



Full Rundown of the New SF Paid Parental Leave Law

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On April 5, the San Francisco Board of Supervisors unanimously approved a new ordinance requiring San Francisco employers to provide paid parental leave to employees who have a newborn child, newly adopted child, or new foster child. The payment amount is designed to supplement the amount already available through California's paid family leave program for baby bonding. San Francisco is the first city to require employer-paid parental leave.

Full text of the new ordinance available here:

<https://sfgov.legistar.com/View.ashx?M=F&ID=4380782&GUID=0D73EC2A-22C3-426E-9BF5-04B9FDE223F6>

When Does the New SF Ordinance Take Effect?

The ordinance has staggered effective dates depending on employer size as follows:

- 50+ Employees: January 1, 2017
- 35+ Employees: July 1, 2017
- 20+ Employees: January 1, 2018

The employee counts are regardless of the employee's location.

How Much Does the SF Program Pay?

In general (subject to maximums), the SF paid parental leave program will pay 45% of the employee's weekly wages during the leave period. When aggregated with the 55% wage replacement benefit under California's paid family leave law, employees on qualifying baby bonding leave will receive full pay (subject to maximums).

How long do SF Employees Receive the Payments?

The payment is available for six weeks, which is in line with the California paid family leave program.

What is the Maximum Benefit?

The maximum benefit is based off the California paid family leave program, which is capped at weekly wages based on an annual salary of \$106,740 in 2016.

Combined maximum benefit (based on 2016 caps):

- CA PFL (55%): \$1,129/week
- SF PPL (45%): \$924/week
- Total (100%): \$2,053/week

Which SF Employees are covered?

There are four requirements for an SF employee to be eligible for the San Francisco program:

- 1) The employee commenced employment with the covered employer at least 180 days before the start of the leave;
- 2) The employee performs at least eight hours per week of work in San Francisco for the employer;
- 3) At least 40% of the employee's total weekly hours for that employer are in San Francisco; and
- 4) The employee is eligible for California paid family leave for baby bonding.

Can the Employer Require the Use of Vacation?

The employee can be required to use up to two weeks of unused, accrued vacation prior to receiving the paid parental leave from the employer. It appears that this vacation time can be counted toward the six-week total SF paid parental leave benefit period. Therefore, in some cases it appears employees will receive only four weeks of parental leave paid by the employer (in addition to the two weeks of vacation).

Who Pays for the SF Paid Parental Leave?

Unlike California PFL (which is paid by the employee through regular payroll contributions to the SDI program), San Francisco parental leave is paid by the employer.

What if the Employee Does not return to Work?

Employees must sign a form prior to receiving the paid parental leave agreeing to reimburse the employer for the full benefit amount if a) the employee voluntarily separates from employment within 90 days after the end of the leave period, and b) the employer requests the reimbursement in writing.

We note that as a practical matter, it will likely be difficult for employers to recover any parental leave payments from terminated employees.

Does the Ordinance Apply to Collectively Bargained (Union) Employees?

The new SF law applies unless the CBA expressly waives employees' rights to the SF paid parental leave benefit in clear and unambiguous terms. However, the law will not apply to CBAs entered into before the effective date of the ordinance, but only until the CBA in effect is extended or expires.

Any Additional Requirements?

The San Francisco Office of Labor Standards and Enforcement (OLSE) will enforce the following additional requirements:

- **Workplace Notice:** Employers will be required to post a notice in the workplace informing employees of their rights under the ordinance.
- **Employer Records:** Employers will need to retain records showing compliance for a period of three years and make them available to the OLSE upon request.
- **Anti-Retaliation:** Employers will be prohibited from retaliating against employees for exercising their rights under the ordinance.
- **Penalties:** Various monetary penalties may apply depending on the nature of the violation.

Are Any Employers Exempt?

Employers with fewer than 20 employees, as well as all governmental entities, are exempt from the ordinance.

Stay tuned for more updates!

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