

California's 2020 Legislative Session Brings Big Changes for Employers

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California has closed a busy legislative session with more than 30 laws relevant to employers being signed by Governor Gavin Newsom. The 2020 session was influenced by the difficult events of 2020, from the COVID-19 pandemic to racial injustice.

COVID-19 Legislation

As COVID-19 became the primary point of concern for people across the nation, the California legislature focused on legislation pertaining to employers and the pandemic.

One of the first bills signed was [Assembly Bill \(AB\) 1867](#), the statewide COVID-19 supplemental paid sick leave. AB 1867 fills in some of the exceptions contained in the [Families First Coronavirus Response Act](#) and provides up to 80 hours of paid sick leave to full-time employees who need to self-isolate or quarantine due to a COVID-19 diagnosis or exposure. Part-time employees and those who work on a variable schedule receive pro-rated benefits.

The Governor also signed [AB 685](#), mandating that employers provide written notifications to employees within one business day of receiving notice of potential exposure to COVID-19, as well as providing additional enforcement mechanisms for the state's safety and health administration, Cal/OSHA. Also signed was [Senate Bill \(SB\) 1159](#), which codified the [Governor's prior Executive Order](#) on COVID-19 and workers' compensation presumptions. SB 1159 includes important requirements for employers to report employee positive tests to their workers' compensation claims administrators.

Expansion of Leaves

On top of the new COVID-19-specific paid sick leave, the Governor signed legislation expanding leave entitlements for California employees. [SB 1383](#) drastically expanded the California Family Rights Act (CFRA) and its job-protected leave requirements to apply to employers with five or more employees and to eliminate minimum worksite requirements. Previously, the CFRA applied only to employers with 50 or more employees, and employers were not required to provide family care and medical leave under the CFRA if the employee seeking leave worked at a worksite with fewer than 50 employees within a 75-mile radius.

The new law also expands the covered family members and potential reasons for which an eligible employee may take leave. The new reasons for using leave include time off to care for a grandparent, grandchild, or sibling with a serious health condition or to take time off because of a qualifying exigency related to the employee's call to active duty or the call to activity duty for certain family members in the Armed Forces. Under the prior CFRA statute, leave for purposes of caring for a family member was available only if the family member was the employee's child, parent, spouse, or domestic partner and CFRA leave was not available for qualifying exigencies related to military service. Complementing this change, [AB 2399](#) expands the reasons for which wage replacement benefits are available under California's Paid Family Leave program to include benefits during leaves taken for qualifying exigencies related to covered active duty.

[The Governor also signed AB 2992](#), which will expand leave rights for employees who are victims of certain crimes or abuse.

Independent Contractors

Before the COVID-19 pandemic, the big issue before the California legislature was amending Labor Code § 2750.3 (commonly known as AB 5), which pertains to the classification of independent contractors. While the California Assembly and Senate had [proposed numerous bills to amend AB 5](#), only a few survived to be signed by the Governor.

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The broadest of the bills to be signed was [AB 2257](#), which recasts, clarifies, and expands exemptions to AB 5, including adding exemptions for referral agencies and professional services, such as photographers.

Still pending is Proposition 22, which is on the ballot for the November election. If passed, Proposition 22 would result in the classification of individuals engaged in app-based transportation services, such as rideshare and delivery drivers, as independent contractors.

Diversity

To address the racial injustice, which has been the subject of many protests this year, the Governor signed [AB 979](#) to require publicly held corporations headquartered in California to diversify their board of directors with individuals from “underrepresented communities.”

The Governor also signed [SB 973](#) to create pay reporting requirements for employers to encourage and ensure wage parity for women and minorities. The new law requires covered employers to submit an annual report to the California Department of Fair Employment and Housing that includes the number of employees (and the hours they worked): (1) by race, ethnicity, and sex; (2) in each of the Job Categories in the federal EEO-1 Report; and (3) whose annual earnings fall within each of the pay bands used by the U.S. Bureau of Labor Statistics in the Occupational Employment Statistics survey.

These are just some of the bills signed by the Governor. Other bills include one [expanding the list of those who are mandated reporters](#) related to child abuse and neglect and another on [security guards' on-duty rest periods](#).

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