

Mandatory Paid Leave: The Healthy Families Act Introduced in Congress

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Last month, mandatory paid leave legislation was introduced in Congress by Senator Kennedy (D-MA) and Congresswoman DeLauro (D-CT). The proposed federal Healthy Families Act (H.R. 2460) seeks to guarantee full-time employees at least 56 hours of paid sick leave each year and part-time employees a pro-rata amount of leave to care for themselves and their families' medical needs. Similar legislation was introduced previously in Congress, as well as in at least 12 other states (including Ohio, Connecticut, and Massachusetts). Currently, San Francisco and Washington D.C. require businesses within those cities to provide paid sick leave to their employees.

The federal HFA would apply to employers that had 15 or more employees and would guarantee them one paid hour off for each 30 hours worked, enabling them to earn up to 56 hours of paid sick leave each year. Employees could carry over unused sick leave from one year to the next. An employee would begin accruing the sick leave at the commencement of his or her employment and could begin using the leave after 60 days. The sick leave could be used for the employee's own medical needs or to care for a child, parent, spouse, or any other blood relative, or for an absence resulting from domestic violence, sexual assault, or stalking. The HFA would prohibit discrimination or retaliation against a person who uses paid sick leave.

The HFA specifically states that it would not supersede any state or local law that provides greater paid sick time or leave rights. Consequently, sick leave under the HFA would be in addition to any leave provided under the Family and Medical Leave Act or a state's workers' compensation law.

Moreover, under the HFA, if an employer's existing paid leave policy fails to meet all the requirements of the HFA, the employer would have to amend its policy in order to comply with the HFA. For example, the HFA would specifically prohibit an employer from counting any HFA-required sick leave as leave under an employer's no-fault attendance policy or other absence control policy. In addition, an employer would be prohibited from using the taking of such sick leave as a "negative factor" in any employment action. Thus, "no-fault" attendance policies would have to be amended to account for the HFA's restrictions.

The legislation still has a long way to go before enactment, and it is impossible to predict what the final version would require. However, President Obama has expressed support for the HFA and Representative DeLauro believes there is a "real opportunity now" to pass the legislation. Vorys will continue to monitor the legislation and report on any major developments.

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