



Employment Law News Alert

Informing clients and friends of the firm about legal trends, news or items of interest.

ADVOCACY ACTION ALERT

Healthy Families Act Introduced to Congress on May 18, 2009



The Healthy Families Act, the “Act,” if passed, would require certain employers, who employ 15 or more employees for 20 or more workweeks in a year, to provide a minimum paid sick leave of: (1) seven (7) days annually for those who work at least 30 hours per week; and (2) a prorated annual amount for those who work less than 30 but at least 20 hours a week, or less than 1,500 but at least 1,000 hours per year. Employees may use this paid sick leave for the following reasons:

1. An absence due to the physical or mental illness or injury or other medical condition of the employee;
2. An absence to obtain a medical diagnosis of the employee;
3. An absence to care for a child, parent, spouse, or “any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.”

Under the Act, employees may request paid leave verbally or in writing and when the leave is foreseeable, must provide seven (7) days advanced notice of the need for the leave. When the leave is unforeseeable the requirements mirror the FMLA and require notice “as soon as practicable.” The Act provides that employees will carry paid sick leave from year to year but may not accrue more than a total of seven (7) days of leave. Paid sick leave may be used in hourly increments or in the smallest increment used by the time-clock/payroll system.

Current Leave Policies

If the Act passes, employers with current leave policies will not have to modify their current policies so long as the employer’s policy mirrors the provisions of the Healthy Families Act. Should the Healthy Families Act pass, an employer may not eliminate or reduce leave in existence on the date that this Act is enacted to comply with the Act.

The Act also includes posting and notice requirements and provides for civil penalties and anti retaliation and discrimination provisions. The Act also allows a variety of damages including lost wages and benefits, interest, liquidated damages, and/or reinstatement. Successful plaintiffs may also be entitled to attorney’s fees and costs.

Call to Action!

SHRM members should be proud of their strong and successful advocacy efforts – EFCA is just one example of what a SHRM members can accomplish! We are now being called upon to exert those same advocacy efforts with respect to the Health Families Act. “SHRM believes a paid sick leave mandate as outlined in the Healthy Families Act would limit an employer’s flexibility in designing a benefits package that meets the needs of their unique workforce, resulting in significant costs for employers as well as a potential loss to employees who prefer other benefits rather than paid sick leave. As such, we are opposed to the Healthy Families Act, as currently written.” SHRM Government Affairs. SHRM provides valuable advocacy resources and tools on the SHRM.ORG website; particularly HR Voice provides a forum to communicate your opposition to this Act with your elected officials. Please also visit the HR Florida Group on LinkedIn.com to see ongoing government affairs updates and information posted by our Associate, Carrie Cherveney.

The Schwarzberg & Associates Employment Law Compliance and Defense Practice Group is here to help you defend unemployment claims, develop policies, procedures, and proactive responsive measures to these and other employment related issues. We also provide our clients with our employment law “hotline” which allows our clients, for a flat fee, to ask our employment attorneys general questions to assist in their compliance efforts. Please do not hesitate to contact a member of the Schwarzberg & Associates Employment Law Group: Steve Schwarzberg, Carrie Cherveney, Kristin Ahr, Kerry Raleigh, or Grace Murillo at 561-659-3300 to obtain more information about our firm and its various employment law compliance and defense services.



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