

Client Alert

Legal Trends: Paid Family Leave

Under the Federal Family and Medical Leave Act (FMLA) and the laws of several states, eligible employees are entitled to parental leave, as well as leave to address personal health conditions or to care for certain family members with serious health conditions. Such leaves are unpaid, although Congress has introduced several bills over the past decade that would require employers to pay for some or all of FMLA leave.

Rather than wait for a Federal solution, states have begun enacting paid family leave laws. Not surprisingly, **California** led the charge about a decade ago by enacting a law permitting eligible employees to receive up to 55% of their salary (up to a monetary cap) for up to 6 weeks. Effective January 1, 2018, that percentage will increase to 70%. The program is administered by the state and is funded by employees through payroll deductions (similar to the way unemployment compensation is funded and paid). **New Jersey** and **Rhode Island** followed soon thereafter, allowing employees to receive a certain percentage of their salary for up to 6 and 4 weeks (respectively).

New York also recently passed a paid family leave law that becomes effective on January 1, 2018 and will allow eligible employees to receive up to 50% of their salary for up to 8 weeks. That will increase to 10 weeks in 2019, and 12 weeks in 2021, with wage replacement reaching 67% by 2021. Starting in July of 2020, the **District of Columbia** will provide eligible employees with up to 6 weeks of paid leave annually.

Also starting in 2020, eligible employees in **Washington** state will be entitled to receive up to 90% of their salary (up to a maximum of \$1,000 per week) for up to 12 weeks. The cost of the benefits will be split by employers (63%) and employees (37%).

Finally, **Massachusetts** is tackling the issue from two angles. First, there is an initiative to place on the 2017 ballot a proposal that would provide eligible employees up to 16 weeks of paid leave to care for a new child, care for a seriously ill or injured family member, or to meet family needs arising from a family member's active duty military service. Employees recovering from their own serious illness or injury, or who care for a seriously ill or injured service member, would receive up to 26 weeks of paid leave. In addition, the Massachusetts House has introduced a bill that would allow eligible employees to take up to 12 weeks of paid leave per year, at a maximum of \$650 per week. The Senate's companion bill would provide 26 weeks and up to \$1,000 per week.

We expect this trend to continue, particularly in those states controlled by Democratic legislatures.



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