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LEGAL ALERT



Legal Alert: House Considers Paid Family Leave Legislation

4/2/2009

On March 25, 2009, a bill was introduced in the House of Representatives that would create a family leave insurance program giving eligible employees up to 12 weeks of paid family leave in a 12-month period. The Family Leave Insurance Act of 2009 (H.R. 1723) builds on the Family and Medical Leave Act of 1993 (FMLA) and adopts many of the definitions of that law, with certain exceptions.

Generally, paid leave would be available to any employee of a covered employer who has worked at least 625 hours in the six months prior to filing an application for leave benefits. The legislation defines a covered employer as any employer who has two or more employees for 20 or more weeks during the current or preceding calendar year.

Generally, leave would be available for the same reasons as provided in the FMLA – for the employee's own serious health condition, to care for a family member (which, unlike the FMLA, includes domestic partners, including same sex domestic partners, and the child of a domestic partner) with a serious health condition, for the birth or placement of a child for adoption or foster care, to care for a family member who is a wounded veteran or because of a qualifying exigency resulting from the call to active duty of a family member (including a domestic partner).

The program would be funded by equal contributions from the employer and employee of .2% of employees' wages.

Employees would be entitled to benefits on a sliding scale based upon the amount of the employee's wages. Generally, the benefits would be:

- employees with an annual income of \$20,000 or less would be entitled to 100% of their daily earnings;
- employees with an annual income of more than \$20,000 up to \$30,000 would be entitled to 75% of their daily income;
- employees with an annual income of more than \$30,000 up to \$60,000 would be entitled to 55% of their daily income;
- employees with an annual income of more than \$60,000 up to \$97,000 would be entitled to 40% of their daily earnings;
- employees with an annual income of more than \$97,000 would be entitled to 40% of the daily earnings of an employee with an annual income of \$97,000.

The Secretary of Labor would establish the Family and Medical Leave Insurance Program and may contract with states to administer the program.

The legislation permits employers to establish a voluntary paid benefit plan instead of participating in the Program, as long as benefits provided in the voluntary plan are at least equal to those provided by the Program.

The Family Leave Insurance Act has been referred to several House committees. We will keep you updated on the status of this legislation. If you have any questions regarding this legislation or other labor or employment related issues, please contact the Ford & Harrison attorney with whom you usually work.