



10 NEW
EMPLOYMENT
LAWS THAT YOU
AND YOUR
CLIENTS SHOULD
KNOW ABOUT

PRESENTED BY

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1. COVID-19 SUPPLEMENTAL SICK PAY

COVID-19 SUPPLEMENTAL SICK PAY

- **Effective Date:** March 29, 2021 (retroactive to 1/1/21)
- **Expiration Date.** September 30, 2021
- **Retroactive to 1/1/21**
 - Upon request, employers are required to provide retroactive payments to employees who would have been eligible for SPSL. Employers are only required to provide this retroactive payment if the employee did not receive compensation equal to the amount, he or she would be entitled to under the SPSL
 - The retroactive pay is due on or before the payday for the net full pay period after the employee's request. Any retroactive SPSL received by an employee counts against his or her total SPSL eligibility.
- **Covered Employers:** 25+ employees
- **Amount of Leave:**
 - FT+ 80 hours
 - PT: : what they typically work in a two-week period
- **Amount of pay:**
 - Higher of Their regular rate of pay;
 - Their total wages, not including overtime premium pay, divided by their total hours worked in the full pay periods of the prior 90 days of employment;
- **Pay Caps:** \$511 per day and \$5,110 in the aggregate (unless Feds pass a higher rate)
- **Integration** with other COVID-19 pay after 1/1/21
- **Integration** with Cal/OSHA “Exclusion Pay” (this leave comes first)
- **Notice and Pay Stub Requirements;**
 - State to issue model notice
 - Usage must be reflected on pay stub

COVID-19 SUPPLEMENTAL SICK PAY

Qualifying Employees: Eligible for SPSL if can't work or telework due to:

The employee is subject to a quarantine or isolation period related to COVID-19;

The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;

The employee is attending an appointment to receive a vaccine for protection (new);

The employee is experiencing symptoms related to a COVID-19 vaccine that prevents the employee from being able to work or telework (new);

The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis;

The employee is caring for a family member who is subject to a quarantine or isolation period or who has been advised to self-quarantine by a health care provider due to concerns related to COVID-19; or

The employee is caring for a child whose school or place of care is closed or otherwise unavailable for reasons related to COVID-19 on the premises.

2. COBRA SUBSIDY UNDER AMERICAN RESCUE PLAN

COBRA SUBSIDY

- **Key Dates:** April 1 to September 30th
- **Benefit:** Free COBRA
- **Who Gets It:** If laid off, terminated (not gross misconduct) or had hours reduced
- **How Much:** Depends upon *when* EE became COBRA eligible (up to 6 mo.)
- **Notice:** To all those eligible since October 2019
- **Tax Credits** for the payments
- **Fines:** up to \$200/day for not timely giving notice

3. NEWLY EXPANDED
CALIFORNIA FAMILY RIGHTS
ACT

CALIFORNIA'S FAMILY RIGHTS ACT

- **Covered employers:** 5 or more employees
 - **Covered Employees:** 12 months of service & 1250 hours of service
- **Time Off For Covered Events:** up to 12 weeks (480 hours) per year of job protected leave
 - Can be all at once or taken intermittently (in drips and drabs)
- **Benefit continuation required**
- **Onerous Paperwork Requirements**

CALIFORNIA'S FAMILY RIGHTS ACT

- **Covered Events:**
 - **Baby bonding** (birth, adoption, or foster care placement) within one year of the child's birth, adoption, or foster placement.
 - Can be added to CA Pregnancy (16 weeks) for a total of 7 months
 - **Serious Illness of Employee or Covered Family Member** (parent, grandparent, grandchild, or sibling)
 - If EE's own illness, can require use of sick pay and/or vacation
 - **Military Exigency** (related to the covered active duty or call to covered active duty of a spouse, domestic partner, child, or parent in the Armed Forces of the United States)

4. NO REHIRE AGREEMENTS

NO REHIRE AGREEMENTS

- Common in employee separation agreements
- CCP 1002.5 which passed last year:
 - Outlaws no rehire provisions in any agreement to settle an employment dispute entered into after January 1, 2020.
 - Also, provided an exception where the ex-EE engaged in sexual harassment or sexual assault.
- AB 2143 permits no-rehire provision where:
 - EE has engaged in any criminal conduct.
 - For the sexual assault/harassment rule to apply, the behavior must be documented by ER

5. PAY DATA REPORTING

PAY DATA REPORTING

Covered Employers; 100+ employees

Annual Pay Data Submission
(broken down by job categories)
for race, ethnicity and gender)

Data can be used to file suit
against employers for “pay equity
discrimination”)

6. EXPANDED DOMESTIC VIOLENCE LEAVE

EXPANDED DOMESTIC VIOLENCE LEAVE RIGHTS

- **Basics:** (Unlimited) *job-protected* time off under a more expansive definition of crimes and abuse for victims and their immediate families.
- **Existing law:** Prohibits an employer from discharge, discrimination or retaliation against an employee who is a victim of domestic violence, sexual assault, or stalking who takes time off to obtain (or attempt to obtain) relief to help ensure the health, safety, or welfare of the victim or victim's child.
- **New Law:**
 - Now covers time off for being the victim of any "crime" (Govt Code 13951 definition), regardless of whether any person is arrested for, prosecuted for, or convicted of, committing the crime); and
 - Allows time off if getting treatment (could be psychological)

7. BOARD OF DIRECTORS DIVERSITY

MANDATED BOARD DIVERSITY

- AB 979 amends existing law which requires public companies with executive offices in California to appoint female members to their board of directors by no later than the end of 2021.
- New requirement takes the rule beyond gender to those from underrepresented communities.
- “Director from an underrepresented community” means an individual who self-identifies as Black, African American, Hispanic, Latino, Asian, Pacific Islander, Native American, Native Hawaiian, or Alaska Native, or who self-identifies as gay, lesbian, bisexual, or transgender.

8. CORPORATE SUCCESSOR LIABILITY

CORPORATE SUCCESSOR LIABILITY

- Does two things:
 - Expands the required Statement of Information attestations; and
 - Expands successor liability;
- **Attestation**
 - Statement of Information that entities must file with the Secretary of State under penalty of perjury must now state whether any officer or any director, (or Member or Manager if an LLC) has an outstanding final judgment issued by the Division of Labor Standards Enforcement or a court of law, for which no appeal therefrom is pending, for the violation of any wage order or provision of the Labor Code.
 - The stated purpose of this requirement is to stop employers from dissolving companies and starting new ones in an attempt to avoid having to pay a judgment against them

CORPORATE SUCCESSOR LIABILITY

- **Successor Liability**
 - Successor to a judgment debtor is liable for any wages, damages, and penalties its predecessor employer owes to its former workforce pursuant to a final judgment that is not being appealed, if the successor employer meets specified criteria:
 - Successor uses substantially the same workforce to offer substantially the same services as the predecessor employer;
 - Successor has substantially the same owners or managers that control the labor relations as the judgment debtor;
 - Successor employs as a managing agent any person who directly controlled the wages, hours, or working conditions of the affected workforce of the judgment debtor; or
 - Successor operates a business in the same industry and the business has an owner, partner, officer, or director who is an immediate family member of any owner, partner, officer, or director of the judgment debtor.

9. COVID-19 REPORTING

COVID-19 REPORTING

- COVID -19 Exposures:
 - ER must take specified actions within 24 hours after the employer knows “or reasonably should have known” that an employee has been exposed to COVID-19.
 - **Notice to Employees:**
 - Notify all employees at the worksite (and their union) where the exposure occurred that they may have been exposed;
 - Written Notice *within 1 business day* to all employees and their union covering paid and unpaid leave options available to the employees; and testing options
 - **Notice to Government:**
 - Immediate notice to local health agency if an "outbreak" occurs in the workplace.
 - An "outbreak" is defined as "three or more cases identified within two weeks in individuals of different households."
 - Permits Cal-OSHA to shut down a business if there is a risk of infection from COVID-19 such that constitutes an imminent hazard to employees.

COVID-19 REOPENING PROTOCOLS

10. COVID -19 REOPENING PROTOCOLS

- Multiple Rules Apply
- Check State's Rules first
- Check Cal/OSHA Temporary Emergency Standard
- Check County and City Rules (L.A. has both!)
- Must have:
 - A written Cal/OSHA IIPP
 - A written Cal/OSHA COVID-19 Injury Plan
 - Posted and distributed applicable LA County Appendix (could be several) relating to your business
 - Trained employees on safety protocols
 - Physical distancing and PPE requirements