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## Is Federally Mandated Paid Leave on the Horizon?

If two bills recently introduced into Congress become law, many employers will be required for the first time by federal law to provide paid sick and vacation leave. Given the current political climate in Washington, the expectation is that both bills may be advanced in Congress in the near future. However, because the bills would impose additional costs and administrative burdens on businesses during an economic recession, significant opposition to the proposed legislation is also likely.

### Healthy Families Act

On May 18, 2009 Representative Rosa DeLauro (D-CT) introduced into the House of Representatives the "Healthy Families Act," H.R. 2460. The Healthy Families Act, versions of which had been introduced in previous sessions of Congress, seeks to require certain employers with more than 15 employees to allow their employees to earn one hour of paid sick leave for every 30 hours they work, up to at least 56 hours of paid sick leave per year.

An employee could use the paid leave to meet his or her own medical needs or to meet the medical needs of certain family members. In addition, much like the District of Columbia's Accrued Sick and Safe Leave Act, the federal bill also would require paid sick leave for certain absences related to domestic violence, sexual assault and/or stalking.

Like the Family and Medical Leave Act, the Healthy Families Act also has provisions addressing employer and employee notice requirements, medical certification obligations, recordkeeping rules, and rules designed to protect the privacy of an employee's health information.

### Paid Vacation Act

Following on the heels of the Healthy Families Act, on May 21, 2009, Representative Alan Grayson (D-FL) introduced the "Paid Vacation Act," H.R. 2564. This bill seeks to amend the Fair Labor Standards Act to require that employers with 100 employees or more provide at least one workweek of paid vacation leave per 12-month period to eligible employees.

Three years after the bill's enactment into law, the same employers would be required to provide two workweeks of paid vacation per year, and employers with 50 or more employees would need to provide at least one workweek per year.

Any employee working at least 1,250 hours per year would be eligible for the paid vacation leave after one year of service. The bill clarifies that "paid vacation" means time off distinct from sick leave and other types of leave that may be required by law.

### Implications For Employers

President Obama has been a strong supporter of earlier versions of the Healthy Families Act and similar bills. Given the administration's past support for such bills and the current congressional dynamic, the expectation is that both Acts could be pushed forward in the Congress in the near future.

As noted, however, significant opposition to the bills is also likely. "Congress could not pick a worse time to impose untested and costly new mandates on U.S. employers," Lisa Horn, chair of the National Coalition to Protect Family Leave (NCPFL) and an employee of the Society for Human Resource Management's Government Affairs Department, has been reported warning. "Thousands of American companies are already struggling to avoid layoffs, meet payroll and maintain benefits during the gravest economic crisis since the Great Depression. The costs associated with this mandate will force companies to increase layoffs, reduce wages and cut important employee benefits."

The National Small Business Association also has warned that, although the Paid Vacation Act does not directly affect small businesses, many of them might artificially cap their hiring at the 50- to 100-employee level to avoid the costs of mandatory paid vacation time.

If ultimately signed into law, the Paid Vacation Act and the Healthy Families Act will make a review of (and modification of) existing leave policies, procedures, and paperwork essential for many employers. Multi-state employers, in particular, can expect increased administrative burdens as they seek to integrate the new federal law requirements into an already complex patchwork of state and federal leave requirements affecting their existing business practices.

Attorneys in Venable's Labor and Employment Group will continue to monitor these bills and will be ready to assist clients as any new rules take affect.

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