



Weekly Wright Report (8/14/17)

FAMILY LAW

Maryland Courts Recognize *De Facto* Parents

Maryland now recognizes *de facto* parents as distinctly different from other third parties in custody and visitation matters and the Court of Appeals has granted *de facto* parents the right to contest and request custody and visitation of a child. A *de facto* parent is generally a party who claims custody or visitation rights with and to a child based upon that party's relationship with a non-biological, non-adopted child. In the recent case of *Conover v. Conover*, the Court set forth the following factors to determine whether someone is a *de facto* parent: (1) the legal parent's consent to the relationship between the third party and the child, (2) the parental functions the third party performs for the child, and (3) the parent-child bond between the third party and the child. If a party is a *de facto* parent, the *de facto* parent no longer has to show that the biological parents are unfit or that exceptional circumstances exist in order to have standing to request custody of and/or visitation with a child. Such parents now must only show that the requested custody and/or visitation would be in the best interests of the child. For more information, please call Michelle Gomola at 410-659-1335 or mgomola@wcslaw.com

EMPLOYEE BENEFITS

Help With Student Loans – A New Benefit to Offer Employees?

One of the biggest emerging new benefits from employers is employee student loan repayment. Seeking ways to attract talent by helping to relieve the financial burdens on students recently entering the workforce, many companies are now offering student loan repayment as a benefit for their employees. Payments are generally made either directly to the employee or directly to the loan service provider on the employee's behalf. Employers can't currently claim a deduction for payments made to employee student loans and these payments are considered taxable income for the employee. Several pieces of proposed legislation are currently pending in Congress to adjust this situation including

- The Higher Education Loan Payments (HELP) for Students and Parents Act (allow employers to make up to \$5,250 per year in employee student loan repayments and up to \$5,250 per year in contributions directly to an employees' tuition savings account)
-

{4130015v. (99996.00005)}



- The Student Loan Repayment Act (employers would be provided a 3-year business tax credit equal to 50% of startup costs to create a student loan repayment program)
- The Student Loan Repayment Assistance Act (provides a tax credit for employer-paid student loan repayments made directly to the lender)
- The Retirement Improvement and Savings Enhancement (RISE) Act of 2016 (allows employers to make matching contributions to an employee's 401(k) or SIMPLE IRA account based on the amount of the employee's student loan repayments).

For more information on creative employee benefits, ask Don dwalsh@wcslaw.com

EMPLOYMENT LAW & WORKPLACE ACCOMMODATIONS

Can a Request to Telecommute be Denied?

A legal decision just came down about telecommuting as a possible accommodation under the Americans with Disabilities Act (ADA) which has a valuable tip for those of you who may want to reject it or even avoid the possibility of considering the request. These requests have been more frequent with several of our clients. The Fifth Circuit recently upheld the dismissal of a lawsuit against an employer who denied an employee's request to telecommute on the grounds that regular attendance at work is an essential function of her job as a litigation attorney. Credeur v State of Louisiana, 16-CV-30658 (5th Cir. 2017). Given the modern work realities and the evolution of electronic communications, the decision emphasized that written job descriptions identifying the importance of attendance as an essential job function are a growing need. "[C]onsideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job."

Summer (or anytime for that matter) is always a great time to time to pull out your job descriptions and make sure they're reflective of the tasks your employees are performing and include all of the physical requirements of the position. For more information, ask Laura lrubenstein@wcslaw.com or Paul pevelius@wcslaw.com