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Paid family and medical leave has been a topic of discussion and near the top of the wish list of employee advocates since the passage of the unpaid Family and Medical Leave Act (FMLA) in 1993. Paid leave has had the support of numerous Democratic presidential candidates and most Democrats in Congress. It has consistently been part of the Democratic Party's platform in presidential elections. In recent years it has begun to garner support from Republican office-holders as well.

As a Republican presidential primary candidate Donald Trump called for a national

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closely with Ms. Trump, held congressional hearings on the issue in an effort to generate action. Senator Rubio went so far as to propose legislation, the "Economic Security for New Parents Act", which would provide for two months of paid parental leave. Under his proposal new parents could delay taking their Social Security benefits in exchange for two months of paid benefits.

Since then there have been at least three other paid federal leave proposals from both Democrats and Republicans. The proposals made little progress in Congress. However, the fact that the issue has generated even bi-partisan proposals for some form of paid family leave substantially raises the prospect of future action. We may see legislation on such paid leave after the election no matter which party controls the White House and Congress.

There is little question that a paid leave program enabling new parents to balance the competing demands of work and family is an attractive benefit. In fact, a recent poll found that 54% of Americans think that the government should require employers to provide 12 weeks of paid family and medical leave. Only 29% of respondents disagreed. The obvious popular support and increasing political pressure from both sides of the aisle for some type of paid leave program makes it likely that federal action is more probable than not.

A recent Trump budget proposal, as part of the Administration's focus on support for working families, included a provision calling for access to paid family leave for all new parents. It proposed at least six weeks of paid family leave to new mothers and fathers, including adoptive parents. It did not include paid leave for their own or a family member's health issues. Congressional Democrats responded with a proposal that addresses both issues and would give families 12 weeks paid leave. Neither the Administration proposal nor that from the Democrats has made progress thus far.

How such paid leave would be funded remains a thorny issue. In addition to

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In recent years, it has become increasingly common for states to step in and adopt workplace regulations when the federal government fails to act. State-mandated minimum wages is one good example. Increases in state minimum wages have exploded in recent years. This is partly due to the failure of the Department of Labor to raise the federal minimum wage above the current \$7.25 per hour.

There has been uniform agreement for some time that it is seriously outdated. The “Fight for \$15” movement has also played a role in causing states to take action. In addition, the inability to attract and retain employees substantially reduced the normal employer opposition to raising the minimum wage. Most states today have a minimum wage substantially higher than \$7.25 per hour.

The same type of state action has been true on the issue of paid family and medical leave as well. More than 24 states are currently working on their own paid family leave policies, and 7 have in fact enacted legislation, with the list of additional states growing rapidly. In June, 2019, Connecticut became the 7th state to sign into law a paid family and medical leave benefit for both public and private employees.

It is being cited as among the most generous in the country. Employees became entitled to 12 weeks of paid leave as well as two additional weeks for “a serious health condition resulting in incapacitation that occurs during a pregnancy”. Employees taking such leave are entitled to as much as 95% wage replacement. The other states to have enacted such laws are California, Massachusetts, New Jersey, New York, Rhode Island and Washington. Washington D.C. has similarly enacted a paid leave law.

The number of weeks of paid leave each state law allows vary, as do the dates upon which benefits may begin to be taken. For example, the Washington D.C. law provides 2 to 8 weeks of paid leave which can be taken as of July 1, 2020. The

California paid leave, already being utilized, grants up to six weeks of benefits. On

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The Rhode Island plan is already providing 4 weeks of leave. The Washington plan, which began paying benefits on January 1, 2020, provides up to 12 weeks of paid leave with two additional weeks of paid leave for pregnancy-related complications. It should also be noted that in a significant expansion of the paid leave concept, in May, 2019 Maine passed a law that provides employees 40 hours of paid leave for any reason, not limited to family or medical reasons. A virtually identical law was passed in June, 2019 in Nevada.

The dollar amount of the benefits paid during the leave varies widely from state to state. For example, in Connecticut it is a multiple of the state's minimum wage, limited to a maximum dollar amount. Under other state plans, benefits are structured as a certain percentage wage replacement to a maximum dollar amount. No state plan has provided for full replacement of lost wages.

However, given all the talk about free health care, free college tuition, free child care and similar ideas in the presidential election cycle, it is quite possible that we could soon see support for fully paid sick leave benefits by either the federal or state government. There is no question that more states will move in the direction of mandatory paid family and medical leave in the near future.

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Richard D. Alaniz is a partner at Alaniz Law & Associates, a labor and employment firm based in Houston. He has been at the forefront of labor and employment law for over forty years, including stints with the U.S. Department of Labor and the National Labor Relations Board. Rick is a prolific writer on labor and employment law and conducts frequent seminars to client companies and trade associations across the country. Questions about this article, or requests to subscribe to receive Rick's monthly articles, can be addressed to Rick at (281) 833-2200 or ralaniz@alaniz-law.com.

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