

## CLIENT ALERT

### Connecticut Enacts a Paid Family Leave Law With the Highest Wage-Replacement Rate in the Nation

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Connecticut Governor Ned Lamont signed into law on June 25, 2019 “An Act Concerning Paid Family and Medical Leave” (Act), that provides paid time off to new parents and caregivers, positioning Connecticut as the seventh state in the U.S. to provide paid family leave. Neighboring states, New York and New Jersey, already offer similar benefits. The Act creates a Family and Medical Leave Insurance (FMLI) program that provides wage replacement to workers covered under the State’s Family Medical Leave Act (CTFMLA), which it also amends. As amended, CTFMLA provides twelve (12) weeks of payments during any twelve (12)-month period of family and medical leave in connection with the birth, or placement with the employee for foster care or adoption, of a son or daughter of the employee, to care for a seriously ill family member, or to care for a person’s own serious illness. An additional two (2) weeks of payments is provided to a covered employee for a serious health condition resulting in incapacitation that occurs during a pregnancy. The FMLI wage-replacement program will be funded by a 0.5 percent payroll tax on each employee and self-employed individual enrolled in the program. The tax will go into effect on January 1, 2021. Covered employees will be eligible to receive benefits beginning January 1, 2022.

The FMLI benefit will cover 95 percent of a covered employee’s base weekly earnings up to 40 times the Connecticut minimum wage, then 60 percent of base weekly earnings until the total benefit reaches 60 times the state minimum wage. With the new Connecticut minimum wage law signed last month, the weekly cap for covered employees when benefits go into effect will be \$780, based on a \$13.00 minimum wage. The cap will increase to \$900 benefits per week in June 2023, when the minimum wage will rise to \$15.00. In light of these benefits, the Connecticut program currently offers the most generous wage-replacement rate in the nation, with D.C. and Washington following close behind with 90 percent replacement rates.

The Act also amends the CTFMLA to, among other things:

- Expand the current CTFMLA to cover all private-sector employers with at least one (1) employees, as compared with the current threshold of 75 employees.
- Allow an additional two weeks of leave due to a serious health condition that results in incapacitation during pregnancy.
- Add to the family members for whom an employee can take CTFMLA leave to include the employee's siblings (including siblings by marriage), parents-in-law, grandparents, grandchildren, and anyone else related by blood or affinity whose close association the employee shows to be the equivalent of a spouse, sibling, son or daughter, grandparent, grandchild, or parent.
- Lower the employee work threshold to qualify for job-protected leave from (a) 12 months of employment and 1,000 work-hours with the employer to (b) three months of employment with the employer, with no minimum requirement for hours worked.

The Act is expected to help small employers be more competitive in attracting talent, since they are often unable to provide the same paid family leave benefits that larger employers can currently afford. Effective July 1, 2022, the Act requires employers to

provide written notice to each employee of their entitlement to family and medical leave, the opportunity to file a claim for compensation under the program, the prohibition against retaliation for requesting or using family and medical leave, and their right to file a complaint with the Labor Commissioner for violation of any provision of the Act.

**Bottom Line:** While requirements under the Act will not begin to take effect for at least 18 months, Connecticut employers should begin to evaluate their paid leave policies and procedure and to the extent required, begin to contemplate implementing paid leave programs that comply with the Act. For a Connecticut employer that operates in multiple states and provides a uniform paid leave benefit program to all its employees, it should evaluate whether its current paid leave benefit program complies with the federal Family and Medical Leave Act as well as the paid family leave laws of all states (including the Act) in which it has employees.

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