

Connecticut to Enact Generous Paid Family and Medical Leave Law

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Connecticut is poised to become the latest state to join the paid family and medical leave bandwagon, enacting what is set to be one of the most generous laws in the country.

The Act Concerning Paid Family and Medical Leave (the “Act”) was passed by both houses of the state legislature and is presently before Governor Ned Lamont, who has pledged to sign it.

Under the Act, beginning in early 2022, employees will be eligible to receive partial pay benefits during leave taken under the existing Connecticut Family and Medical Leave Act (“CFMLA”). Covered reasons for leave under the CFMLA include an employee’s own serious health condition or that of a covered family member, and caring for a child following birth, adoption, or foster care placement. The Act also makes significant substantive changes to the CFMLA itself.

Expanded Protections Under the CFMLA

Changes to the CFMLA under the Act, all effective January 1, 2022, include:

- Private employer coverage under the CFMLA will be expanded to cover businesses with one or more employees, effectively extending coverage to nearly every employer in the state. Currently, the CFMLA applies to employers with 75 or more employees in Connecticut.
- Employee eligibility under the CFMLA also will be expanded. Currently, to be eligible for CFMLA leave, an employee must have worked for the employer for at least 12 months and worked at least 1,000 hours in the 12 months leading up to the start of leave. Under the Act, leave will be available to employees who have worked for their employer for at least 12 weeks, with no minimum hours requirement. To be eligible for paid leave benefits, employees must also have earned at least \$2,325 within a defined “base period.”
- The amount of leave available under the CFMLA will change. Presently, eligible employees are entitled to up to 16 weeks of unpaid leave in a 24-month period. Under the Act, as discussed further below, the leave amount will change to 12 weeks of partially paid leave in a 12-month period, with an additional two weeks of

leave available for pregnancy-related serious health conditions.

- In addition to the currently included spouse, child, and parent, the definition of a “covered family member” under the CFMLA will be expanded to include an employee’s parent-in-law, grandparent, grandchild, sibling, and “any other individual related to the employee by blood or affinity whose close association the employee shows to be the equivalent of those family relationships.” The Connecticut Department of Labor (“CT DOL”) is expected to provide further guidance on the scope of the “any other individual” category.

Paid Family and Medical Leave Benefits

The Act will provide partial pay benefits for up to 12 weeks of leave in a 12-month period for reasons covered under the CFMLA. In addition, eligible employees who experience a pregnancy-related serious health condition that results in incapacitation will be entitled to two additional weeks of paid leave, for a maximum of 14 weeks. Paid benefits will be available for continuous periods of leave, as well as “nonconsecutive hours of leave.”

The Act states that paid benefits will begin “on January 1, 2022, but not later than February 1, 2022.” The law also states that paid leave to care for a new child following birth, adoption, or foster care placement may begin prior to paid leave for other reasons under the CFMLA should the newly established Connecticut Paid Family and Medical Leave Insurance Authority (“Authority”) determine that it is “administratively feasible and prudent” to do so.

The paid leave benefit will be funded by an employee payroll tax of up to 0.5%, with contributions beginning on January 1, 2021. Employers will not be required to contribute toward the program, but will be responsible for withholding the employee tax and remitting the funds to the state Family and Medical Leave Insurance Trust Fund. Alternatively, employers will have the option to apply for permission to provide benefits through a private plan.

Employees requesting paid leave will be required to provide notice of the need for benefits, along with certification of the need for leave, to the Authority. The amount of the paid leave benefit will be a percentage of the employee's weekly wages up to a maximum cap set at 60 times the state minimum wage. It is anticipated that Connecticut's minimum wage at the time benefits take effect will be \$13 per hour, which would result in a maximum benefit of \$780 per week. The state's minimum wage is further slated to reach \$15 per hour in 2023, which will result in an increased maximum benefit of \$900 per week. Interestingly, the Act expressly provides that the Authority will have the ability to reduce benefit amounts as needed if revenue from employee contributions is insufficient to fund claims at the stated levels.

Coordination of Paid Benefits with Other Paid Time Off

As is presently the case under the CFMLA, employers will be permitted to require an employee substitute otherwise available paid vacation, personal, or family leave during a paid CFMLA leave. However, the Act will now require that employees be permitted to retain at least two weeks of any such paid time off, which would effectively render the "mandatory substitution" option moot as to employees who receive two weeks or less paid time off per year. Further, the law does not address how statutory paid leave benefits would be coordinated with the use of employer-provided paid time off, other than stating that an employee's total compensation during leave cannot exceed the employee's regular rate of pay.

Employer Notice Requirements

Beginning July 1, 2022, employers will be required to provide notice to new employees of their entitlement to benefits under the Act, as well as their right to be protected from retaliation for requesting or using paid leave and the right to file a complaint with the CT DOL regarding any violation under the Act. Employers also will be required to provide such notice to current employees on an annual basis.

Next Steps

The Act requires the CT DOL adopt regulations regarding the law by January 1, 2022, which will hopefully provide additional guidance to employers on implementing and administering the new benefits. In the meantime, Connecticut employers are advised to begin reviewing their existing family and medical leave policies to consider where changes may need to be made in preparation for the new law.

We will continue to report on new developments regarding the Act and other leave laws around the country.

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