Taking Leave to Care for a Foster Child in California

1. Do federal and state laws allow me to take leave to care for a foster child?

The federal Family and Medical Leave Act (FMLA), California Family Rights Act (CFRA), and New Parent Leave Act (NPLA) provide eligible parents, including foster parents, the right to take up to 12 weeks of job-protected leave from work to care for a child. These laws guarantee eligible workers the right to take unpaid leave, with their health benefits continued, and to return to their same or comparable job following the leave. For more information about who qualifies as an “eligible parent,” see Section 5.

Additionally, California’s Paid Family Leave Act (PFL) gives eligible parents, including foster parents, the right to receive 8 weeks of partial wage replacement benefits while they take leave to care for a child.

Foster parents may take leave under these laws for two reasons: to bond with a child within one year of the child’s placement in the home, or to care for a child who has a serious health condition.

2. How long can I take leave to care for a foster child with my job protected? Can leave laws run consecutively?

FMLA, CFRA, and NPLA allow foster parents to take up to 12 weeks per year of job-protected, unpaid, bonding or caregiving leave. Leave under these laws runs concurrently, meaning they provide 12 weeks in total. Job-protected leave taken to bond with a foster child must conclude within a year of the child’s placement in the home. Bonding leave may begin before the foster placement actually occurs if the parent’s absence from work is required to ensure that the placement may proceed, such as for counseling sessions, court appearances, or attorney consultations.

Foster parents also may take up to 12 weeks of job-protected leave each year to care for a seriously ill child. But employees may only take a maximum of 12 weeks per year for all qualifying reasons. For example, if a parent takes leave to bond with a foster child, and the child develops a serious health condition within the same year, the parent will only be entitled to a total of 12 weeks of leave that year. However, in subsequent years, the parent could take up to 12 weeks per year to care for the child’s serious health condition.

Parents do not have to take their leave all at once; they may take leave intermittently. An employer generally may limit employees to taking bonding leave in two-week blocks, though it must grant an exception twice if an employee asks to take leave in shorter increments.
3. **Is wage replacement or other financial support available for foster parents who take leave?**

In California, Paid Family Leave (PFL) provides up to 8 weeks of partial wage replacement (up to 60% or 70% of your wages, depending on income) for parents to bond with a foster child who is a minor. Bonding leave can be taken any time until the one-year anniversary of the foster placement. Foster parents also may receive up to 8 weeks of PFL benefits per year to care for a seriously ill foster child of any age. However, in any given year, an employee may only receive 8 weeks of benefits total for all qualifying reasons. Parents can receive the 8 weeks of benefits all in one period or split them up while working part-time or intermittently. But remember, an employer can generally limit job-protected bonding leave to two-week increments.

The following chart shows how job protected leave and wage replacement benefits work together when taken all at once.

![Paid Family Leave Chart](chart.png)

Foster parents who work in San Francisco may be entitled to additional pay under the San Francisco Paid Parental Leave Ordinance (PPLO), which supplements PFL and requires covered employers to provide additional pay to eligible employees so that they receive full pay, up to a cap, during their 8 weeks of bonding leave under Paid Family Leave.

4. **Can I take leave from work more than once in a year (i.e., for more than one foster child)?**

You are limited to 12 weeks of job-protected leave (under FMLA/CFRA/NPLA), and 8 weeks of Paid Family Leave per year. You may split up your leave instead of taking it all at once. Your employer generally may limit you to taking bonding leave in two-week blocks, though it must grant two exceptions if you ask to take leave in shorter increments.
Leave to care for a seriously ill foster child may be taken intermittently if medically necessary. For example, you may take a week or day at a time to accompany your seriously ill child to a doctor’s appointment or to care for her while she recovers from surgery.

5. **Do these laws apply to all employees?**

No. To be eligible for job-protected bonding leave in California, an employee must:

- have worked for their employer for at least one year,
- have worked at least 1250 hours in the year before their leave, and
- work for an employer with at least 20 employees within 75 miles of their worksite (under the NPLA) or at least 50 employees within 75 miles of their worksite (under FMLA and CFRA).

In California, parents can receive Paid Family Leave (PFL) if they have paid into the State Disability Insurance (SDI) fund. To be eligible, an employee must have earned at least $300 from which SDI deductions were taken during at least one quarter of their “base period,” a one-year period before their claim. You may be eligible for PFL even if you do not have the right to job-protected leave from work.

San Francisco’s PPLO covers employees who began employment with the covered employer at least 180 days before the start of their leave, perform at least eight hours of work per week for the employer in San Francisco, perform at least 40% of their total weekly hours for the employer in San Francisco, and are eligible for PFL for the purpose of bonding with a foster child.

6. **How do I apply for leave and wage replacement?**

**Job-Protected Leave Under FMLA, CFRA, and NPLA:** Give your employer 30 days’ notice if possible. Although not required, written notice is recommended. If you’re taking bonding leave, you should tell your employer you need leave due to the placement of your foster child. Employers may request documentation, such as a court order or a statement from the employee, to confirm the family relationship.

If you need leave to care for your child’s illness, you need not disclose the diagnosis, but should say that you need leave to care for your child’s serious health condition. Employers may request medical certification when you request leave to care for a child’s serious illness. The certification should come from a health care provider, which is broadly defined and may include licensed clinical social workers and nurse practitioners, among others. The certification must include the date (if known) on which the serious health condition occurred, the probable duration of the condition, the estimated amount of time that the health care provider believes the
employee needs to provide care, and a statement that the serious health condition warrants the participation of employee to provide care.

**Paid Family Leave (PFL):** You can file a claim using a paper application or online through the [Employment Development Department](https://www.edd.ca.gov), using SDI Online. You must complete and submit your claim form no earlier than your first day of family leave and no later than 41 days after your leave begins. Along with your bonding claim, you will need to provide a proof of relationship document, such as a foster care placement record. For caregiving claims, you will need a medical certification from your child’s doctor.

**San Francisco PPLO:** You must apply for PFL, complete the [SF Paid Parental Leave (PPL) Form](https://www.sanfrancisco.gov/), submit the SF PPL Form and EDD Notice of Computation of benefits to your employer, and notify your employer when you receive your first PFL payment in order to receive supplemental compensation.

7. **What are my options if my request for leave is denied or my employer treats me worse for having used or requested leave?**

**Job-Protected Leave Under CFRA/NPLA:** If your employer denies or interferes with your right to job-protected leave, or discriminates or retaliates against you for taking or seeking leave, you must [file a complaint with the California Department of Fair Employment and Housing](https://www.dfeh.ca.gov) within three years of the wrongful denial or adverse action in order to be able to pursue your claim in court.

**Job-Protected Leave Under FMLA:** If your employer violates your rights under the FMLA, you may file a lawsuit within 2 years of the violation (or within 3 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. You may appeal the decision electronically or in writing within 30 days of the notice of your denial.

To learn more about these options and other self-advocacy tools, contact a legal aid organization or a private law firm that represents workers. They can advise you on how to enforce California’s leave laws at your job and your options for relief if your employer violates the law.
For free legal advice and information about your rights, contact:

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

Disclaimer: The information provided in this resource does not constitute advice. All content is for general informational purposes only. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation.