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New Amendments Align Aspects of California's Kin Care Leave Law with Recently Implemented Paid Sick Leave Requirements

Changes are coming to California's Kin Care Leave law, effective Jan. 1, 2016, to align it more closely with California's Paid Sick Leave law in two significant respects: the definition of "kin" and the purposes for which this leave can be used. The Kin Care Leave law generally requires that employers allow employees to use up to half of their accrued and available paid sick leave (or paid time off (PTO) if vacation and sick leave are combined) to care for a "family member," as defined in the law. The Paid Sick Leave law, enacted after the Kin Care Leave law, requires that employers provide a minimum of 24 hours (or 3 days) of paid sick leave pursuant to the statute, all of which can be used for the care of a "family member," as defined in that law. Employers must track the use of Paid Sick Leave and Kin Care Leave, which currently can be confusing because the laws have different definitions of "family member" and permit use of leave time for different reasons. Specifically, Kin Care Leave currently covers only care of children, parents, spouses and domestic partners for "illness," whereas Paid Sick Leave also includes grandparents, grandchildren and siblings in the definition of "family members," and permits usage for a broader range of care. Therefore, all Kin Care Leave qualifies as Paid Sick Leave, but not all Paid Sick Leave qualifies as Kin Care Leave.

These variations can cause administrative difficulty for California employers. Particularly, due to recordkeeping requirements, employers now are tasked with determining whether use of Paid Sick Leave also counts as Kin Care Leave. With the definitions of "family member" and the permitted uses differing, it can be a daunting task to accurately track and record time for each type of legally-required leave. Beginning Jan. 1, 2016, however, the Kin Care Leave and Paid Sick Leave laws will be more harmonized, which will alleviate this administrative difficulty and decrease the potential for recordkeeping errors.

The first significant amendment is that the term "family member" under the Kin Care Leave law will expand to match the definition in the Paid Sick Leave law. The second significant amendment is that Kin Care Leave may be used for the same purposes specified in the Paid Sick Leave law, which are: the diagnosis, care, or treatment of an existing health condition; preventative care; and certain absences resulting from domestic violence, sexual assault, or stalking. To illustrate the impact of these amendments, an employee using sick time to take a child or grandchild to a preventative care visit—a permitted use under the Paid Sick Leave law—will also count as Kin Care Leave as of January 1, whereas currently it does not.

As a result of these amendments, employers will not need to consider these varying definitions and attempt to parse out the details of leave for family member care when tracking sick leave usage. Although these amendments give employees broader rights to use sick leave to care for people other than themselves, they will decrease the administrative burden of cross-referencing the definitions in the two laws to determine the proper designation. Employers should note, though, that the laws do not fully overlap. For those employers who provide PTO (*i.e.*, combined sick and vacation leave), the Kin Care

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Leave law still requires that the employee be permitted to use up to half of his or her **total** PTO to care for a family member.

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