

New Employment Laws for 2021

The following employment laws are effective in California beginning January 1, 2021, unless otherwise specified as an urgency statute.

AB 1577 (Burke) CARES Tax Relief Act: Allows businesses to exclude the amount of Paycheck Protection Program loans provided under the CARES Act from state income taxes and forgives the recipient's loan debt when the funds are used for mortgage, rent, utilities, and payroll costs.

AB 1947 (Kalra/Gonzalez) Extension of Time to File Labor Commissioner Complaints: Increases the time from six months to one year for employees to file complaints with the Labor Commissioner for claims that they were discriminated against or discharged for specified reasons. This bill also allows an employee who prevails on a claim for certain types of retaliation to now recover attorneys' fees.

AB 2017 (Mullin) Employee Sick Leave and Kin Care: Existing law allows employees to use at least half of their annual accrual of employer-provided sick leave for "kin care" (family) reasons. This bill amends the law to provide that it is up to the employee's "sole discretion" to designate leave for this purpose.

AB 2143 (Stone) Settlement Agreements/Employment Disputes: Permits employers to not rehire an employee who has engaged in criminal conduct.

AB 685 (Reyes) COVID Reporting: Requires employers who receive notice of potential COVID-19 exposure to their workforce to provide specified disclosures to employees within one business day. Written disclosures must include the same information reported in Cal/OSHA Log 300 A forms, the time period in which employees may have been exposed, and a summary of COVID-related benefits to which an employee may be entitled. Employers are also required to report "outbreaks," as defined, to public health authorities.

SB 1159 (Hill) COVID Workers' Comp Coverage: This bill took effect on September 17, 2020 as an urgency statute. It creates a "disputable presumption" relative to workers' compensation benefits for employees who have tested positive for, or are otherwise diagnosed with, COVID-19. Under this new law, which applies to employers of five or more individuals, an employee who receives a positive test

or diagnosis for COVID-19 "within 14 days after a day that the employee performed labor or services at the employer's place of business at the employer's direction" is presumed to have contracted COVID-19 in the course of employment.

The new law establishes two time periods to which the above presumption will apply. First, under Labor Code section 3212.86, the presumption will apply to any case arising within 14 days of the last date of work that falls between March 19 and July 5, 2020, inclusive. Second, under Labor Code section 3212.88, the presumption will apply more broadly to cases arising (from July 6, 2020 forward) within 14 days of the last day of work that falls "during a period of an outbreak at the employee's specific place of employment." (The criteria for an "outbreak," in turn, are set forth at subdivision (m)(4) of Section 3212.88.) In both instances, the presumption is "disputable and may be controverted by other evidence." In the context of this new law, veterinary medical employees are not considered health care workers and therefore are entitled to the same presumption as employees working in just about every other industry.

The takeaway is that employees with COVID-19 will be able to obtain disability benefits for their illness, even if they are not able to establish proof that their illness was contracted through work. The new law also establishes new and different investigative processes for COVID-19 workers' compensation claims.

SB 1383 (Jackson) Expanded Unpaid Family and Medical Leave: Expands the California Family Rights Act (CFRA) relative to the provision of unpaid family leave. Under the current version of the CFRA, employers of 50 or more employees are required, among other things, to provide up to 12 workweeks of unpaid leave for qualifying employees who wish to bond with a new child or, in specified circumstances, care for themselves, a child, a parent, or a spouse. Failure to grant a request for such leave is considered an unlawful employment practice and may be the subject of a private cause of action by the employee.

SB 1383 expands the above requirement to all employers of five or more employees, significantly increasing the potential burden on small employers, including veterinary practices. In that regard, although the leave contemplated by SB 1383 is unpaid, employers must hold an employee's job position for 12 workweeks if the employee qualifies for CFRA leave. ■

