

California bill would expand family leave to include 'chosen family'



BY ALEXANDER NIEVES | 04/08/2021 09:46 PM EDT



In this still image from California State Assembly video, Assemblymember Buffy Wicks addresses lawmakers on a housing bill while holding her one-month-old daughter Elly in her arms during the final hours of the California legislative session. | California State Assembly via AP

LOS ANGELES — California would expand paid family leave and job protections to employees who take time off to care for an aunt, a cousin, or even a close friend under a bill that cleared the Assembly Committee on Labor and Employment on Thursday.

The bill is backed by dozens of employee rights and social justice groups and is likely to draw support from Gov. Gavin Newsom, who has made expanding family leave a priority for his administration. But business groups including the California Chamber of Commerce oppose the proposal, arguing it will create confusion and expose businesses to litigation.



The proposal: Workers around the state are currently guaranteed up to eight weeks of paid family leave and 12 weeks of unpaid job-protected leave to act as caregivers to seriously ill family members, a definition that includes children, grandchildren, parents, spouses and other relatives, as well as domestic partners.

[CA AB 1041 \(21R\)](#) by Assemblymember Buffy Wicks (D-Oakland) widens that definition to include “chosen family,” or any individual “related by blood or whose close association with the employee is the equivalent of a family relationship.” California would become just the fifth state to adopt this standard in its family leave laws, following New Jersey, Colorado, Oregon and Connecticut.

The broader language defining family members in the bill has been in place for federal workers since 1994 under the Federal Employees Family Friendly Leave Act, which permitted them to take paid sick leave for family caregiving.

Worker advocacy v. business: Supporters of AB 1041 argue that a traditional definition of a nuclear family doesn’t reflect the reality of most American households and particularly disadvantages LGBTQ individuals who may not be in the position to lean on their biological families for care.

“California has the fourth largest LGBTQI population in the U.S. Many members of this community do not have relationships with their biological relatives,” Wicks said. “Therefore they are less likely to have biological support and rely on their chosen family instead.”

Wicks argued that the overall impact of the bill would be relatively small. She pointed to data from the California Employment Development Department showing that less than one percent of paid family leave claims are used for the care of family members other than a child, parent, or spouse.

But business groups argue it creates another layer of confusion for small employers and could potentially expose them to litigation for asking about a worker’s relationship with the person for whom they are taking a leave.

The California Chamber of Commerce, which has listed the bill under its [2021 job killer list](#), took particular issue with the expansion of the California Family Rights Act, which requires employers to hold onto the job of a worker on family leave for up to 12 weeks. Newsom last year signed [CA SB1383 \(19R\)](#) into law, widening the state’s job-protected leave law to cover workers at businesses with five or more employees, a move that extended job protections to millions.

[Wicks cast one of the deciding votes in favor of SB 1383](#), voting for the measure just before the session’s midnight legislative deadline while holding her newborn daughter on the Assembly floor.

“The existing provisions of CFRA are already challenging, confusing, and burdensome, and small employers who are struggling as a result of this pandemic are overwhelmed by the current law,” CalChamber wrote in an analysis of the AB 1041.

What’s next: Wicks agreed to strengthen provisions of the bill to safeguard against abuses after Assemblymembers Lorena Gonzalez (D-San Diego) and Kelly Seyarto (R-Murrieta) raised questions about how employers would be able to avoid fraud under a scenario in which workers can take leave to care for non-relatives.

Under the current language of the bill, employees must provide a doctor’s note that shows they are serving in a caregiver role to an individual with a serious illness.

The bill will now head to the Assembly Insurance Committee.

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