

Dear CWL Members (and if you haven't renewed, now is the time!):

CWL is committed to bringing you updates to help members navigate the very difficult situation presented by COVID-19. Whether you are an employer or an employee, the following update is designed to provide an overview of issues that face **women** in particular. We wouldn't be lawyers without a disclaimer - please know that the following is intended as legal information, not advice, and no attorney-client relationship is intended or implied by its transmission. Please note that if you are improperly classified as an Independent Contractor under **AB-5**, you may be entitled to benefits you would be entitled to as an employee.

We are very grateful to **Beth Mora**, who sits on our Executive Committee, for taking the time to put this information together. Bear with us: this is another long email. If you don't have time to read it all, please review the **Department of Labor Leave Chart**, which includes links to the web pages where you can learn more about each type of leave and apply for benefits if applicable. The Department of Labor also has great resources for employers on workplace safety **here**.

Women attorneys face unique responsibilities, especially those now juggling work-from-home or an uncertain job market while responsible for caregiving. We want each of you to know that we will continue to **advocate for your rights** as new legislation is passed and the law evolves, especially during this time of uncertainty.

LEAVE OF ABSENCE/PROTECTED LEAVE RIGHTS

- **California Family Rights Act (CFRA)**
 - Employee must have worked 1 year, 1250 plus hours, Employer has 50 plus employees work within 75-mile radius
 - Medical Leave for Serious Health Condition for Self or Family
 - Must be medically certified
 - Job-protected, unpaid leave for a maximum of 12 weeks
- **Reasonable Accommodation/ Leave under FEHA**
 - Employer must have five employees
 - Must be medically certified
 - Employee can seek reasonable accommodation of leave for disability

PAID LEAVE AND COMPENSATION

- **Employer provided** (not required)– see Employer's policies and procedures
- **Unemployment (EDD)**
 - Layoff or reduction in hours related to COVID-19
 - \$40 to \$450 a week of full or partial wage replacement for up to 26 weeks
- **State Disability Insurance (SDI)**
 - If unable to work due to medical quarantine or illness
 - Must be certified by a medical professional
 - 60-70% of compensation or \$50-\$1,300 a week for up to 52 week

- **Paid Family Leave (PFL)**
 - Unable to work caring for ill or quarantined family member
 - Certified by a medical professional
 - Up to 6 weeks of benefits full/partial loss of wages
 - Approximately 60-70% of compensation or \$50-\$1,300 a week
- **California Paid Sick Leave**
 - Employer provided paid sick leave can be use if you or a family member are sick or for preventive care when civil authorities recommend quarantine
 - Check City & County leave policies, as several are more giving more leave than California mandates, including Berkeley, Emeryville, Los Angeles, Oakland, San Diego, San Francisco and Santa Monica
- **Federal 'Families First' Coronavirus Response Act (Effective April 3)**
 - Applies to employers with up to 500 employees, but employers with 50 or fewer may seek exceptions from the Department of Labor, and those with 25 or fewer are not obligated to reinstate an employee to their previous position.
 - Eligible employees (employed 30 days) are entitled to up to two weeks of paid sick leave and up to two weeks of emergency paid family leave when employees are unable to work, including unable to telework, due to a need for leave because of either:
 - a federal, state, or local quarantine order related to COVID-19,
 - advice from a health care provider to self-quarantine due to concerns related to COVID-19,
 - symptoms of COVID-19 and is seeking medical diagnosis
 - caring for an individual subject to quarantine order, or advice
 - caring for a child, if their school or child-care provider has closed due to COVID-19, or
 - other conditions that the Federal government may specify later.
 - Benefit cannot exceed \$511 day/\$5,110 total for self, or \$200 day/\$2,000 total to care for other or another qualifying event
 - If employers already have other sick leave policies in place, an employer must provide the Families First on top of, or in addition to the existing leave.
- **Workers Compensation**
 - For employees infected during the course and scope of employment
- **Kin Care** under California Labor Code Section 230.8

WORKPLACE RIGHTS

California's Fair Employment and Housing Act (Gov. Code §12940 et seq.) makes it illegal for an employer to fire, fail to hire or engage in discrimination, harassment or retaliation against an employee because of their disability, race, national origin or association with either.

Since COVID-19 is classified as a pandemic, with growing anxieties and the present shelter-in-place, it is incumbent upon employers to be vigilant against workplace discrimination, harassment and retaliation. This includes assumptions about an employee's illness or health condition. Employers cannot ask employees if they have coronavirus, nor can they assume that an employee has the virus. Similarly, employers should proceed with caution if they perceive an employee has an additional sensitivity to getting sick

Privacy rights still apply. If employee has coronavirus, the employer is required to keep this information and all related medical information private and confidential

EMPLOYEE EXPENSES

- **California Labor Code Section 2802**
 - As the shelter-in-place continues, employers must keep in mind that they are asking their employees to incur expenses on their behalf.
 - Potential expenses may include cell phone, WIFI, office supplies, and postage. These must be reimbursed; we recommend employers and employees discuss reimbursement before the expenses are incurred.

If you find this helpful, please forward to a friend. Let's work together to get through this!