

Date of Hearing: May 12, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

AB 1041 (Wicks) – As Amended April 22, 2021

Policy Committee: Labor and Employment

Vote: 5 - 2

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

This bill adds a “designated person” to the list of individuals for whom an employee may take leave to care for under the California Family Rights Act (CFRA) and the Healthy Workplaces, Healthy Families Act of 2014. This bill defines “designated person” as a person identified by the employee at the time the employee requests CFRA leave or a paid sick day, and allows an employer to limit the employee to one designated person per 12-month period.

FISCAL EFFECT:

- 1) Ongoing costs of \$1.1 million to the Department of Fair Employment and Housing to investigate and adjudicate approximately 140 additional complaints per year.
- 2) Absorbable increase in workload costs to the Division of Labor Standards Enforcement for additional wage claims and retaliation complaints related to paid sick day requests.
- 3) Additional costs of an unknown amount for state departments to the extent this bill increases use of CFRA or paid sick days.

COMMENTS:

- 1) **Purpose.** Existing law, under CFRA, grants workers up to 12 weeks of family leave to care for a newborn child or to care for family members suffering from a serious medical condition. CFRA originally applied only to employers with 50 more employees, but SB 1383 (Jackson), Chapter 86, Statutes of 2020, expanded the CFRA to employers with five or more employees. Existing law, under the Healthy Workplaces, Healthy Families Act of 2014, requires employers to provide a minimum of three days of sick leave to their employees to take care of oneself or a family member. Covered family members under both laws generally include a child, parent, spouse, registered domestic partner, grandparent, grandchild or sibling. AB 1041 adds a “designated person” to the list of individuals for whom an employee may take leave, which the author notes is “an important right for workers with non-nuclear family structures” so “all Californians have the right to be there for their loved ones when it matters most, regardless of blood or legal relationship.”
- 2) **Designated Person.** This bill originally expanded family leave laws, including Paid Family Leave, to include “any other individual related by blood or whose close association with the employee is the equivalent of a family relationship.” In order to address opponents’ concerns, recent amendments to this bill struck provisions related to Paid Family Leave, and

instead specify that leave may be taken to care for a “designated person” identified by the employee when requesting leave. Amendments also allow the employer to limit the employee to one designated person per 12-month period. Although this new definition is in some ways broader than the original definition, since there are no restrictions on who may be chosen as the “designated person,” limiting the designation to one person per year provides employers with some certainty and existing rules regarding CFRA and paid sick days provide some guardrails. Under CFRA, which is generally an unpaid benefit, a health care provider must certify that the designated person has a serious health condition warranting a family member to provide care for a specific duration of time. Additionally, an employee is only allotted three paid sick days a year, which is generally less than the amount of time an employee actually needs to take care of themselves and their immediate family.

- 3) **Related Legislation.** AB 1119 (Wicks) expands the list of protected characteristics under the California Fair Employment and Housing Act to include “family responsibilities.” AB 1119 is pending hearing in this committee.

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