

# California Leave Laws

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*This material is for general informational purposes only and does not constitute legal advice. For current and accurate guidance, please consult legal counsel in your jurisdiction.*

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# Paid Time Off (PTO) in California

## Vacation Leave Quota

Vacation leave is not required. Sick leave is required.

There is no federal or California leave law that requires employers to provide either paid or unpaid vacation time for their employees. However, suppose an employer chooses to offer vacation leave to their employees, paid or unpaid. In such a case, an employer must adhere to state law, established company policy, or an employment contract.

In California, employers have the right to control their vacation pay responsibilities, so they can tell employees when to take the vacation and how much can be used at once. They can impose advance notice requirements or deny vacation approval for specific dates.

On the other hand, sick leave as PTO is required (more about that below in section *Sick Leave in California*).

## Accrual

Accruals are not mandated in California but are widely used by companies. An employer can cap (set the limit) the amount of vacation time employees may accrue over time.

Companies are free to adopt their own schedules for vacation accrual.

However, if we suppose that an employer has a policy, practice, or agreement to provide paid vacation, it means that certain restrictions are placed on the employer regarding how it fulfills its obligation to provide vacation pay.

For more information, please visit [vacationtracker.io](https://vacationtracker.io)

California leave laws specify that earned vacation time comes in wages, and vacation time is earned as work is performed. It is accrued proportionally as vacation entitlements over the year for each workday. It could be accumulated over a day, week, pay period, or another period determined by the employer. Because vacation is a form of postponed wages, it can't be forfeited. Therefore, employers must pay all accrued or earned vacation upon separation from employment.

An employer may place a cap (or ceiling) on vacation accrual to prevent employees from earning vacation time over a certain number of hours. An employer can also put specific requirements on paid vacation time, like a probationary period at the start of work during which an employee can't accrue paid vacation benefits.

## Carry Over

The Use-It-or-Lose-It policy is forbidden. Employers must let employees [carry over](#) unused leave into the following year..

California is one of the rare states (along with [Colorado](#), [Montana](#), and [Nebraska](#)) where the Use-It-or-Lose-It policy is forbidden. Therefore, it is illegal for an employer to put a "use-it-or-lose-it" into effect, an approach that requires an employee to forfeit any unused vacation time after a specific date (usually the end of the year). Vacation pay is another form of wages and can't be taken away from employees under any use-it-or-lose-it plans.

On the other hand, an employer may impose a cap on the number of vacation days employees can accrue.

## Payment of accrued, unused vacation on termination

All unused vacation time must be paid out. Accrued sick leave isn't considered wages.

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California doesn't require employers to provide vacation leave, but if an employer establishes a paid vacation policy, all earned and unused vacation time is treated as earned wages. An employer must deliver it to the employee on the final paycheck. An employee's accrued vacation days can't expire or be taken away regardless of the reason for the separation, despite what some employers may try to declare. Only if a collective bargaining agreement covers an employee will the collective bargaining agreement's vacation benefit provisions apply.

Sick leave is indeed the only mandatory PTO, but it is not required to be paid out upon termination.

For example, Ronald in Sacramento has worked for a company for 2 years and has accrued 20 days of vacation time. If he is terminated, that earned vacation time is considered the same as wages, and Ronald would receive that vacation time paid out in dollars.

## Payout

An employer is the one who pays for all earned and unused vacation time.

The screenshot shows the Vacation Tracker dashboard with a purple background. On the left, the text 'Manage All Employee Time Off In Minutes, Not Days' is displayed in white. Below this, four features are listed with checkmarks: 'Slack, Teams, and Calendar integrations', 'Custom leave rules, accruals, and public holidays', 'Compliant with Leave Laws in every location', and 'Rollout in 15 minutes, with live setup call'. A 'Start your free trial' button is at the bottom left. On the right, a notification for Maren Schleifer states 'Has submitted a leave request that requires your attention.' Below this is a 'Pending requests' table with three rows: 'Work from home' (2 days, Jan 24th 2025 - Jan 26th 2025), 'Vacation' (4 days, Jan 26th 2025 - Jan 30th 2025), and 'Sick Day' (1 day, Jan 24th 2025). Each row has 'Deny' and 'Approve' buttons. To the right of the table is an 'Approvers' section with 'First level' and 'Second level' approvers, each with a list of user avatars and a '+9' icon. Integration icons for Slack, Teams, and Google are also visible.

## Sick Leave in California

Federal law – 12 weeks of unpaid sick leave.

For more information, please visit [vacationtracker.io](https://vacationtracker.io)

Mandatory state law for all employers: 5 days of paid sick leave.

## Federal Laws – Leave Quota

Up to 12 weeks of unpaid leave.

The federal Family and Medical Leave Act (FMLA) allows eligible employees to take up to 12 weeks off for medical reasons or to care for a close family member suffering from a severe illness.

Employees who meet the following criteria are eligible for FMLA benefits:

- Have worked for their employer for at least 12 months (at least 25 hours per week) or 1,250 hours in the previous 12 months
- Work in a location where at least 50 people are employed by the company (within a 75-mile radius)

## State Law: California's Paid Sick Leave Law

At least 5 days of paid sick leave (40 hours) from January 1, 2024.

Update for changes from 2024:

As of January 1, 2024, employers in California are required to offer their employees at least 40 hours (5 days) of paid sick leave per year. Under the old California sick leave law, effective until January 1, 2024, an employer was required to provide at least 24 hours (3 days) of paid sick leave. Most of the other law provisions are the same as the ones before and are presented below.) The accrual rate stays at 1 hour of paid sick leave for every 30 hours of work.

Eligible employers and employees

For more information, please visit [vacationtracker.io](https://vacationtracker.io)

California law requires all employers to provide paid sick leave to employees, regardless of size. California law requires employers to provide paid sick leave to all employees who have worked for them for at least 30 days in California within a year of starting work. This includes all employees: part-time, per diem, in-home supportive services providers, and temporary employees. However, there are some rare exceptions. The law doesn't apply to employees of railroads, some employees covered by qualifying collective bargaining agreements, and employees of airline companies.

Employees can start accruing paid sick leave on their first day of work, but they can only use it after working for an employer for at least 90 days.

## Accrual Policy or the “Up Front” Policy

Employers may offer their employees their sick leave in two ways:

- Accrual policy

The accrual method is where sick leave is earned during the work year. Employees accrue 1 hour of paid sick leave for every 30 hours of work.

- “Up front” policy

Employers can make this process easier by providing employees with 5 days (40 hours) of paid sick leave at the beginning of the year.

### Paid sick leave usage

The amount of sick leave an employee is entitled to use is based on their regular work schedule. For instance, if an employee's workday consists of 10 hours, they are entitled to a minimum of 50 hours of paid sick leave. On the other hand, if an employee's regular workday is 6 hours and they use five days of paid sick leave, which is 30 hours (6 x 5), they would still have 10 hours of paid sick leave available.

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The sick leave law in California allows employees to take sick leave for their health or a family member's health, including preventative treatment. (Children, parents, spouses, registered domestic partners, grandchildren, grandparents, and siblings are all considered family members under California's Paid Sick Leave law.) Employees who are victims of domestic violence, stalking, or sexual assault may also take sick leave.

In 2020, California changed the Kin Care Law to allow employees to specify whether they are taking sick leave for personal or kin care. Kin Care permits employees to use up to half ( $\frac{1}{2}$ ) of the sick leave they accrue yearly to take time off to care for a sick family member. Employers must update their leave policies to inform employees that they can now designate their days off.

## Accrual cap

Under the accrual method of 1 hour of paid sick leave for every 30 hours worked, employees may accrue more than 40 hours of paid sick leave. However, the law permits employers to set a cap on the usage of paid sick leave to a maximum of 40 hours in a year. An employer can also require an employee to take sick leave in increments of at least two hours, but not more than that.

## Carryover rules

Employers must permit employees to carry over unused sick time. Still, employers can limit their total accrued sick leave to 80 hours. (Under the old law, it used to be 48 hours).

## Using sick days as PTO

The employer's policy determines this. Sick days are a distinct and guaranteed form of PTO in California, according to state law. Some employers may provide sick days that employees can use for any reason, or a combination of sick time and personal time that falls under one PTO umbrella.

## Sick leave information and documentation

For more information, please visit [vacationtracker.io](https://vacationtracker.io)

Employers must show how many sick days an employee has available on each pay stub or other written form. Employers must keep three years of records on sick leave accrual and use. The workplace must have a sick leave poster. Starting on January 1, 2024, [the new poster](#) should be posted in a conspicuous place.

## **Payout**

An employer is the one who pays. This law mandates that an employer must make payments for used sick days by the payday of the following regular payroll period.

Payment of accrued, unused paid sick leave upon termination

Sick leave is not considered a wage, so when an employee leaves a company, the employer is not required to pay them for any unused sick leave. Under California's new paid sick leave law, SB 616, employers are not required to compensate employees for accrued, unused paid sick days upon separation from employment. This aspect of the law remains the same as the previous legislation. But let's suppose that an employer has an umbrella PTO policy (where sick, vacation, and personal days are one entity) that allows employees to use accrued PTO for personal reasons. In that case, sick leave becomes a wage.

## **Some Cities in CA Offer More Paid Sick Leave**

Certain California cities have paid sick leave requirements that provide additional employee benefits. These cities are Berkeley, Emeryville, Los Angeles, Oakland, San Diego, San Francisco, Santa Monica, and Sonoma County. Employers must follow the rule that is more generous to employees; they offer paid sick leave in accordance with the local ordinance when its provisions are more higher than those of California law.

## State Disability Insurance (SDI)

Up to 52 weeks

California is the first of the US states to offer paid family leave. SDI provides short-term disability insurance (DI) and PFL (Paid Family Leave) benefits for wage replacements to qualified employees. It covers situations where a worker cannot work because of childbirth, pregnancy, injury, or illness. (It does not apply to occupational injuries).

The weekly benefit from California's State Disability Insurance typically ranges from 60% to 70% of an employee's previous income, with the minimum being \$50 per week and the maximum capped at \$1,357 per week. These benefits are available for up to 1 year (52 weeks). Once this period ends, if an employee is still unable to work, they might have to explore alternative financial support options.

Changes are expected in 2024 (no wage ceiling on earnings) and 2025 (the rate for benefits will be increased to 70 - 90%).

For more information about SDI concerning maternity leave, you can read in the section about paid maternity leave.

## Paid Family Leave (PFL)

Up to 8 weeks of paid leave

California is the first among all states to offer paid family leave (check out the rules for all other states [on this link](#)). Almost all employees who have paid into SDI (State Disability Insurance) are eligible for PFL. This includes most workers in California: full-time, part-time, and seasonal workers.

Paid Family Leave offers up to 8 weeks of paid leave within a year and could be used intermittently or consecutively.

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PFL is designed for the following reasons:

- bonding with a newborn child (birth, adoption, or foster care placement);
- to provide care for an immediate family member who is seriously ill or injured (registered domestic partner, spouse, child, parent, parent-in-law, grandchild, grandparent, or sibling);
- activities related to a close family member's engagement in military service.

The compensation is approximately 60-70% of the employee's income, depending on the current salary, up to a set maximum limit of \$1,620 per week in 2024. This program is funded through employee contributions (premiums) to the SDI (State Disability Insurance).

A leave under PFL is not job-protected, but other federal and state laws like the FMLA (Family and Medical Leave Act) or the CFRA (California Family Rights Act) may protect your job.

Read more about PFL concerning paid maternity leave in the next section.

## Maternity, Paternity, and FMLA

Maternity and paternity leave are covered both by federal and state laws.

### Federal Law

12 weeks of unpaid maternity/paternity leave provided by FMLA.

The Family and Medical Leave Act (FMLA) is a federal law that mandates employers to provide at least 12 weeks of unpaid family leave following the birth or adoption of a child. In general, employees are qualified to take FMLA leave if they have worked for their employer for at least 12 months and at a location where they employ at least 50 employees within 75 miles. It is up to each employer to provide maternity leave benefits beyond the minimum federal requirements.

For more information, please visit [vacationtracker.io](https://vacationtracker.io)

## Additional State Laws in California

State laws enhance FMLA, and certain laws provide paid leave. Some laws overlap.

In addition to FMLA, maternity leave laws in California provide women with both unpaid and paid, job-protected time off from work for pregnancy and after pregnancy, birth, adoption, and foster care. Given the scope of California's state time-off laws and the federal laws governing pregnancy leave, there's a considerable chance that two (or even more) rules might apply to the same employee time-off scenario.

While all the unpaid types of leave provide job protection and the right to return to work, they don't offer any wage replacement. However, California's programs like PFL (Paid Family Leave) and SDI(State Disability Insurance) help to cover this gap by providing partial wage replacement. These paid benefits are funded through employee contributions and are designed to support employees during their time off for family and health reasons.

## Unpaid Maternity Leave in California

The California Family Rights Act (CFRA) provides improved rights to the FMLA. Unpaid leave types generally include the following three:

### 1. Pregnancy Disability Leave

Pregnancy disability leave (PDL) in California is time away from work that employees can take if they are physically or mentally impaired due to their pregnancy, childbirth, or a related medical condition. PDL allows employees to take unpaid time off: up to four months.

This leave is available to all female employees in California if the company employs at least 5 people. Certain religious nonprofit organizations and corporations are not treated as "employers" for these purposes.

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Pregnancy disability leave in California does not have to be taken all at once. Instead, it can be dispersed throughout the pregnancy or after childbirth.

A female employee is disabled by her pregnancy if, in the opinion of the doctor, she cannot perform any of the basic functions of her job because of her pregnancy. Most women will have some physical difficulty performing one or more of their job's essential functions by the 36th week of pregnancy. Even sitting for long periods at a desk can be exhausting at that point. As a result, doctors frequently find their patients unable to work around week 36 (about 4 weeks before the due date).

Every woman is different, but for a vaginal birth with no complications, a 6-week recovery period is typical. If a cesarean section (c-section) or another type of traditional surgery is required, recovery time is typically 8 weeks (or longer).

Part-time employees are entitled to the same amount of pregnancy disability leave as full-time employees. Similarly, no minimum length of service is required to qualify for pregnancy disability leave, so even recently hired employees can take it.

Employees who use their right to take pregnancy disability leave are guaranteed a job in the same or a similar position when they return, unless there is a legitimate business reason. For example, if there was a mass layoff.

## 2. Family and Bonding Time Leave

Family leave (a.k.a. baby bonding leave). Men and women can use this leave to bond with a new child after birth, adoption, or foster care placement. Eligible employees can take up to 12 weeks of family leave per year. To maximize the employee's total period of maternity leave, an employee can take this leave after using any Pregnancy Disability Leave (PDL) to which she may be entitled. This way, they get up to 7 months of maternity leave for each pregnancy.

This "baby-bonding leave" is available to male, female, transgender, and nonbinary parents, as well as adoptive, foster, and same-sex parents.

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Before an employee can take child-bonding leave, the following three requirements must be met:

- The employer must employ 5 or more employees;
- The employee must have worked more than 12 months for the employer before the date that the period of leave is taken;
- In the past year, the employee must have worked at least 1,250 hours for the employer.

Family leave does not need to be taken at once but must be completed within one year of the child's birth, adoption, or foster care placement. An employer can require an employee to take leave for a minimum of two weeks at a time. However, the law also gives the employee two opportunities to take intermittent leave of fewer than two weeks.

After their family leave ends, employees must return to their original – or a similar – job. Employers must also provide them with a reasonable opportunity to complete any training they may have missed.

### 3. Reasonable Accommodation Leave

California law requires covered employers to make reasonable accommodations for employees with disabilities as part of the anti-discrimination rule. A reasonable accommodation is an adjustment to the employee's work conditions to enable the employee to perform the job's essential functions. Importantly for maternity leave, a "reasonable accommodation" can sometimes include a leave period, even after other types of leaves have been exhausted. In order to be eligible for reasonable accommodation during maternity leave, the employee must have a physical or mental disability that affects them in some way.

There are 4 requirements for employees to be eligible for reasonable accommodation:

- The employer must be covered by California's anti-discrimination laws, which apply to businesses with 5 or more employees.
- The employee must have a qualifying physical or mental disability that impairs the employee's ability to perform the essential functions of her job.
- If reasonable accommodation is provided, the employee must be able to perform the essential functions of her job.
- The reasonable accommodation would not cause the employer undue hardship.

Depending on the company, this time off may be paid or unpaid.

Courts have ruled that reasonable accommodations leave benefits should only be used as a last resort under state law.

## Paid Maternity Leave in California

In the US, employers are generally not required to provide paid maternity leave. However, California offers several provisions concerning benefits and payment for eligible employees:

- Medical benefits during leave

Employers must maintain employee medical benefits during pregnancy, disability-related leave, and family leave. This obligation includes continuing the payment of premiums for group health plan coverage as if the employee were actively working.

- California's State Disability Insurance (SDI)

California's State Disability Insurance (SDI) program pays a portion of the usual wages while an employee is temporarily disabled, including during pregnancy and childbirth. The SDI program only applies if the employee has a pregnancy- or birth-related short-term disability. Employees qualified for SDI must have paid \$300 or more into the program 5 to 18 months before the claim's start date.

For more information, please visit [vacationtracker.io](https://vacationtracker.io)

SDI offers benefits for up to 52 weeks, with payments ranging from approximately 60–70% of the employee's usual wages.

Wage Replacement Rate: SDI calculates benefit payments based on an employee's income.

The Weekly Benefit Amount (WBA) goes from 60% to 70% of an employee's wages earned 5 to 18 months before your claim starts. The actual percentage depends on earnings during this period.

For earnings:

- Below \$929, the weekly amount is \$50.
- In the range of \$929 and \$7,154.32, the weekly amount is roughly 70% of earnings.
- Above \$7,154.33, it's about 60%.

The money is typically funded through employee-paid payroll taxes and disability insurance programs (from a state fund).

Starting in 2024, there's no upper limit on earnings for SDI payroll contributions in California. From 2025, disability benefits will rise to 70-90% of weekly wages based on income.

- The Paid Family Leave Act

This Act allows eligible employees to receive partial pay for up to 8 weeks while taking time off to spend time with a newborn, adopted, or foster child during the first year of the child's arrival. The benefit amount is similar to that of SDI, providing approximately 60-70% of the employee's earnings.

Currently, in 2024, eligible employees can receive up to \$1,620 per week.

- Using Accrued Paid Time Off

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Employees have a right to use any vacation pay, sick pay, or other PTO they have accrued with their employer during maternity leave. An employer can even compel them to do so in some cases.

- Temporary Disability Pay

Employers in California are generally not required to pay employees while on pregnancy disability leave. However, if the employer voluntarily pays for other types of temporary disability leave for similarly situated employees, they may be required to pay for pregnancy disability leave as well.

- Company Policy

Some companies have internal policies providing paid maternity leave as a benefit. These policies can vary greatly and often exceed the provisions mandated by the state.

## Paternity Leave in California

As we mentioned in maternity leave, some of these laws cover fathers too.

In California, there are 3 laws concerning paternity leave:

- The Family and Medical Leave Act (FMLA)
- The California Family Rights Act (CFRA)
- The New Parent Leave Act (involves employers with 20 – 49 employees)

All three laws provide up to 12 weeks of unpaid leave for new fathers.

## Payout of Maternity and Paternity Leave

In general, California employers are not required by law to provide paid maternity or paternity leave. But, the money for SDI (State Disability Insurance) is paid from a state fund and refilled by payroll withholding from the employee's paycheck.

## Bereavement Leave in California

5 days / unpaid leave

NOTA BENE: Bereavement leave is required by law in California (as of January 1, 2023).

Employers with 5 or more employees are required to provide up to 5 days of unpaid leave for bereavement. It applies to all employees employed for at least 30 days.

Employees and workers are required to use their leave within three months following the demise. This leave can be taken consecutively or separately over the three months. According to the new legislation, certain workers can take a complete workweek as their leave, whereas others can use it intermittently during these three months.

Employers can ask for proof of death documentation, such as a death certificate, a published obituary, or confirmation of the funeral, burial, or memorial services from a funeral home.

### **Payout**

Bereavement leave is unpaid, but employees can use their paid vacation, personal, sick days, or other types of paid time off that they have been allotted for bereavement purposes. Also, employers are encouraged to provide paid bereavement leave, but it is not required by California leave laws.

## Jury Duty Leave in California

Required by law / unpaid leave

For more information, please visit [vacationtracker.io](https://vacationtracker.io)

The law requires employers to provide their employees with unpaid leave. An employer may not terminate or downgrade an employee for taking time off to serve as a juror. For time spent responding to a jury summons or serving on a jury, employees are free to utilize their allotted days of vacation leave, personal leave, or compensatory leave if it is available.

A court must delay the jury service of an employee of an employer with 5 or fewer full-time employees if another employee of the same employer serves as a juror during the same period.

An employer may continue to pay the salary to their employees during all or part of jury service, but neither the U.S. federal nor California state law requires an employer to do so.

Notice requirement applies (providing a copy of the jury summons as proof).

### **Payout of Jury Duty Leave**

*Court pay:*

In California, employees who serve as jurors are paid \$15.00 a day and a mileage reimbursement of \$0.34 per mile (one way).

*Employer pay:*

Jury duty is unpaid in California, as far as an employer is concerned.

## **Military Leave in California**

### **Federal law**

All employers in the United States are governed by the federal Uniformed Services Employment and Reemployment Rights Act (USERRA). USERRA protects members of the Army and Air National Guard who are called away from civilian jobs for federal service. Employers are

prohibited from discriminating against employees who serve in the military. An employer may fire an employee only for a good reason for up to one year after returning from service.

## California State Law

In addition to the federal law USERRA, California law provides the same unpaid leave and reinstatement rights for California and U.S. military members. All employers must provide military members with temporary unpaid leave during military duty. Employers may not terminate employees or limit any benefits or seniority because of a temporary disability resulting from duty in the National Guard or Naval Militia (up to 52 weeks).

Employees in the U.S. armed forces reserves, National Guard, or Naval Militia are entitled to 17 days of regular unpaid leave per year for military drills, training, naval cruises, encampments, special exercises, or similar activities.

State Military Reserve members are entitled to 15 calendar days of unpaid leave per year.

Employers with more than 15 employees are required to provide up to 10 days (per year) of unpaid Civil Air Patrol leave to any employee who responds to an emergency operational mission of the Civil Air Patrol's California Wing.

Employers with 25 or more employees must provide eligible spouses of military service members up to ten days of unpaid leave while their spouses are on leave from deployment. In order to be eligible for this special kind of leave, the spouse must work at least twenty hours a week on average. Employers are prohibited from retaliating against a spouse who requests or takes leave.

Public employees have certain rights to paid leave and retention of benefits.

## **Payout**

Military leave is unpaid.

For more information, please visit [vacationtracker.io](https://vacationtracker.io)

## Voting Leave in California

Up to 2 paid hours

Full-time employees have the right to job-protected leave to serve on a jury, act as a witness in a case, respond to a subpoena, or represent a plaintiff or defendant in court.

California law doesn't specify a period of absence. Employees who don't have sufficient time outside working hours to vote in an election may not have enough time to vote. The time off to vote should be during the employee's shift's beginning or end, whichever provides more time to vote. Employers must only pay employees for up to two hours of voting leave.

Notice requirements apply. Employees who know they will need time off to vote must give their employer at least 3 working days' notice.

Posting requirements also apply. At least 10 days before the election date, an employer should post a notice conspicuously so that employees can see the law on their voting rights.

### **Payout**

An employer pays for voting leave. Employees' pay cannot be deducted for voting time.