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## Start Spreading the News: Paid Family Leave and \$15 Minimum Wage Coming to New York

On April 4, 2016, New York Governor Andrew Cuomo signed legislation which will, over the next few years, grow into the nation's most comprehensive paid family leave program. New York employees will be eligible for 12 weeks of partially paid leave to care for a new child, a family member with a serious health condition, or to relieve pressures caused by a family member being called into active military service. These provisions were part of a budget deal which included a \$15 minimum wage for New York City and other parts of the state, so New York employers should begin bracing for yet another round of workplace changes.

Benefits under the new paid family leave law will be rolled out in phases. Starting January 1, 2018, full and part-time employees in New York who have worked for their employer for at least 6 months will be eligible for up to 8 weeks of leave within any 52-week calendar period, and will receive 50% of their weekly wage or 50% of the state's average weekly wage (approximately \$630), whichever is lower. On January 1, 2019, benefits increase to 10 weeks of leave at 55% of the employee's average weekly wage, capped at 55% of the state's weekly average. Then, on January 1, 2020, employees will still be eligible to take 10 weeks of leave, but at 60% of their average weekly wage, capped at 60% of the state average. The law will be fully implemented by January 1, 2021, at which point employees will be eligible for up to 12 weeks of leave at 67% of their weekly wage,

or 67% of the statewide average weekly wage, whichever is lower.

Paid family leave must be subtracted from the employee's temporary disability entitlement (26 weeks), and employees may not simultaneously collect benefits under both programs. Additionally, paid family leave will run concurrently with, not separately from, any leave taken under the Family and Medical Leave Act (12 weeks). Employers must allow, but may not require, employees to use any accrued vacation and personal leave during the paid family leave period in order to receive their full wages. Finally, like the FMLA, an employee returning from paid family leave must be restored to the position he or she held when the leave commenced or, at the very least, to a comparable position with comparable terms, conditions, pay, and benefits.

As with the temporary disability provisions of New York's Workers' Compensation Law, paid family leave will operate as an insurance-style program funded through nominal weekly payroll deductions, starting at \$0.70 and gradually increasing to \$1.40 per employee. As such, employers can take comfort in knowing they will not be required to fund the leave directly on a pay-as-you-go basis.

Employers will, of course, be required to fund the mandatory minimum wage changes which come hand-in-hand with the new law. As of December 31, 2016, the minimum

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wage in New York City will increase to \$10.50 an hour for employers with 10 employees or less, and \$11 per hour for employers with more than 10 employees. On December 31, 2017, those numbers will increase to \$12 and \$13 per hour, respectively, followed by \$13.50 and \$15 per hour as of December 31, 2018. By December 31, 2019, the minimum wage in New York City will be \$15 per hour for all employers, regardless of size. For employers in Nassau, Suffolk, and Westchester Counties, the minimum wage will be set at \$10 per hour on December 31, 2016, after which it will increase \$1 each year until reaching \$15 per hour on December 31, 2021. As for the rest of New York State, the minimum wage will increase to \$9.70 on December 31, 2016, and then \$0.70 per year until reaching \$12.20 on December 31, 2020. Thereafter, the minimum wage in these other areas will increase in accordance with a schedule to be determined by the State.

New York's paid family leave and minimum wage models are bound to inspire other states or localities to do the same, or something similar, so employers outside of New York should be on the lookout for wage-related legislative initiatives in their local jurisdictions. In the meantime, New York employers should be gearing up for the necessary adjustments by coordinating with their payroll providers, creating revised leave policies, and training managers and human resources personnel about the changes in order to ensure compliance.

*This publication is a summary of legal principles. Nothing in this article constitutes legal advice, which can only be obtained as a result of a personal consultation with an attorney. The information published here is believed accurate at the time of publication, but is subject to change and does not purport to be a complete statement of all relevant issues.*