# In Growing Trend, Maryland Becomes the Latest State to Mandate Paid Family and Medical Leave

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Employers in Maryland will soon have to fund and administer a new paid leave benefit to employees in the state. Last week, Maryland's legislature overrode a veto from Governor Larry Hogan to push through the Time to Care Act, S.B. 275 (the "Act"), which provides paid family and medical leave for private-sector workers statewide.

The legislation requires employers to offer up to twelve (12) weeks of paid time off for any of the following purposes:

- to tend to a new child within the first year after birth or placement through foster care, kinship care, or adoption;
- for the employee's own serious health condition;
- to tend to the serious health condition of a family member; or
- for qualifying exigencies related to a family member's military service.

Moreover, some employees could be entitled to up to twenty-four (24) weeks of paid time off in a single year. Employees may qualify for an additional twelve weeks of paid time off if, after exhausting the initial twelve weeks to tend to a new child, the employee needs leave due to their own serious medical condition, or vice versa.

Paid leave under the Act will be funded through a combination of employee and employer contributions to the State's Family and Medical Leave Insurance Fund at rates to be determined by the Maryland Department of Labor. These payroll taxes will begin on October 1, 2023.

Benefits under the Act will account for up to 90% of an employee's average weekly wages (less for high earners), up to a maximum of $1,000 per week. Employees may begin taking leave pursuant to the Act on January 1, 2025.

While the new paid leave will run concurrent with any applicable leave under the federal Family and Medical Leave Act ("FMLA"), eligibility requirements under Maryland's law are significantly lower than under the federal law. To qualify for unpaid FMLA leave, employees must work 1,250 hours in the year immediately preceding the use of leave for an employer who employs 50 or more employees within a 75-mile radius of the employee's worksite. Maryland employees need only work 680 hours in the year preceding the use of leave in order to qualify for paid leave under the Act. Moreover, the applicability of the Act is not limited by employer size. This means that employees will be eligible for paid leave under Maryland's law sooner, and more employers will be covered, than

under the federal law. Notably, however, employers may require employees to exhaust all available paid time off that is not required by law prior to utilizing any paid leave under the Act.

Maryland now joins a group that includes nine states and the District of Columbia in adopting paid family leave for private-sector employees. This group is likely to grow in the near future as Delaware is also considering similar legislation.

Employers in Maryland should review their existing leave policies, begin planning for compliance with these new requirements, and prepare for the anticipated uptick in requests for leave once the Act takes effect.

**For more information, please contact a member of Benesch's Labor & Employment Practice Group.**

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