

Taking Leave from Work to Care for a Foster Child in California

Most foster parents in California, including relatives, have the right to take leave from work with partial pay to bond with and care for their foster child. This fact sheet gives an overview of these rights. All of the rights described below apply regardless of immigration status.

Welcoming a foster child into your home is a meaningful and transformative time for both caregivers and children. All children deserve to build healthy relationships with their primary caregivers. Especially since many foster children have experienced trauma, it is important that foster parents have time to care for and create strong bonds with their children and help them adjust to their new homes. Paid, job-protected leave from work allows foster parents to create a positive attachment with their children during this time of transition, as well as ensure that their children receive the health care and services they need.

Who is considered a foster parent or resource family in California?

A foster parent (also referred to as a “resource parent” or “resource family” in California) is an individual, a couple, or a family who provides care for a child in foster care. **Foster parents may be relatives, nonrelatives, or nonrelative extended family members (“fictive kin”) of the child in foster care.** A resource family does not have to have full Resource Family Approval (RFA) (i.e. they may have the child placed with them prior to RFA approval with an RFA application pending) to be considered a foster parent for purposes of parental leave. Resource families provide care temporarily (foster care) and/or permanently (adoption and legal guardianship).

A foster child is a child who has been removed from the custody of their parent(s) or guardian(s) either by order of the juvenile court (juvenile dependency court or juvenile delinquency court), or with the agreement of the child welfare agency as a result of a Voluntary Placement Agreement (VPA) between the child welfare agency and parent(s) or guardian(s) that the child be removed from the home. **The court order or the VPA is what makes a youth a foster youth.** This includes teenagers, tribal youth, youth who are placed in foster care through the juvenile justice system, and youth who are placed with relatives or nonrelative extended family members through emergency placements (e.g. temporary court-ordered detention in foster care pending further hearing(s)).



Who is considered a foster child in California?

TABLE OF CONTENTS:

Overview of Leave Programs and Eligibility

1. Can I take leave from work to care for a foster child in California?
2. What is job-protected leave?
3. Am I eligible for job-protected leave?
4. For what reasons may I take leave to care for a foster child?
5. Can I receive paid leave to bond with or care for my foster child?

Process of Taking Leave

6. Do I have to take my leave all at once?
7. How do job-protected California Family Rights Act (CFRA) leave and Paid Family Leave (PFL) work together?
8. How do I apply for leave and wage replacement?
9. What do I do if my employer denies my leave or the Employment Development Department (EDD) denies my PFL benefits?

Specific Circumstances

10. Can I take leave to bond with or care for my foster child who is a teenager?
11. Can I take leave to bond with my foster child if they are placed with me through the juvenile justice system, a tribal court, or via emergency placement for kinship care?



12. Can I take leave from work for more than one foster child in a year?
13. Can I still take leave if a previous foster parent took leave to bond with my child before they were placed with me?
14. Can I receive PFL if I'm undocumented?
15. Can I receive PFL if my employer misclassified me as an independent contractor or paid me under the table?

Overview of Leave Programs and Eligibility

1. Can I take leave from work to care for a foster child in California?

YES.

Eligible employees have the right to take up to 12 weeks of job-protected leave from work to bond with or care for a foster child.



2. What is job-protected leave?

Job-protected leave means workers have the right to take unpaid leave from work, and then return to their same or comparable job following the leave. It also means employers must continue an employee's health insurance benefits during leave.

3. Am I eligible for job-protected leave?

To be eligible for job-protected bonding or caregiving leave under the California Family Rights Act (CFRA),* you must:

- have worked for your employer for at least one year before your leave,
- have worked at least 1250 hours in the year before your leave, and
- work for an employer with at least 5 employees.

*This fact sheet focuses on CFRA leave because it covers more workers in California than the federal Family Medical Leave Act (FMLA). (To be eligible for FMLA leave, you must work for an employer with at least 50 employees within 75 miles of where you work, in addition to the 1-year and 1250-hour requirements noted above.) If you are covered by both CFRA and FMLA, your leave under both laws will run at the same time, not separately. See Question 8 for information on how to apply for leave.

4. For what reasons may I take leave to care for a foster child?

Under the CFRA, you can take 12 weeks of job-protected leave:

- to bond with your child within one year of the child's placement in your home (bonding leave); and
- to care for a foster child with a serious health condition (caregiving leave).

- A serious health condition is a mental or physical impairment that involves either continuing treatment by a health care provider or an overnight stay in a hospital or other health facility. For example, you can take intermittent job-protected leave of two hours per week to take your foster child to weekly therapy appointments, or you can take two weeks to care for them at home while they recover from surgery.

In two-parent homes, both parents can take bonding leave, either at the same time or at different times. Bonding leave can begin before the foster placement actually occurs if you need time off from work for counseling sessions, court appearances, or attorney consultations to make sure the placement can proceed.

You may only take a maximum of 12 weeks per year for all qualifying reasons. For example, if you take leave to bond with a foster child, and your child is diagnosed with a serious health condition within the same year, you may only take a total of 12 weeks of leave that year under CFRA.* However, in subsequent years, you may take up to 12 weeks per year to care for your child's serious health condition.



*Other laws may provide additional leave in certain circumstances (e.g. if you have a disability, need time for a pregnancy or child-birth related condition, or need time to address child care or educational needs). For additional information, see Legal Aid at Work's Parenting + My Job fact sheet: <https://legalaidatwork.org/factsheet/pregnancy-parenting-my-job-in-california/>.

5. Can I receive paid leave to bond with or care for my foster child?

YES.

California's Paid Family Leave (PFL) program gives foster parents, including those residing in the same household, the right to receive eight weeks of partial wage replacement benefits each year for the same reasons you can take job-protected leave under CFRA (see Question 4 above for the reasons for leave, and Question 7 on the next page for a graphic on how these programs work together):

- to bond with your child within one year of the child's placement in your home (bonding leave); and
- to care for a foster child with a serious health condition (caregiving leave).

PFL provides 60 or 70% of your wages, depending on your income. In 2025, benefit rates will increase to 90% for lower and middle income workers. You qualify for PFL if you paid into the State Disability Insurance (SDI) fund at any time during your base period (5-18 months, or the first 4 of the last 5 quarters, before your claim). Virtually all private workers in California automatically pay into the fund. You can confirm this by checking your paystub for a deduction for "CASDI" or "SDI." You can estimate your weekly benefit amounts here: edd.ca.gov/en/disability/PFL_Calculator.

If you work in San Francisco and receive PFL to bond with your foster child, you may be entitled to additional pay under the San Francisco Paid Parental Leave Ordinance (PPLO) (see sf.gov/information/understanding-paid-parental-leave-ordinance), which requires covered employers to supplement PFL for eligible employees so that they receive full pay, up to a cap, during their eight weeks of bonding leave under PFL. This only applies to employees who are already receiving PFL.

Some employers may offer paid leave beyond what is required by law, and/or may allow you to integrate employer-provided paid leave with your PFL benefits.

Process of Taking Leave

6. Do I have to take my leave all at once?

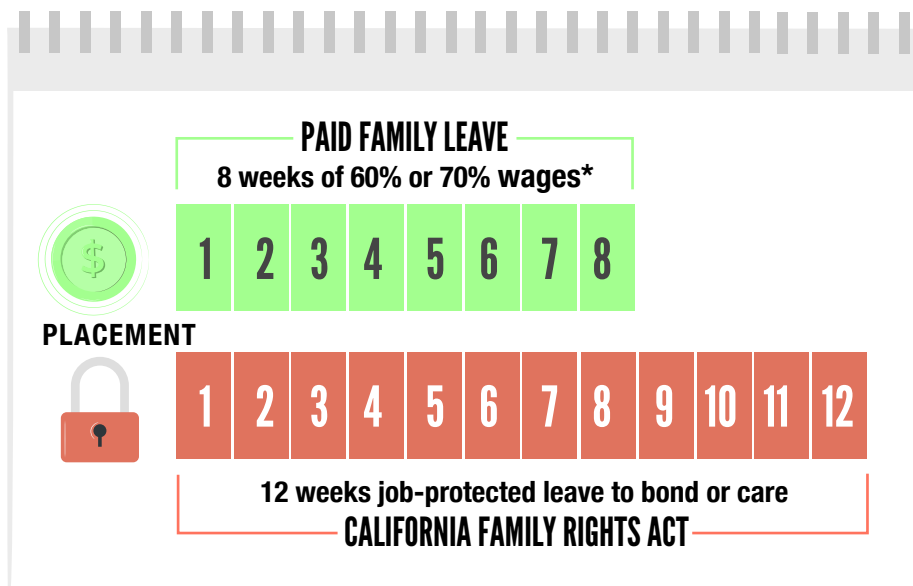
NO.

You don't have to take your leave all at once; you can take leave in shorter increments. An employer generally may require that the smallest increment of bonding leave time is two weeks, though it must permit you to take bonding leave in shorter increments on at least two occasions. Leave to care for a foster child with a serious illness may be taken intermittently or on a reduced schedule if medically necessary. For example, you may take a few hours or a week at a time to accompany your child with a serious illness to a doctor's appointment or to take care of them while they recover from surgery.

7. How do job-protected CFRA leave and PFL work together?

If you are eligible for both CFRA leave and PFL, they will run concurrently, not separately. This chart shows how job-protected CFRA leave and PFL benefits work together when taken to bond with or care for a foster child. CFRA will protect your job, and PFL will provide you with income.

HOW IT ALL FITS TOGETHER: Job-Protection and Wage Replacement for Foster Parents



*beginning in 2025, this will increase to 90% of income for most workers

Process of Taking Leave (continued)

8. How do I apply for leave and wage replacement?

Job-Protected Leave (CFRA): Ask your employer and follow their policy for requesting leave. Give your employer 30 days' notice if possible. Put your request in writing; if you ask in person or over the phone, follow up with an email or text message to document your request.

For bonding leave, tell your employer you need leave due to the placement of your foster child. Employers may request verification, such as a statement from you or a letter from the county confirming that the child has been placed with you.

For caregiving leave for your child's serious health condition (see definition in Question 4 above), you don't need to disclose their diagnosis, but should say you need leave to care for your child's serious health condition. Employers may request certification from a health care provider, which may include licensed clinical social workers and nurse practitioners, among others. The certification (see calcivilrights.ca.gov/wp-content/uploads/sites/32/2022/12/CFRA-Certification-Health-Care-Provider_ENG.pdf) must include (1) the date (if known) the serious health condition began, (2) the probable duration of the condition, (3) the estimated amount of time that the health care provider believes the employee needs to provide care, and (4) a statement that the serious health condition warrants the participation of employee to provide care.

Paid Family Leave (PFL): You can apply with a paper form or online through the Employment Development Department (EDD), using SDI Online (see edd.ca.gov/en/Disability/How_to_File_a_PFL_Claim_in_SDI_Online). You can apply on (but not before) the first day of your leave up until 41 calendar days after your leave begins (or even later if you have a good reason for the delay).

(sample excerpt for reference only)

EDD Employment Development Department State of California		Claim for Paid Family Leave (PFL) Benefits	
PART A – STATEMENT OF CLAIMANT (CARE, BONDING, or MILITARY ASSIST PROVIDER)			
A1. YOUR SOCIAL SECURITY NO. 0 0 0 0 0 0 0 0 0	A2. YOUR DATE OF BIRTH M M D D Y Y Y Y 0 1 0 1 1 9 0 0	A3. LANGUAGE YOU PREFER TO USE ENGLISH <input checked="" type="checkbox"/> ESPAÑOL <input type="checkbox"/> OTHER (PRINT BELOW)	
A4. YOUR LEGAL NAME FIRST NAME MI LAST NAME S A M P L E C L A I M A N T			A5. YOUR GENDER MALE <input type="checkbox"/> FEMALE <input checked="" type="checkbox"/>
A6. YOUR TELEPHONE NUMBER 9 9 9 0 2 3 6 7 8 9	A7. OTHER LAST NAMES, IF ANY, UNDER WHICH YOU HAVE WORKED		
A8. YOUR MAILING ADDRESS (TO RECEIVE MAIL AT A PRIVATE MAIL BOX—NOT A US POSTAL SERVICE BOX—YOU MUST SHOW THE NUMBER IN THE "PMB#" SPACE). PMB# (IF APPLICABLE) 1 2 3 A N Y S T R E E T CITY STATE/PROV. ZIP OR POSTAL CODE COUNTRY (IF NOT U.S.A.) A N Y T O W N C A 1 2 3 4 5			
A9. NAME OF YOUR EMPLOYER MAILING ADDRESS R O A D R U N N E R P A S T R I E S 6 4 7 A R M I S T I C E W A Y CITY STATE/PROV. ZIP OR POSTAL CODE EMPLOYER'S PHONE NUMBER A N Y W H E R E C A 6 6 2 2 2 4 9 9 3 1 1 1 1 1 1			
A10. DATE YOU LAST WORKED M M D D Y Y Y Y 1 2 0 1 2 0 1 5	A11. DATE YOU WANT YOUR PFL CLAIM TO BEGIN M M D D Y Y Y Y 1 2 1 6 2 0 1 5	A12. DATE YOU RETURNED OR WILL RETURN TO WORK M M D D Y Y Y Y 0 1 2 7 2 0 1 6	A13. DID YOU WORK OR WILL YOU CONTINUE TO WORK DURING YOUR FAMILY LEAVE PERIOD? NO <input type="checkbox"/> YES <input checked="" type="checkbox"/>
A14. WHY DID YOU or WILL YOU REDUCE YOUR WORK HOURS OR STOP WORKING? CARE FOR FAMILY MEMBER <input checked="" type="checkbox"/> BOND WITH CHILD <input type="checkbox"/> MILITARY ASSIST <input type="checkbox"/> OTHER (EXPLAIN)		A15. WHAT IS YOUR OCCUPATION? P A S T R Y C H E F A16. SELECT YOUR PREFERRED PAYMENT METHOD <input type="checkbox"/> EDD DEBIT CARD™ <input type="checkbox"/> CHECK	
A17. LEGAL NAME OF CARE, BONDING, OR MILITARY ASSIST RECIPIENT (FIRST / MIDDLE INITIAL / LAST) C O O K I E A C L A I M A N T			
A18. THE ABOVE-NAMED CARE, BONDING, OR MILITARY ASSIST RECIPIENT IS YOUR: REGISTERED DOMESTIC CHILD SPOUSE PARTNER PARENT IN-LAW PARENT GRAND CHILD SIBLING OTHER (EXPLAIN) <input checked="" type="checkbox"/>			

For bonding claims, you will need to provide to the EDD a proof of relationship document, such as a letter from a child welfare agency, the juvenile court, or other external evidence of the relationship between you and the child. You should ensure that the document does not violate the confidentiality rules about sharing foster youth's information and records. Getting a letter from the juvenile court would be the safest way to ensure you've been given permission to share the needed information. The EDD currently requires that the document contains the:

- Child's name;
- Child's date of birth;
- Child's gender;
- Date of placement;
- Name of parents with whom the child is placed;
- Dated non-electronic signature of the social worker, probation officer, child welfare director, or authorized designee.

For caregiving claims, your child's health care provider will need to complete a medical certification for the EDD.

San Francisco PPLO: To receive supplemental compensation under SF PPLO, first apply to EDD for PFL to bond with your child, and note in your PFL application that you will receive supplemental pay from your employer. Then complete the SF Paid Parental Leave (PPL) Form (available at sfgov.org/olse/sites/default/files/Document/SF%20PPL%20Form%20Dec%202016_0.pdf), and submit the SF PPL Form and your EDD Notice of Computation of PFL benefits to your employer. Tell your employer when you receive your first PFL payment.

Maria and Jaxon

Maria has just been approved as a resource parent to Jaxon, a 9-year-old child in foster care in Los Angeles. Maria works full-time for a grocery store and has been employed there for 2 years. Maria wants to take leave from work to bond with Jaxon, who has been diagnosed with post-traumatic stress disorder. Because Maria has been at her job for more than 1 year, has worked over 1250 hours in the past year, and her employer has at least 5 employees, she is entitled to 12 weeks of job-protected CFRA bonding leave within the first year after Jaxon is placed in her home. Because she paid into the State Disability Insurance fund within the last 5-18 months, she can receive Paid Family Leave for 8 of those weeks. After taking bonding leave the first year, Maria can take 12 more weeks each year to care for Jaxon's serious health condition, and can receive Paid Family Leave for 8 of those weeks every year. She will need to provide a medical certification from Jaxon's health care provider to her employer if they request one, and the provider will need to complete a separate certification for the EDD.

To request job-protected CFRA leave, Maria should tell her employer in writing that she needs leave to bond with her foster child. She should give 30 days' advance notice if possible (or should tell them as soon as she can). If her employer requests documentation like a letter from the foster care agency, she should provide it. On the first day of her leave, Maria can apply to the EDD for Paid Family Leave benefits.



9. What do I do if my employer denies my leave or EDD denies my PFL benefits?

Job-Protected Leave (CFRA):* If your employer denies or interferes with your right to job-protected leave, or discriminates or retaliates against you for taking or asking for leave, you must file a complaint with the California Civil Rights Department (see calcivilrights.ca.gov/complaintprocess) within three years of the wrongful denial or adverse action in order to be able to pursue your claim in court.

*If your employer violates your rights under the FMLA, you may file a lawsuit within two years of the violation (or three years if the violation was willful). Alternatively, you may (but are not required to) file a complaint with the U.S. Department of Labor, Wage and Hour Division.

Paid Family Leave: If the Employment Development Department denies your PFL claim, you should automatically receive an appeal form in the mail. You may appeal the decision electronically or in writing within 30 days of the notice of your denial. See the EDD's PFL Appeals page (edd.ca.gov/en/disability/appeals).

San Francisco PPLO: If your employer denies you supplemental compensation under SF PPLO, contact the San Francisco Office of Labor Standards Enforcement (see sf.gov/information/contact-office-labor-standards-enforcement).

Specific Circumstances

10. Can I take leave to bond with or care for my foster child who is a teenager?

YES.

You can take job-protected CFRA leave and receive PFL to bond with a foster child who is under age 18, as long as the leave is completed within one year of their placement in your home. You can take CFRA leave and receive PFL to care for a foster child of any age who has a serious health condition. This means that you are not able to take CFRA leave and receive PFL to bond with a non-minor dependent who is placed in your home, but you are able to do so to care for a non-minor dependent who has a serious health condition.



11. Can I take leave to bond with my foster child if they are placed with me through the juvenile justice system, a tribal court, or via emergency placement for kinship care?

YES.

Regardless of how your foster child is placed with you, you have the right to take CFRA leave and receive PFL to bond with them, as long as you otherwise qualify.

12. Can I take leave from work for more than one foster child in a year?

YES.

You may take leave to care for more than one foster child, but you are limited to 12 weeks of job-protected leave (CFRA), and 8 weeks of Paid Family Leave per year.



13. Can I still take leave if a previous foster parent took leave to bond with my child before they were placed with me?

YES.

The right to take leave goes with the parent, not the child. So even if the prior foster parent took leave to bond with your child, you can still take bonding leave as long as you haven't reached your yearly cap.

14. Can I receive PFL if I'm undocumented?

YES.

PFL is available regardless of immigration status. For instructions on how to apply as an undocumented worker, see Legal Aid at Work's resource Undocumented Workers' Guide to Applying for California Disability Insurance and Paid Family Leave, available at legalaidatwork.org/wp-content/uploads/2021/05/LWDA-Undocumented-Workers-Guide-SDI-PFL-English.pdf.

15. Can I receive PFL if my employer misclassified me as an independent contractor or paid me under the table?

YES.

You can receive PFL even if your employer incorrectly treats you as an independent contractor or pays you under the table. Misclassified workers need to follow additional steps to apply. See Legal Aid at Work's resource Misclassified Workers' Guide to Applying for California Disability Insurance and Paid Family Leave, available at <https://legalaidatwork.org/guides/undocumented-workers-guide-to-applying-for-california-disability-insurance-paid-family-leave/>.

For free, confidential, multilingual legal advice and information about your rights, contact:



Legal Aid at Work
Work and Family Helpline
(800) 880-8047

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