

NEW YORK LEGISLATURE EXPANDS THE NEW YORK PAID FAMILY LEAVE PROGRAM

Labor & Employment Alert
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On the last day of the 2018 Legislative Session, New York lawmakers passed two bills that would expand the New York Paid Family Leave (NYPFL) program. Both measures are subject to Governor Cuomo's approval before they can become law.

The first bill would make NYPFL available for bereavement upon the death of an employee's family member. Under NYPFL, "family member" includes the employee's child, parent, parent-in-law, grandparent, grandchild, spouse, or domestic partner. To take bereavement NYPFL, an employee would need to provide notice to his or her employer "as soon as practicable" under the circumstances. The employee would also need to file a claim with the NYPFL insurance carrier, including filing the family member's death certificate, to receive the monetary benefits of NYPFL. Like all other NYPFL leave benefits, bereavement NYPFL would only be available to "eligible employees," meaning an employee whose regular schedule is 20 or more hours per week and who has worked for the employer for at least 26 consecutive weeks or whose regular schedule is less than 20 hours per week and has worked at least 175 days for the employer.

The second bill, the Living Donor Protection Act of 2018, expands the definition of the term "serious health condition" under the NYPFL law to expressly include "transplantation preparation and recovery from surgery related to organ or tissue donation." This means that an employee would be able to take NYPFL to care for a family member (as defined above) who undergoes transplantation preparation and/or donation-related surgery. Interestingly, while the stated intent of the bill is, in part, to provide the benefits of the NYPFL law to organ and tissue donors, NYPFL is not available for the employee's own serious health condition. Therefore, the change in the definition of serious health condition under this bill does not create a right for an employee to take NYPFL to prepare or recover for his or her own transplantation preparation or donation-related surgery.

If these bills are signed into law by the Governor, New York employers will be required to further modify their NYPFL policies and procedures to incorporate leave for bereavement and organ donation, and train managers on these new requirements.

If you have any questions regarding these potential expansions of the NYPFL law or employers' obligations under the existing NYPFL program, please contact one of our Labor & Employment attorneys.

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