

Date of Hearing: April 12, 2023

ASSEMBLY COMMITTEE ON INSURANCE
Lisa Calderon, Chair
AB 518 (Wicks) – As Amended April 4, 2023

SUBJECT: Paid family leave: eligibility: care for designated persons

SUMMARY: Expands the definition of “family member” for purposes of the Paid Family Leave (PFL) program to allow workers to take time off to care for a seriously ill designated person. Specifically, **this bill:**

- 1) Defines designated person to mean any individual related by blood or whose close association with the employee is the equivalent of a family relationship.
- 2) Requires the designated person to be identified by the employee at the time the claim for benefits is filed.

EXISTING LAW:

- 1) Establishes the Employment Development Department (EDD) to, among other duties, administer the Unemployment Insurance and State Disability Insurance (SDI) programs. (Unemployment Insurance Code (UIC) Section 301)
- 2) Establishes the SDI program as a partial wage-replacement plan funded through employee payroll deductions that is available (through the Disability Insurance and PFL programs) to eligible individuals who are unable to work due to sickness or injury of the employee (including pregnancy), the sickness or injury of a family member, or the birth, adoption, or foster care placement of a new child. (UIC Sections 2601-3308)
- 3) Establishes the PFL program within the SDI program for the provision of wage replacement benefits for up to eight weeks within a 12-month period to workers for the following reasons: (UIC Sections 3301-3303)
 - a) To care for a seriously ill family member.
 - b) To bond with a new child entering the family by birth, adoption, or foster care placement.
 - c) To participate in a qualifying event because of a spouse, registered domestic partner, parent, or child’s military deployment to a foreign country.
- 4) PFL defines “family member” to mean child, parent, grandparent, grandchild, sibling, spouse, or domestic partner. (UIC Section 3302)

FISCAL EFFECT: Unknown

COMMENTS:1) *Purpose.* According to the author:

AB 518 updates the definition of “family member” for purposes of California’s Paid Family Leave Program (PFL) so that qualifying California workers will be able to receive PFL wage replacement benefits to care for a member of their chosen or extended family.

California’s current Paid Family Leave program reflects an outdated nuclear family model and only allows workers to receive partial income replacement to care for certain narrowly defined family members. This definition leaves out both chosen family and extended family members such as aunts, uncles and cousins.

Outdated family definitions disproportionately affect California’s LGBTQ+ community. California also has a higher percentage of extended families living in multigenerational households. Aging adults also rely on a wide network of relationships for caregiving.

California made important progress by enacting AB 1041 (2022), which allows workers to use their job-protected caregiving leave under the California Family Rights Act and paid sick leave to care for a “designated person,” who can be a member of their chosen or extended family. AB 518 ensures workers can also access the Paid Family Leave benefits they pay for so they can hopefully afford to take leave to care for a member of their chosen or extended family.

2) *Background.* PFL was enacted in 2002 as an expansion to the SDI program to extend disability compensation to individuals who take time off work to care for a seriously ill child, spouse, parent, domestic partner, or to bond with a new minor child. California was the first state in the nation to implement a PFL benefit, with benefit payments beginning on July 1, 2004. Effective January 1, 2021, the PFL scope was expanded to include employees taking time off work to assist a military family member under covered active duty or call to covered active duty.

PFL provides up to eight weeks of 60-70% wage replacement. Starting January 1, 2025 workers will be eligible for 70-90% wage replacement. According to EDD’s SDI Statistical Information, for the first six months of 2022 the average weekly benefit amount was \$821.

Many confuse the PFL program (which provides only wage replacement during leave) with the job protection guarantees in the federal Family & Medical Leave Act (FMLA) and the California Family Rights Act (CFRA). However, the changes to PFL benefits in this bill do not affect these job protection laws. Prior legislation, AB 1041 (Wicks) Chapter 748, Statutes of 2022, already made changes to the list of individuals for which an employee can take leave under CFRA and the Healthy Workplaces, Healthy Families Act of 2014.

3) *Discussion.* The current definition of “family member” for purposes of PFL does not reflect the changing structure of households in California and who may be available to care for a seriously ill individual. U.S. Census Bureau data shows that the number of households in the

United States that follow the traditional nuclear family structure with two married parents are declining, while the number of other types of households are increasing.¹

The U.S. Census Bureau data shows that California has a higher percentage of multigenerational households than average. Therefore, it is not uncommon for individuals in California to be living with other relatives. According to the Pew Research Center financial issues are the top reason people live in multigenerational households with another major reason being able to give and receive care for an adult or child family member.² According to Pew, “Americans who are Asian, Black or Hispanic are more likely than those who are White to live in a multigenerational family household.”³ Immigrant populations are also more likely to live in multigenerational households.

Additionally, California’s LGBTQ+ community is more likely to be impacted by current PFL definitions. Many LGBTQ+ adults, especially older adults, do not have any relationship with biological relatives. According to data from a study by the Center for American Progress, fewer than 1 in 3 respondents over age 55 reported that they would be likely to turn to biological or legally recognized family members for support when sick and would instead call upon a partner they were not married to, chosen family, or friends.⁴ The study noted that 72% of respondents over age 55 reported that they had already been called upon to support friends or chosen family due to a health-related need.⁵ Additionally, according to a survey by AARP, two-thirds of LGBTQ+ adults age 45 and over believe they will need someone to provide caregiving for them in the future and eight in ten say they are not sure they will have adequate family or social supports in their later years.⁶

- 4) *Arguments in support.* According to the California Employment Lawyers Association, Equal Rights Advocates, Legal Aid at Work, and the California Work & Family Coalition, the sponsors of this bill, “California’s Paid Family Leave program reflects an outdated family model and only allows workers to receive partial income replacement to care for certain narrowly defined family members. This definition leaves out both chosen family and extended family members such as aunts, uncles, nieces, nephews, and cousins...AB 518 will continue important work in this area by ensuring that workers can access their Paid Family Leave benefits to care for a member of their chosen or extended family.”
- 5) *Arguments in opposition.* The California Landscape Contractors Association oppose this bill, arguing that small businesses often do not have the full-time human resource professionals needed to track and comply with the requirements of this bill.

¹ <https://www.census.gov/topics/families.html>

² *Financial Issues Top the List of Reasons U.S. Adults Live in Multigenerational Homes*, Pew Research Center (March 24, 2022) <https://www.pewresearch.org/social-trends/2022/03/24/financial-issues-top-the-list-of-reasons-u-s-adults-live-in-multigenerational-homes/>

³ Pew Research Center (March 24, 2022)

⁴ “*Making the Case for Chosen Family in Paid Family Leave and Medical Policies*,” Lindsey Mahowald and Diana Boesch, Center for American Progress (February 16, 2021) <https://www.americanprogress.org/article/making-case-chosen-family-paid-family-medical-leave-policies/>

⁵ Mahowald & Boesch, Center for American Progress (February 16, 2021)

⁶ “*LGBTQ Adults 45+ Are Worried About Discrimination and Support as They Age*,” Cassandra Cantave, AARP (June 2022) <https://www.aarp.org/research/topics/life/info-2022/lgbtq-community-dignity-2022.html>

6) *Related Legislation.*

- a) AB 575 (Papan), pending before this Committee, would make changes to the PFL program related to who can take leave to bond with a minor child and delete restrictions relating to how individuals use their PFL benefits.
- b) AB 1041 (Wicks) Chapter 748, Statutes of 2022, expanded the list of individuals for which an employee can take leave under the California Family Rights Act (CFRA) and the Healthy Workplaces, Healthy Families Act of 2014 to include a designated person.
- c) SB 951 (Durazo) Chapter 878, Statutes of 2022, revised the formula for the computation of SDI and PFL benefits.
- d) SB 1058 (Durazo), Chapter 317, Statutes of 2022, required EDD to collect demographic data, including race and ethnicity data and sexual orientation and gender identity data, for individuals who claim disability benefits under the SDI and PFL programs.
- e) SB 83 (Committee on Budget and Fiscal Review) Chapter 24, Statutes of 2019, beginning July 1, 2020, extended from six to eight weeks the maximum duration of PFL benefits individuals may receive.
- f) SB 1123 (Jackson) Chapter 849, Statutes of 2018 expanded the PFL program to include time off to participate in a qualifying exigency related to covered active duty, as defined, or call to covered active duty of the individual's spouse, domestic partner, child, or parent in the armed forces.
- g) SB 63 (Jackson) Chapter 686, Statutes of 2017 prohibits an employer from refusing to allow an employee with more than 12 months of service with the employer, who has at least 1,250 hours of service with the employer, and who works at a worksite in which the employer employs at least 20 employees within 75 miles, to take up to 12 weeks of parental leave to bond with a new child.
- h) SB 770 (Jackson), Chapter 350, Statutes of 2013 expanded the definition of family to include in-laws, siblings and grandparents.

REGISTERED SUPPORT / OPPOSITION:

Support

AARP California
ACLU California Action
AFSCME
American Association of University Women - California
Asian Americans Advancing Justice - Asian Law Caucus
Breastfeed LA
California Black Chamber of Commerce
California Breastfeeding Coalition
California Catholic Conference

California Child Care Resource and Referral Network
California Coalition on Family Caregiving
California Employment Lawyers Association
California Immigrant Policy Center
California Pan-ethnic Health Network
California Partnership to End Domestic Violence
California Rural Legal Assistance Foundation, INC.
California State Council of Service Employees International Union (SEIU California)
California Teachers Association
California WIC Association
California Women's Law Center
California Work & Family Coalition
Cameo - California Association for Micro Enterprise Opportunity
Caring Across Generations
Center for Law and Social Policy (CLASP)
Centro Legal De LA Raza
Citizens for Choice
Colage
Consumer Attorneys of California
Disability Rights California
Equal Rights Advocates
Equality California
Family Caregiver Alliance (FCA)
Family Values @ Work
Family Violence Appellate Project
Friends Committee on Legislation of California
Futures Without Violence
Grace - End Child Poverty in California
Human Impact Partners
Instituto De Educacion Popular Del Sur De California (IDEPSCA)
Jewish Center for Justice
Jtmw LLC
Justice in Aging
LA Best Babies Network
Legal Aid At Work
Los Angeles Alliance for A New Economy
Microenterprise Collaborative of Inland Southern California
Mujeres Unidas Y Activas
NARAL Pro-choice California
National Council of Jewish Women Los Angeles
National Council of Jewish Women-California
National Domestic Workers Alliance
National Multiple Sclerosis Society, MS-can
Orange County Equality Coalition
Our Family Coalition
Pacific Community Ventures
Parent Voices California
Prevention Institute
Public Counsel

Rising Communities (formerly Community Health Councils)
San Diego County Breastfeeding Coalition
Santa Clara County Wage Theft Coalition
Small Business Majority
Thai Community Development Center
The Restaurant Opportunity Center of The Bay
UFCW - Western States Council
Warehouse Worker Resource Center
Watsonville Law Center
Women Organized to Make Abuse Non-existent (woman Inc.)
Working Partnerships USA
Worksafe

Opposition

California Landscape Contractor's Association

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