

New Legislation Expands Employee Leave Rights

November 8, 2022

Number 51

Written by:

Michelle Cannon
Partner
Sacramento
mcannon@lozanosmith.com

Sochie L. Graham
Associate
Sacramento Office
sgraham@lozanosmith.com

Assembly Bill 152 – COVID-19 Supplemental Paid Sick Leave

Assembly Bill (AB) 152 went into effect immediately and extended the requirement to provide eligible employees with supplemental paid sick leave (SPSL) through December 31, 2022. This requirement was previously set to expire on September 30, 2022. Please note, AB 152 does not expand the total number of hours of SPSL an employee is entitled to. For example, an employee who has already exhausted their SPSL is not entitled to additional SPSL as a result of this bill.

AB 152 also expands employer rights to require documentation of a positive COVID-19 test as a condition of using SPSL. Employers previously had the right to require documentation of an employee's initial positive test and a second positive test on or after the fifth day after an employee's initial positive test. Employers may now require documentation of a third positive test within 24 hours of the employee's second positive test. Employers are required to provide all required testing to employees at no cost.

Assembly Bill 1041 – California Family Rights Act and California Paid Sick Leave

AB 1041, effective January 1, 2023, expands the CFRA and California paid sick leave to permit employees to use protected family and medical leave and paid sick leave to care for a "designated person." CFRA defines "designated person" as "any individual related by blood or whose association with the employee is the equivalent of a family relationship." California paid sick leave statutes define "designated person" as "a person identified by the employee at the time the employee requests paid sick days." Under AB 1041, employers may limit an employee to one designated person per 12-month period.

Assembly Bill 1949 – Bereavement Leave

AB 1949, effective January 1, 2023, requires employers to provide five days of bereavement leave for the death of an employee's family member. "Family member" is defined as "spouse or a child, parent, sibling, grandparent, grandchild, domestic partner, or parent-in-law." The five days of bereavement leave do not need to be consecutive but must be taken within three months of the date of the family member's death. Bereavement leave may be unpaid. However, an employee may use any

accrued sick leave, personal leave, vacation, or compensatory time off. An employer may require employees to provide documentation of the family member's death within 30 days of the employee's first date of bereavement leave.

Please note, the Education Code currently provides paid bereavement leave of three days, or five days if out-of-state travel is required. AB 1949 expands this by providing an additional two days of unpaid bereavement leave where no out-of-state travel is required.

AB 1949 also makes it unlawful to retaliate or discriminate against an employee for using bereavement leave or to interfere with an employee's right to use bereavement leave.

Takeaways

Each of these new laws may impact employers' existing policies and regulations as well as provisions in collective bargaining agreements. We recommend reviewing and updating policies, practices, and labor agreements as necessary.

If you have any questions about this new legislation, please contact the author of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.