Proposed FAMILY Act Would Usher In Federal Paid Leave Law

Insights
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New York Senator Kristen Gillibrand and Connecticut Representative Rose DeLauro recently introduced the Family and Medical Insurance Leave (FAMILY) Act in Congress, a proposed law that would mandate partially paid leave for all employers. What do employers need to know about this potential new federal law introduced on February 4?

History Of Federal Paid Leave Proposals

Some iteration of the FAMILY Act has been introduced in every Congress since 2013 without success. This year, however, the proposal has more co-sponsors than ever before – likely due to the challenges of the COVID-19 pandemic (which saw the introduction of the nation's first paid leave, though limited and temporary in nature) and change in administration. Currently, 36 members of the Senate and 198 members of the House have signed on to the proposal, signaling their support for paid family leave.

The FAMILY Act aims to provide wage replacement for those employees who take time off work for the following reasons:

- An employee's own serious health condition;
- The birth or adoption of a child;
- To care for a child, spouse, or parent who has a serious health condition; and
- For qualifying exigencies arising from military deployment.

The FAMILY Act also calls for the establishment of an Office of Paid Family and Medical Leave. This new federal sub-agency, which would be established in the existing Social Security Administration, would determine the benefits for eligible workers and provide compliance information and assistance to employees and employers.

Who Would Be Covered?

Unlike the Family and Medical Leave Act (FMLA), the FAMILY Act would apply to all employers across the country regardless of their size. Employees would be entitled to 60 days of partially paid leave, per year, at two-thirds of their regular pay, capped at $4,000 a month. The leave would be funded through a payroll tax of 0.20%.

In order to be eligible for the FAMILY Act benefits, employees must be insured for disability insurance benefits and have earned income from employment during the 12 months prior to applying for the leave.

According to the bill, the benefit amount will be coordinated with state aid, specifically reducing the amount based on workers' compensation or disability benefits. Individuals who are eligible for disability insurance would not be eligible for FAMILY Act benefits.

While the bill references the positive outcomes of state-wide family leave policies (such as those in California, New Jersey, and Rhode Island, for example), it is unclear how the FAMILY Act would affect these and other state and local paid leave laws.

Looking Ahead

The 2021 session is in its early days, and the sponsors have expressed that they hope to collaborate with their colleagues in Congress and the Biden administration. It is likely that the bill will see changes leading up to a final vote, so stay tuned for further developments

Fisher Phillips will continue to monitor the legislation and provide updates as appropriate. Make sure you are subscribed to Fisher Phillips' Alert System to get the most up-to-date information. For further information, contact your Fisher Phillips attorney or any attorney in our Employee Leaves Practice Group.

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