

CLIENT ALERT: New Maryland Law Requires Employers To Allow Employees To Use Paid Time Off For Various Types Of Leaves

Following the lead of California and New Jersey, the state of Maryland recently enacted legislation that allows employees to take paid leave to care for an ill family member. Governor Martin O'Malley signed the "Flexible Leave Act" ("FLA") into law on May 22, 2008. The law becomes effective on October 1, 2008, and covers employers with fifteen (15) or more employees. The FLA mandates that employers allow workers to use any "earned leave with pay" to care for an ill member of their immediate family (spouses, children or parents). The FLA defines "leave with pay" as vacation, sick and compensatory time. It is important to note that the employees may elect the "type and amount" of earned "leave with pay" to use when taking time off from work for an FLA reason. The law does not, however, provide additional benefits to employees who are covered by collective bargaining agreements or employment policies that afford equal or greater benefits. In addition to giving employees access to accrued "leave with pay" to care for immediate family members, employers are prohibited from discriminating against workers who exercise their rights under the FLA. The new legislation has received criticism for its ambiguity. For instance, employees are permitted to use accrued time to attend to the "illness" of an immediate family member; however, the Maryland legislature failed to define the term "illness." As a result, employees can arguably access their rights under the FLA when caring for a family member with a minor affliction. Moreover, as the law fails to define "child," employees may attempt to use accrued paid-time to attend to the illness of an adult child. Various opponents of the law have vowed to lobby for modifications before it becomes effective in October.

Employers with operations in Maryland should take care to begin to review their employment practices and policies in preparation for the FLA.

Jaclyn Kugell is an attorney with Morgan, Brown & Joy, LLP and may be reached at (617) 523-6666 or at jkugell@morganbrown.com. Morgan, Brown & Joy, LLP focuses exclusively on representing employers in employment and labor matters. This article was prepared by Ms. Kugell and Peter Mee, a law student at Northeastern University School of Law.

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