

Insights

Compulsory Paid Leave: Is It in the Budget?

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At the beginning of March 2024, the Biden Administration released its proposed budget (the "Budget") for the 2025 fiscal year. In the Budget, the Biden Administration provides funding for a new national paid family and medical leave program (the "Program"). The Program is merely a proposal and will likely fail given the current opposition, nonetheless, it evidences a broader conversation on compulsory paid leave provisions.

The Program

The White House's Fact Sheet on the Budget outlines the details of the Program. If enacted, the Budget would provide funding for comprehensive paid family and medical leave, providing up to twelve weeks of leave to all eligible workers to take time off to:

- Care for and bond with a new child;
- Care for a seriously ill loved one;
- Heal from their own serious illness;
- Address circumstances arising from a loved one's military deployment; or
- Find safety from domestic violence, sexual assault, or stalking.

The Budget clearly outlines its intent to provide coverage to the 73% of private sector workers without access to paid family or medical leave. In the recent State of the Union Address, President Biden stated, "Imagine a future with paid leave, because no one should have to choose between working and taking care of their sick family member." The Social Security Administration would administer the Program.

The Budget also calls for Congress to require employers to provide all workers with seven job-protected paid sick days each year. However, approval of the Budget would not create a program providing paid sick days to employees.

State Actions

While there is no nationally mandated minimum paid leave in the U.S. currently, some states have taken the issue into their own hands by passing state paid leave laws. Every state's program is unique and requires a detailed investigation to maintain compliance. Some states have adopted paid family and medical leave programs like the Program described above, including Illinois, Maine and Nevada.

Krieg DeVault recently issued an Alert addressing Illinois' new Paid Leave for All Workers Act (PLAWA). Illinois' PLAWA does not require an employee to have any of the covered needs listed above like caring for seriously ill loved one. The PLAWA is a much broader paid leave policy requiring employers to grant employees one hour of paid leave for every 40 hours worked. For more information on this new paid leave law, please see the Alert.

Other states and even some localities, including, but not limited to, California, Colorado, Connecticut, Delaware, Maryland, Massachusetts, Minnesota, New Jersey, New York, Oregon, Rhode Island, Washington, and Washington, D.C. have enacted mandatory paid family and medical leave systems or insurance programs that involve the purchase of a family and medical leave insurance policy through an insurance market or mandate the payment of such insurance by employers within the state.

As an example of a mandatory law, Colorado's new paid family and medical leave law requires employers to provide the following:

- Parental leave to provide workers time to bond with a new child;
- Caregiving leave to allow workers to care for a loved one with a serious health condition;
- Medical leave for a worker's own serious health condition;
- Deployment-related leave for military family needs in connection with a loved one's deployment; and
- Safe leave for certain needs when workers or their loved ones experience sexual or domestic violence.

The Colorado law allows workers to take leave for up to 12 weeks per year for any combination of covered needs listed above and provides:

- 90 percent of the portion of their weekly wages that is less than or equal to 50 percent of the state average weekly wage; and
- 50 percent of the portion of their weekly wages that is more than 50 percent of the state average weekly wage.
- Benefits are initially capped at \$1,100 a week.

While this leave is not entirely funded by the employer—it is comprised of premiums taken out of an employee's wages and premiums paid by the employer—it is representative of the possible formats of paid leave programs/systems that several states are considering.

Conclusion

The Program proposed by the Biden administration in the Budget would be a sweeping national paid family and medical leave program. While the Program is not in effect and will face a likely insurmountable battle, several states already have adopted compulsory paid leave programs that employers should be aware of. Employers considering their paid leave obligations and policies, particularly those with multi-state workforces, should carefully evaluate all applicable local, state, and federal laws. For questions regarding your paid leave policies or employee handbooks, please contact Elizabeth M. Roberson, Chloe N. Craft, or another member of our Labor and Employment Practice.

The authors gratefully acknowledge the contributions of Griffin O'Gara, Krieg DeVault law clerk and student at Indiana University McKinney School of Law, in drafting this Alert. Mr. O'Gara is not an attorney.

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