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Employment Practices Liability

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Connecticut General Assembly Aims to Create a Paid Family Medical Leave System in Connecticut

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The Connecticut Legislature appears likely to pass a paid Family and Medical Leave bill. Senate Bill No. 1 and House Bill 5003 have passed the Committee on Labor and Public Employees and have been referred to the Office of Legislative Research and Office of Fiscal Analysis. The bill, if passed, would make substantial changes to the existing Connecticut Family Leave Law. The two main proposed changes are the broadening of coverage of employees and employers, and the creation of a Family Medical Leave insurance program. The proposed changes also expand the circumstances under which an employee may take leave.

Under the existing law, an "eligible employee" is one who has been employed for at least twelve (12) months by the employer from whom leave is requested and who has at least 1000 hours of service with that employer during the twelve month period prior to requesting the leave. The proposed changes would base eligibility off of the employee's earnings rather than time spent employed with the employer from whom leave is requested. An employee who has earned at least $2,325 from one or more employers during the employee's highest earning quarter in the last five (5) most recently completed calendar quarters would be eligible under the proposed changes. Thus, an employee potentially could be eligible for leave from his or her first day of work under the amended act.

The existing law exempts the state, municipalities, local and regional boards of education and nonpublic elementary and secondary schools from the definition of employer. The proposed changes do not affect this exemption. However, the existing law limits covered employers to those who have seventy-five (75) or more employees. The proposed changes would include covered employers that employ even one (1) employee.

The proposed act changes the amount of leave to which a covered employee is entitled. Previously, an eligible employee was entitled to sixteen (16) work weeks of leave in any twenty-four (24) month period. The proposal would entitle eligible employees to twelve (12) work weeks of leave in any twelve (12) month period, with an allowance for an additional two (2) weeks due to a serious health condition during pregnancy that results in incapacitation. The proposal does not define incapacitation.

Additionally, the proposal expands the people whom an employee may take leave to care for in the event of a serious health condition. Previously, employees could take leave to care for a spouse, child or parent with a serious health condition. The proposal would add to this list grandparents, grandchildren and "any other individual related by blood or whose close association with the employee is the equivalent of a family member." Furthermore, the definition of "parent" would be amended to include parents-in-law and individuals who currently stand in *loco parentis* to an eligible employee.

The proposal not only expands who may take family and medical leave and when they may take it, but it also allows for a certain amount of compensation during such leave. Payment of these benefits would come from a Family and Medical Leave Insurance Program established by the proposed act. Under the current proposal, the Labor Department would begin collecting contributions to the Insurance Trust Fund on or before July 1, 2020. These contributions will come from employees' weekly earnings and currently would be capped at one-half of one percent and not to exceed the employees' Social Security contribution. Compensation would be provided on and after July 1, 2021, and could be one hundred (100) percent of a covered employee's weekly earnings, up to $1,000 per week. A covered employee aggrieved by the denial of compensation under the Insurance Program will be able to file a complaint with the Labor Commissioner. Following a hearing, the commissioner will issue a decision awarding or denying the employee relief. A party aggrieved by this decision may appeal it to the Superior Court within a year.

Connecticut employers with fewer than fifty (50) employees have likely not had to deal with federal or state FMLA claims. If this bill passes, that will change for many employers. Our office will continue to monitor the status of this bill and will keep clients informed of any act that passes.

Robin Kallor is a partner at Rose Kallor, LLP. Rose Kallor, LLP regularly represents and advises private and public sector employers on matters pertaining to the employer-employee relationship, including the selection process, discrimination and harassment related issues and frequently conducts neutral workplace investigations. If you have questions about this legal update, please contact us at 860-361-7999. If you wish to receive future updates on labor and employment related topics, please contact Jacqueline Smith, CIRMA Communications Associate at jsmith@ccm-ct.org.

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