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**AB-2399 Paid family leave: qualifying exigency.** (2019-2020)

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**Assembly Bill No. 2399**

**CHAPTER 348**

An act to amend Sections 3302 and 3307 of the Unemployment Insurance Code, relating to paid family leave.

[ Approved by Governor September 30, 2020. Filed with Secretary of State September 30, 2020. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2399, Committee on Insurance. Paid family leave: qualifying exigency.

Existing law establishes within the state disability insurance program a family temporary disability insurance program, also known as the Paid Family Leave program, for the provision of wage replacement benefits to workers who take time off work to care for a seriously ill family member or to bond with a minor child within one year of birth or placement, as specified, and, on and after January 1, 2021, to take time off to participate in a qualifying exigency related to the covered active duty or call to covered active duty of the individuals' spouse, domestic partner, child, or parent in the Armed Forces of the United States. Existing law defines terms for paid family leave purposes, including defining the terms "care recipient," "care provider," and "family care leave."

This bill would revise those definitions for the purpose of the qualifying exigency provisions. The bill would define "military member" for the purpose of that term's use in those revised definitions.

Existing law requires certain documentation of a qualifying exigency, including a copy of new active duty orders or other documentation issued by the military as required by the department if the need for leave because of a qualifying exigency arises out of a different covered active duty or call to covered active duty or notification of an impending call or order to covered active duty of the same or a different family member.

This bill would provide that the new documentation requirement would apply to a need for leave because of a qualifying exigency arising out of those described circumstances with respect to the same or a different eligible family member.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 3302 of the Unemployment Insurance Code is amended to read:

**3302.** On and after July 1, 2014, for purposes of this part:

(a) "Care recipient" means the family member who is receiving care for a serious health condition or the new child with whom the care provider is bonding. For the purposes of a qualifying exigency as set forth in Section 3302.2, "care recipient" also includes the military member, or child or parent of the military member, who is receiving assistance, or the employee who is participating in a qualifying exigency.

(b) "Care provider" means the family member who is providing the required care for a serious health condition; the family member who is bonding with the new child; or the employee who is participating in a qualifying exigency as provided in Section 3302.2.

(c) "Child" means a biological, adopted, or foster son or daughter, a stepson or stepdaughter, a legal ward, a son or daughter of a domestic partner, or the person to whom the employee stands in loco parentis.

(d) "Domestic partner" has the same meaning as defined in Section 297 of the Family Code.

(e) "Family care leave" means any of the following:

(1) Leave to bond with a minor child within the first year of the child's birth or placement in connection with foster care or adoption.

(2) Leave to care for a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner who has a serious health condition.

(3) Leave to participate in a qualifying exigency as provided in Section 3302.2.

(f) "Family member" means child, parent, grandparent, grandchild, sibling, spouse, or domestic partner as defined in this section.

(g) "Grandchild" means a child of the employee's child.

(h) "Grandparent" means a parent of the employee's parent.

(i) "Military member" means a child, spouse, domestic partner, or parent of the employee, where the military member is on covered active duty or call to active duty in the Armed Forces of the United States as defined in subdivision (a) of Section 3302.1.

(j) "Parent" means a biological, foster, or adoptive parent, a parent-in-law, a stepparent, a legal guardian, or other person who stood in loco parentis to the employee when the employee was a child.

(k) "Parent-in-law" means the parent of a spouse or a domestic partner.

(l) "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential health care facility, or continuing treatment or continuing supervision by a health care provider, as defined in Section 12945.2 of the Government Code.

(m) "Sibling" means a person related to another person by blood, adoption, or affinity through a common legal or biological parent.

(n) "Spouse" means a partner to a lawful marriage.

(o) "Valid claim" means any claim for family temporary disability insurance benefits made in accordance with the provisions of this code, and any rules and regulations adopted thereunder, if the individual claiming benefits is unemployed and has been paid the necessary wages in employment for employers to qualify for benefits under Section 2652 and is caring for a seriously ill family member, or bonding with a minor child during the first year after the birth or placement of the child in connection with foster care or adoption.

(p) "Twelve-month period," with respect to any individual, means the 365 consecutive days that begin with the first day the individual first establishes a valid claim for family temporary disability benefits.

**SEC. 2.** Section 3307 of the Unemployment Insurance Code is amended to read:

**3307.** (a) When an employee requests for the first time leave because of a qualifying exigency arising out of the covered active duty or call to covered active duty or notification of an impending call or order to covered active duty of the employee's spouse, domestic partner, child, or parent in the Armed Forces of the United States, the department may require the employee to provide a copy of the covered active duty orders or other documentation issued by the military that indicates that the employee's spouse, domestic partner, child, or parent is in the Armed Forces of the United States, is on covered active duty or call to covered active duty status, and the dates of the covered active duty service. This information need only be provided to the department. A copy of new active duty orders or other documentation issued by the military may be required by the department if the need for leave because of a qualifying exigency arises out of a different covered active duty or call to covered active duty or notification of an impending call or order to covered active duty of the same or a different eligible family member.

(b) The department may require that a request for paid family leave for any qualifying exigency specified in Section 3302.2 be supported by sufficient information from the employee that sets forth the following:

(1) A statement or description, signed by the employee, of appropriate facts regarding the qualifying exigency for which paid family leave is requested. The facts shall be sufficient to support the need for leave and may include information on the type of qualifying exigency for which leave is requested and any available written documentation that supports the request for leave. For example, this information may include a copy of a meeting announcement for informational briefings sponsored by the military, a document confirming an appointment with a counselor or school official, or a copy of a bill for services for the handling of legal or financial affairs.

(2) The approximate date of the commencement or pending commencement of the qualifying exigency.

(3) If an employee requests leave because of a qualifying exigency for a single, continuous period of time, the beginning and end dates for that leave.

(4) If an employee requests leave because of a qualifying exigency on an intermittent basis, an estimate of the frequency and duration of the qualifying exigency.

(5) If the qualifying exigency involves meeting with a third party, appropriate contact information for the individual or entity with whom the employee is meeting, including, but not limited to, the name, title, organization, address, telephone number, fax number, and email address, if available, and a brief description of the purpose of the meeting.

(6) If the qualifying exigency involves rest and recuperation leave, a copy of the rest and recuperation orders for the employee's spouse, domestic partner, child, or parent in the Armed Forces of the United States, or other documentation issued by the military that indicates that this person has been granted rest and recuperation leave, and the dates of that rest and recuperation leave.

(c) If an employee submits complete and sufficient information to support the employee's request for leave because of a qualifying exigency, the department may not request additional information from the employee. However, if the qualifying exigency involves meeting with a third party, the department may contact the individual or entity with whom the employee is meeting for purposes of verifying a meeting or appointment schedule and the nature of the meeting between the employee and the specified individual or entity. The employee's permission is not required in order to verify meetings or appointments with third parties, but no additional information may be requested by the department. The department also may contact an appropriate unit of the Department of Defense to request verification that an individual is on covered active duty or call to covered active duty or has been notified of an impending call or order to covered active duty. No additional information may be requested, and the employee's permission is not required.

(d) This section shall become operative on January 1, 2021.