

One Minute Memo®



New Parental Leave Law Extends Massachusetts Maternity Leave Act To Men

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On January 7, 2015, during one of his final days in office, Governor Deval Patrick signed into law the Parental Leave bill, which amends and replaces the Massachusetts Maternity Leave Act (“MMLA”) and greatly expands its scope.

The most significant aspect of the new law is that it extends to men the eight weeks of job-protected leave for the birth or adoption of a child previously available only to female employees under the MMLA. This expansion eliminates an inconsistency between the MMLA and an interpretation of the law announced by the Massachusetts Commission Against Discrimination (“MCAD”) in 2008, indicating that employers who provide such leave to female employees only, and not to male employees, would likely violate state and federal anti-discrimination laws even though acting in compliance with the MMLA.

The new law also provides that where an employer allows an employee to take parental leave for a period lasting longer than eight weeks, the employee retains his or her right to job reinstatement and other benefits for the duration of the leave, *unless* the employer clearly informs the employee in writing prior to the start of the parental leave and prior to the start of any extension of that leave that taking longer than eight weeks of leave will result in denial of reinstatement or a loss of other rights or benefits. This mandate overrides a contrary decision by the Supreme Judicial Court in 2010 in *Global Naps v. Awiszus*, in which it held that the protections of the MMLA only applied during the first eight weeks of a maternity leave.

The law provides that if both parents work for the same employer, they will only be entitled to an *aggregate* of eight weeks of leave for the birth or adoption of the same child. The new law also extends parental leave to cover the placement of a child with an employee pursuant to a court order. Employees are generally required to provide two weeks’ notice of an intention to take parental leave, unless for reasons beyond their control such notice is not possible, in which case notice must be provided as soon as practicable. Employers maintain the discretion to decide whether the parental leave is paid or unpaid, subject to the employer’s other paid leave policies.

Employers are required to keep posted in a conspicuous location a notice to employees describing the parental leave law and the employer’s policies relating to the new law.

The new law takes effect on April 7, 2015. Massachusetts employers with six or more employees should review their parental leave policies to ensure that they comply with the requirements of the new law, while larger employers should be careful to comply with their obligations under the federal Family and Medical Leave Act as well.

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