

Massachusetts Replaces Maternity Leave Law with Parental Leave Law

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On January 7, 2015, Governor Patrick signed into law an expanded Parental Leave bill. Starting April 7, Massachusetts employers with at least six employees will be obligated to provide up to eight weeks of parental leave for the birth or adoption of a child or for a child placed with the employee by court order. The new law replaces the Commonwealth's Maternity Leave Act, which on its face only extends such leave to female employees. However, despite the wording of the to be replaced Maternity Leave Act, the Massachusetts Commission Against Discrimination has consistently enforced the law as applying equally to men and women.

Eligible employees under the expanded parental leave law are those who have completed the shorter of their probation period or three months of employment. Thus, for those employers who are also subject to the federal FMLA, employees will become eligible for leave under the Massachusetts law at least nine months before they become eligible for any leave under the federal FMLA.

Leave may still be without pay and the employee is entitled to reinstatement to his or her same or a similar position upon return to work. These protections apply to leaves of up to eight weeks. Please note, though, that if an employer permits a leave longer than eight weeks, the employee will retain reinstatement rights for the extended period of the leave, unless the employer notifies the employee prior to the beginning of the leave that reinstatement is not guaranteed after the first eight weeks of leave. Such written notice must be given both at the beginning of the leave and again for any subsequent extension of the leave.

The new law also provides that if any two employees of the same employer are the parents to the same child, those employees are only entitled to one aggregate period of eight weeks of leave between them.

Employers with Massachusetts employees should update their leave policies as necessary. If you have any questions, please contact Peter Bennett (pbennett@thebennettlawfirm.com) or Rick Finberg (rfinberg@thebennettlawfirm.com).

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