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May 2008

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NEW JERSEY GOVERNOR SIGNS PAID FAMILY LEAVE BILL INTO LAW

New Jersey workers will now be able to get up to six weeks of paid family leave (during a 12-month period) under a law signed by Governor Jon Corzine recently. Effective July 1, 2009, workers who qualify for family leave will be eligible to receive up to two-thirds of their income (maximum \$524 per week). The limit will rise yearly to keep up with the cost of living.

The law allows parents to take paid leave any time during the first year after a child's birth or adoption. Employees can also take leave to care for a seriously ill child, spouse, parent or domestic partner receiving inpatient care in a health care facility or under continuing supervision of a health care provider.

Under the law, an employer may require an employee to take up to two weeks (but not more) of available sick pay, vacation pay, or other fully-paid leave provided by the employer before receiving the paid family leave benefits. An employer may also require that paid family leave benefits run concurrent with employer paid leave, that is, an employer may require that the period of paid family leave benefits be reduced by the amount of time in which employer paid leave is provided. If an employee is required to use employer paid leave, the law requires that the employee be permitted to use the first week's worth of employer paid leave during the one-week waiting period that precedes the start of the paid family leave benefits.

If an employee is taking leave to care for a child after birth or adoption, the employee is required to give not less than 30 days' advance notice before the leave commences. Leave under those circumstances must be for a single continuous period of time. However, the employer may allow the employee to take the leave during non-consecutive weeks in a mutually agreed manner. Leave taken because of the birth or adoption of a child may be taken at any time within a year after the date of the birth or adoption.

If leave is taken for the care of a sick family member, the employee may take the leave on a continuous or intermittent basis. In either case, a proper medical certification must be provided by a health care provider. When leave is taken to care for a family member on a continuous basis, the employee must provide prior notice

of the leave "in a reasonable and practicable" manner, unless unforeseen circumstances prevent such notice. The employee must make a reasonable effort to schedule the leave so as to not unduly disrupt the employer's operations.

The program would run concurrently with the state and federal Family Medical Leave acts.

This law does not attempt to grant new leave "rights" in the sense that if an employee leaves employment to take the pay benefit, they only have a right to return to work if the state or federal Family and Medical Leave Act require it (for employers of 50 or more employees) or if the employer voluntarily agrees to hold the job open. New Jersey's law is explicit on this point, going so far as to say that an employee has no tort or employment lawsuit against an employer who does not reinstate the worker from leave so long as the state or federal FMLA does not require it.

This family leave benefit is an extension of the state's Temporary Disability Insurance Program. Funding for the program will come from an increase in the TDI payroll tax. Effective January 1, 2009, employees will be required to contribute 0.14% of their wages to the State Disability Fund, which will then deposit the money into a fund reserved exclusively for the Family Leave program. In 2010, the percentage will increase to 0.18%. The average cost of the benefit is expected to be \$33 per employee per year. Employees making minimum wage will contribute roughly 25 cents per week.

New Jersey is now the third state to mandate such a law. California's law has been in place since 2004. The State of Washington's law will go into effect October 1, 2009.

Please contact your Savitz consultant if you have questions.