Summary of Leave Law Changes

Private Employer Sector

For the period covering: August 2014

sedgwick

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legal requirements or as an update to your Company's attendance and/or leave policies. We recommend you consult with Legal Counsel to determine what changes, if any, should be applied to Company Policy.

California

Emergency Rescue Personnel – Proposed

AB2536. Enrolled and presented to the Governor: August 21, 2014. Representative: Mullin.

As it currently exists, California law prohibits employers from discharging or discriminating against employees for taking time off to perform emergency duty as a volunteer firefighter, reserve peace officer, or emergency rescue personnel. "Emergency rescue personnel" is currently defined to include an officer, employee, or member of a political subdivision of the state, or of a sheriff's department, police department, or a private fire department. If passed, this bill would expand the definition of "Emergency rescue personnel" to include an officer, employee, or member of a disaster medical response entity sponsored or requested by the state.

This bill also would require an employee who is a health care provider to notify his or her employer at the time the employee becomes designated as emergency rescue personnel and at any time the employee learns that he or she will be deployed as a result of that designation.

This bill can be reviewed by visiting here.

California

California Family Rights Act – Proposed

AB1562. Created: January 29, 2014. Representative: Gomez.

The California Family Rights Act (the "CFRA") provides that an eligible employee may take up to 12 workweeks of unpaid protected leave during any 12-month period (1) to bond with a child who was born to, adopted by, or placed for foster care with, the employee, (2) to care for the employee's parent, spouse, or child who has a serious health condition, as defined, or (3) because the employee is suffering from a serious health condition rendering him or her unable to perform the functions of the job.

An "eligible employee" is an employee with more than 12 months of service and at least 1,250 hours of service during the previous 12-month period. If passed, this bill would change the term "eligible employee" to "entitled employee." This bill also would expand the definition of "entitled employee" to include public or private school employees who, during the previous 12-month period, have served at least 60% of the hours of service that a full-time employee is required to work in a school year.

The CFRA also permits an employer to refuse to reinstate an employee under specified circumstances, such as when the employee is a "key employee." This bill would exempt public and private school employees from this reinstatement exception.

This bill can be reviewed by visiting here.

Illinois

Illinois Human Rights Act – Pregnancy Discrimination – Passed

Public Act 98-1050. Signed: August 26, 2014.

Illinois Governor Pat Quinn has signed into law HB 8, which amends the Illinois Human Rights Act (the "Act") to affirmatively add pregnancy as a protected characteristic under the Act. The amendments define pregnancy to include "pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth."

The new law provides that it is a violation of civil rights for an employer to refuse to provide reasonable accommodations for an employee for conditions related to pregnancy, childbirth, or related medical conditions, if she so requests, with the advice of her health care provider. The term "reasonable accommodations" means actions which would permit such an employee to perform in a reasonable manner the activities involved in the job or occupation including an accessible worksite, acquisition or modification of equipment, job restructuring, and modified work schedule. Specific examples of reasonable accommodations outlined in the amendments include, but are not limited to: more frequent or longer bathroom breaks, seating, assistance with manual labor, light duty, accessible worksites, job restructuring, a reassignment to a vacant position, and/or time off to recover from childbirth and leave required by the employee's pregnancy, childbirth or related conditions.

A reasonable accommodation does not include those actions that would impose an undue hardship on the business. However, an employer must demonstrate "undue hardship" in order to refuse to provide a reasonable accommodation. Further, an employer may not force a protected employee to accept an accommodation that she did not request or to which she did not agree, nor may it force the employee to take leave if another reasonable accommodation can be provided.

The employer may request documentation from the employee's health care provider concerning the need for the requested reasonable accommodation to the same extent documentation is requested for conditions related to disability if the employer's request for documentation is job-related and consistent with business necessity.

The amendments apply to all Illinois employers and virtually all employees, full-time, part-time, and probationary. The amendments become effective on January 1, 2015.

This law can be reviewed by visiting here.