

FEDERAL LAW

Family Leave Insurance Act

The Family Leave Insurance Act of 2008 is a bill introduced to the House of Representatives that would provide employees with paid family and medical leave to care for themselves or family members.

This Bill would provide eligible employees with 12 weeks of paid leave during a 12-month period to care for a newborn baby or newly received foster or adopted child, care for an ill family member, treat their own serious illness, or deal with an emergency caused by a military deployment.

The paid leave would be financed by premiums paid both by the employer and the employees through a family insurance fund.

Amendment to the ADA

The U.S. House of Representatives has passed the ADA Amendments Act. This measure will overturn several U.S. Supreme Court decisions that applied a strict and narrow standard for individuals to meet in order to show that they were disabled or regarded as being disabled

under the ADA. Some of the changes include the following:

- The definition of disability is to be interpreted broadly.
- The term "substantially limits" now means "materially restricts" (compared to the current standard of "prevents or severely restricts") and lists examples of a "major life activity," expanded to include a wide range of activities such as caring for oneself; performing manual tasks; seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, and breathing; learning, reading, concentrating, thinking, communicating, and working; and major bodily functions such as the immune system, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.
- An impairment that substantially limits one major life activity doesn't have to limit other major life activities in order to be considered a disability.

The legislation now goes to the Senate. The bill may go in to effect as soon as January 1, 2009.

STATE LAW CHANGES

Connecticut

The General assembly of Connecticut passed a bill (HB-5918) that protects employees on jury duty. The law states that, "any juror-employee who has served eight hours of jury duty in any one day shall be deemed to have worked a legal day's work as that term is used in section 31-21...and an employer shall not require the juror employee to work in excess of eight hours."

The Governor of Connecticut signed the bill in to law on May 27, 2008. The law will go into effect on October 1, 2008.

Massachusetts

The Massachusetts Commission Against Discrimination has clarified its enforcement position. Consistent with its current guidelines and the plain language of the statute, male

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employees who become parents (whether through birth or adoption) remain ineligible for the 8 weeks of maternity leave provided by the MMLA to women who give birth or adopt a child.

The clarification was needed because a Commissioner at the Massachusetts Commission Against Discrimination (MCAD) has announced that effective immediately the Massachusetts Maternity Leave Act (MMLA) would apply to new parents of either sex. According to the commissioner both mothers and fathers (or both parents in gay marriages) in Massachusetts would be entitled under state law to 8 weeks of unpaid leave upon the birth or adoption of their child.

The clarification is in line with the express language of the MMLA that provides leave only for female employees; the MMLA is clearly gender-based (“maternity” rather than “parental”).

New Jersey

A bill that mandates meal and break periods was introduced to the New Jersey Assembly. The measure requires employers to provide an unpaid meal period of at least 30 minutes to all employees who work for more than 6 hours continuously, and at least a 15 minute paid rest break to employees who work for more than 4 hours continuously.

At present, New Jersey law only requires unpaid 30 minute meal period to minors who work 5 hours or more.

Ohio

The General Assembly of Ohio enacted SB-289, a law that provides employment protections for members of the uniformed services and Ohio organized militia whose absence from a position of employment is necessitated by reason of service. The measure provides the same reinstatement and reemployment rights provided for under the federal Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA).

The law goes in to effect on August 22, 2008.

Reminder

Reed Group encourages employers to review their leave policies in order to ensure they are in compliance with the new state laws.

Disclaimer

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