

AB 1041 Adds Designated Person to List of Persons Employee Can Take Leave to Care for Under CFRA and California Paid Sick Leave

AB 1041, the California legislature amended Government Code section 12945.2 (California Family Rights Act (CFRA)) and Labor Code section 245.5 (Healthy Workplaces, Healthy Families Act of 2014) to expand the definition of persons an eligible employee of covered employers may take unpaid CFRA family and medical leave and to take California Paid Sick Leave.

Previously, employees could take job-protected leave under the CFRA to care for a child, parent, parent-in-law, grandparent, grandchild, sibling, spouse, or registered domestic partner. The new law now allows employees to take leave to care for an additional "designated person." A "designated person" is defined as "any individual related by blood or whose association with the employee is the equivalent of a family relationship." The new law also amends Section 245.5 to permit employees to take HWHFA.to care for designated persons. Unlike under the CFRA, a "designated person" for purposes of HWHFA need not be related to the employee by blood or the equivalent of a family relationship, but instead is simply a person the employee identifies at the time the leave is requested. Under both statutes, an employee may identify his or her designated person at the time of requesting protected leave. However, an employer may limit an employee to one designated person per 12-month period. If an employer does not adopt a limitation there is no limit to the number of individuals whom an employee may designate. AB 1041 does not require the employee to identify the same "designated person" for leave under the CFRA and paid sick leave under the HWHFA.

AB 1041 also effectively applies to Labor Code Section 233 (Kin Care Leave) because Section 233 uses the definition of "family member" contained in the HWHFA effectively including the new definition for the purposes of paid Kin Care leave as well.

AB 1041 takes effect on January 1, 2023.

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