

**LEGAL
AID AT
WORK**



**CALIFORNIA
Work & Family
COALITION**



ACLU
AMERICAN CIVIL LIBERTIES UNION
California



UNITE LA
Education Innovation Through Collaboration

Dear Governor Newsom and California Lawmakers –

On behalf of the **over 125 organizations** listed below, we write to respectfully request urgent action to protect the health, safety, and economic well-being of workers in this state. Collectively our organizations represent millions of workers who have been impacted by the COVID-19 outbreak, who are in desperate need of expanded legal protections and economic relief.

We applaud the actions taken thus far by the Governor and the state legislature to address many of the challenges presented by this pandemic, but more must be done to help ensure the safety and economic security of working Californians. While the federal Families First Coronavirus Response Act, signed by President Trump on March 18, 2020, extends the right to paid sick days and paid school closure leave to some employees, millions of workers are left out. California should fill the gaps and ensure that all workers are entitled to job-protected leave and wage replacement benefits to weather the storm of this unprecedented crisis.

Therefore, we ask the Governor and state legislature to take appropriate immediate action to implement the following changes to state law.

As laid out further below, it is imperative to immediately:

- *Waive or ease medical certification requirements under California's paid family and medical leave laws and social insurance programs during this public health emergency;*
- *Provide adequate emergency funding to ensure the solvency of the State Disability Insurance and Unemployment Insurance Funds and adequate administration of California's wage replacement programs;*
- *Expand California leave laws to ensure coverage for all workers not covered by the federal Families First Coronavirus Response Act; and*
- *Along with providing adequate funding, increase duration and wage replacement rates for Unemployment Insurance, Disability Insurance and Paid Family Leave.*

A. Expand Job-Protected Leave to Ensure all Workers Can Access the Leave They Need to Keep Themselves and Their Families Healthy:

- **Waive or ease medical certification requirements during a public health emergency.** Permit workers to self-certify if they need medical or caregiving leave under the California Family Rights Act due to a public health emergency like coronavirus, so as to ease the burden on the health system and adhere to public health guidance to avoid medical settings. Specifically, recognize 60+ as a particular vulnerable group and allow proof of age as sufficient certification.
- **Guarantee job-protected leave to cover all workers under the California Family Rights Act (CFRA), regardless of employer size, hours worked, or tenure.** Expand definition of serious health condition to include an individual who is directed to self-isolate or quarantine due to a public health emergency. Expand coverage to parents who need to take time off to care for a family member whose school, childcare, elder care, or other care has been closed or is otherwise unavailable due to a public health emergency. Provide extended leave beyond 12 weeks as a reasonable accommodation for employees who need more leave due to a public health emergency.
- **Expand the Family School Partnership Act (FSPA).** Right now only employees who work for employers with 25 or more employees are entitled to up to 40 hours per year to deal with an emergency closure of a child's school or childcare. This must be extended to cover all employees and to provide job-protected leave for the duration of school, childcare, elder care or other care closures due to public health emergencies or natural disasters.
- **Expand the definition of family to cover all family members.** Provide an inclusive definition of family, so that workers can care for seriously ill

grandparents, grandchildren, adult children, parents-in-law, siblings, and any other individual related by blood or whose close association with the employee is the equivalent of a family relationship.

B. Expand Paid Sick Days.

- **Expand Paid Sick Days.** Increase the number of paid sick days to at least two weeks during a public health emergency or natural disaster (or the equivalent of 2 weeks of leave for part-time workers), that can be used immediately. Increase the number of permanent paid sick leave to at least 7 days. Clarify that paid sick days may be used to address all scenarios that may arise in public health emergencies or natural disasters, including quarantine or self-isolation, to care for a family member that has been quarantined or in isolation, to care for a family member whose school, childcare, elder care or other care is closed or otherwise unavailable, and when an employee's place of employment is closed by the employer or a public health official due to a public health emergency. Waive medical certification requirements in a public health emergency.

C. Expand Access to California's Social Insurance Wage Replacement Programs.

- **Ensure the State Disability Insurance Fund remains solvent to cover expansion and increased uptake in claims without further taxing employees.** Currently, the State Disability Insurance fund that covers both State Disability Insurance (SDI) and Paid Family Leave (PFL) is entirely employee funded. With the necessary expansion and increase in uptake in these programs due to COVID-19, California must allocate general, reserve, or other emergency funding streams to ensure the adequacy of the fund through this crisis. Additionally, California should eliminate the regressive cap on taxable wages so that high earners contribute the same percentage to the fund as lower earners.
- **Significantly increase staffing and capacity of the Employment Development Department (EDD)** to ensure workers can access the benefits to which they are entitled and to provide adequate customer support in multiple languages. Immediately ensure that SDI, PFL and Unemployment Insurance (UI) applications are made available online in multiple languages.
- **Expand Paid Family Leave (PFL) and State Disability Insurance (SDI) to cover public health emergency related needs.** Clarify that employees can receive PFL to care for a family member who is quarantined, who is in

a high-risk population, or whose school, child care, elder care, or other care is closed or otherwise unavailable during a public health emergency. Clarify that SDI is available to individuals who are unable to work due to membership in a high-risk population.

- **Expand Unemployment Insurance (UI).**
 - o Currently, unemployed workers only receive between \$40 and \$450 per week, for up to 26 weeks. California must expand the duration and pay rate for UI to ensure that unemployed and underemployed workers have sufficient wage replacement benefits to support themselves and their families during the coronavirus crisis.
 - o Clarify that a worker is not required to look for work, or be able or available for work, if caring for children or dependents during school/care center closure due to a public health emergency or natural disaster.
 - o Backdate UI claims to the last day worked.
 - o Do not require reporting of partial wages or any city or county provided supplemental benefits.
 - o Expand California's Work Sharing Program.
 - o Accept applications in any language in which they are completed.
- **Increase Wage Replacement Rates for PFL and SDI, especially for low-wage workers.** Right now, workers who cannot work due to their own disability or because they are caring for a loved one receive only 60 or 70% of their normal weekly wages. These rates are insufficient for far too many workers, particularly low-wage workers, and must be increased to enable California workers to support themselves and their families. Additionally, the length of PFL benefits should be extended beyond 8 weeks, provided there is sufficient general fund or other non-worker revenue contributed to the Fund.
- **Waive or ease medical certification requirements for SDI and PFL during a public health emergency.** As noted above, workers should be able to self-certify if they need medical or caregiving leave due to a public health emergency like coronavirus, so as to ease the burden on the health system and adhere to public health guidance to avoid medical settings.
- **Streamline the process for misclassified workers to access PFL, SDI, and UI.** Deem misclassified workers as employees and affirmatively ask claimants to self-report past earnings in their base period, rather than denying benefits and requiring such workers to appeal the denial in order

to receive benefits. Improve the process for the state to recover costs from the employer.

- **Designate emergency funding to provide support to workers who are ineligible for benefits under SDI, UI, or PFL.**

D. Allow Flexible Work Arrangements and Prohibit Discrimination and Retaliation During Public Health Emergencies.

- **Require employers to provide reasonable accommodations to allow employees to care for themselves or their families during public health emergencies.** Clarify that an employee is entitled to reasonable accommodations to comply with public health directives to shelter in place or socially distance, including allowing workers to telework, work a modified or flexible schedule, or take an extended leave to care for themselves or family members during a public health crisis.
- **Protect workers from discrimination, harassment and retaliation for complying with public health directives or other government directives such as evacuation orders during natural disasters.** Amend the California Labor Code to provide protection to workers from such conduct and provide a proper remedy.

While conditions are changing rapidly and the full extent of emergency measures necessary to protect California workers and their families is not yet known, the above policy changes are essential to preserve the economic stability of Californians at this time. We thank you for your continued leadership during this crisis and look forward to partnering with you to make these recommendations a reality.

Sincerely,

The over 125 Organizations listed below:

605 Citizenship Project	American Association of University Women—California
ACCESS Women's Health Justice	Anti-Eviction Mapping Project
ACLU of California	API Forward Movement (APIFM)
ACT for Women and Girls	APLA Health
Advancing Justice - Asian Law Caucus	Association of California Caregiver Resource Centers
Alzheimer's Association	

Baby Cafe Bakersfield	Center for Popular Democracy
Bet Tzedek Legal Services	Center for Workers' Rights
BFUU Social Justice Committee	Centro Binacional para el Desarrollo Indigena Oaxaqueño
BreastfeedLA	Centro Legal de la Raza
Bryan Schwartz Law	Chinese Progressive Association
Business & Professional Women of Nevada County	Citizens For Choice
California Advanced Lactation Institute	Clergy and Laity United for Economic Justice
California Advocates for Nursing Home Reform	Coalition of California Welfare Rights Organizations
California Association of Food Banks	Community Legal Services in East Palo Alto
California Breastfeeding Coalition	Consumer Attorneys of California
California Child Care Resource & Referral Network	CradleSong Birthing
California Employment Lawyers Association	CRLA Foundation
California Latinas for Reproductive Justice	Disability Rights California
California National Organization for Women	Disability Rights Education & Defense Fund
California Nurse-Midwives Association	Education and Leadership Foundation
California Pan-Ethnic Health Network	Ella Baker Center for Human Rights
California Partnership	Equal Rights Advocates
California Partnership to End Domestic Violence	Evolve California
California WIC Association	Family Violence Appellate Project
California Women's Law Center	First 5 Association of CA
California Work & Family Coalition	First 5 California
	FreeFrom

Friends Committee on Legislation of California
Grace Institute/End Child Poverty in CA
Hand in Hand: The Domestic Employers Network
Healthy Kids Happy Faces
Hero Birth Services
Hollywood NOW
Housing Equality & Advocacy Resource Team (HEART)
Human Impact Partners
If/When/How: Lawyering for Reproductive Justice
InnerCity Struggle
Instituto Laboral de la Raza
Justice in Aging
Kidango
Korean Community Center of the East Bay
LA Forward
La Raza Centro Legal
LA Voice
Labor Occupational Health Program
Legal Aid at Work
Legal Aid Society of San Mateo County
Legal Services for Prisoners with Children
Materna Lactation Services

Maternal and Child Health Access
Mi Familia Vota
NARAL Pro-Choice California
National Association of Social Workers (NASW) California Chapter
National Council of Jewish Women Los Angeles
National Employment Law Project
National Health Law Program
National Immigration Law Center
National Lawyers Guild of Los Angeles
National Lawyers Guild—SF Bay Area Legislative Reform Committee
National Women's Political Caucus of California
One Redwood City
Orange County Equality Coalition
Our Family Coalition
Pacifica Progressive Alliance, Pacifica Peace People, Pacifica Social Justice
Parent Voices
Parent Voices CA
PICO California
PL+US: Paid Leave for the United States
Progressive Asian Network for Action (PANA)
Public Counsel

Public Law Center
Religious Coalition for Reproductive
Choice of California
Restaurant Opportunities Center of
The Bay
Rhythm and Truth
Runyon Saltzman, Inc.
San Francisco Senior & Disability
Action
SEIU California
SIREN (Services, Immigrant Rights and
Education Network)
South Bay Baby Care Nursing
Services Inc.
Street Level Health Project
TechEquity Collaborative
Thai Community Development
Center
The Children's Partnership
The Sidewalk Project
TODEC Legal Center
Tradeswomen Inc.
UC Student Workers' Union--UAW
2865
UNITE-LA
URGE: Unite for Reproductive &
Gender Equity
VietRISE
Village Connect
Voices for Progress

Warehouse Worker Resource Center
Watsonville Law Center
Western Center on Law and Poverty
Women For: Orange County
Women's Foundation of California
Women's Employment Rights Clinic –
Golden Gate University
Work Equity
Worksafe
YWCA San Francisco & Marin
YWCA Silicon Valley