

## Governor Brown Has Another Opportunity to Expand Parental Leave to Small Businesses in California

---

Tuesday, September 26, 2017

The New Parent Leave Act has made it to Governor Jerry Brown's desk awaiting his signature or veto. This bill would mean significant expansion of parental leave for small employers in California. It is uncertain whether Governor Brown will sign the bill into law after vetoing a similar bill almost a year ago.

The New Parent Leave Act would require businesses with 20-49 employees within a 75 mile radius to provide 12 weeks of unpaid leave to eligible employees after the birth of a child, adoption or foster care placement. Eligible employees must have more than 12 months of service with the employer, and at least 1,250 hours of services during the previous 12 months of employment. Currently, employers only must provide such leave if they employ 50 or more employees.

Under this bill, employers must guarantee employment in the same or comparable position upon conclusion of the leave. While otherwise unpaid, the New Parent Leave Act would require employers to maintain an employee's medical benefits during the leave. Employees may use accrued vacation pay, paid sick time or other accrued time off during the parental leave.

The previously vetoed bill provided six weeks of parental leave. In vetoing last year's bill, Governor Brown noted the impact the bill would have on small businesses. Governor Brown wrote:

"I am concerned, however, about the impact of this leave particularly on small business and the potential liability that could result. As I understand, an amendment was offered that would allow an employee and employer to pursue mediation prior to a lawsuit being brought. I believe this is a viable option that should be explored by the author."

Not surprisingly, one of the bill's amendments includes a proposal of a mediation pilot program for parental leave-related claims. The California Department of Fair Employment & Housing ("DFEH") would administer this pilot program through January 1, 2020, upon receiving necessary funding. Under the program, an employer may request that the parties participate in the DFEH's Mediation Division Program. Employers would have to make this request within 60 days after receiving an employee's right to sue notice from the DFEH. Employees would not be able to bring a lawsuit until the mediation is complete.

\* \* \*

Time will tell whether the mediation program alone will be sufficient to address Governor Brown's concerns regarding the impact on small businesses. If the New Parent Leave Act becomes law, it will present challenges for small employers. As an initial step, affected employers should consider updating their employee handbooks and/or policies to address parental leaves.

Jackson Lewis P.C. © 2019

**Source URL:** <https://www.natlawreview.com/article/governor-brown-has-another-opportunity-to-expand-parental-leave-to-small-businesses>

**jackson lewis.**

Article By [Benjamin A. Tulis](#)  
[Susan E. Groff](#)  
[Jackson Lewis P.C.](#)  
[California Workplace Law Blog](#)

[Labor & Employment](#)  
[California](#)

