; and
- You have one or more California employees who have worked for you at least 12 months and worked 1250 hours or more in the 12 months prior to requesting leave.

If this applies to you, you should:

- Create a CFRA policy for your California employees to comply with the CFRA requirement for a written policy; and
- If you already have a CFRA policy, ensure that it reflects the expanded qualifying reasons.

For questions about the expanded California Family Rights Act or for assistance in updating your employee handbook, contact Charlotte Hodde or Julie Preciado at 503-228-0500, or at chodde@barran.com or jpreciado@barran.com.