

Massachusetts Now Requires Employers to Provide Domestic Violence Leave

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Massachusetts has enacted a law requiring employers with 50 or more employees to grant employees “domestic violence leave.” The law, entitled “[An Act \[R\]elative to \[D\]omestic \[V\]iolence](#),” was approved by Governor Deval Patrick on August 8, 2014, and took effect immediately.

Under this new law, employers with 50 or more employees must provide employees with up to 15 days of paid or unpaid leave in any 12-month period if:

- the employee, or a family member of the employee, is a victim of “abusive behavior”;
- the employee is not the perpetrator of the abusive behavior against the employee’s abused family member; and
- the employee is using the leave from work to do any of the following:
 - seek or obtain medical attention, counseling, victim services, or legal assistance;
 - secure housing;
 - obtain a protective order from a court;
 - appear in court or before a grand jury;
 - meet with a district attorney or other law enforcement official;
 - attend child custody proceedings; or
 - address other issues directly related to the abusive behavior against the employee or family member of the employee.

Employees may not be discharged or otherwise discriminated against in any way for exercising their right to take domestic violence leave. The taking of leave will also not result in the loss of any employment benefit accrued prior to taking the leave, and employees will be entitled to their original job, or an equivalent position, upon return from leave.

Employees must provide employers with advance notice of the need for domestic violence leave, except in cases of imminent danger to the health or safety of the employee. In the case of imminent danger, the employee, a family member of the employee, or a professional assisting the employee (e.g., counselor, social worker, shelter worker) must give notice to the employer within three days prior to or after the leave, confirming that the leave was (or will be) taken pursuant to this law.

The law does leave a few aspects up to the employer's discretion. First, the employer has the sole discretion to determine if domestic violence leave will be paid or unpaid, assuming it is applied in a nondiscriminatory matter. Second, the employer decides whether an employee must take all available paid time off (i.e., sick, personal, and vacation days) before requesting domestic violence leave. And, third, the employer decides if it will require an employee to provide documentation substantiating the need for leave under this new law. All information related to an employee's domestic violence leave, including any requested documentation, must be kept confidential by the employer, with very few statutory exceptions.

Notice Requirement

Employers with 50 or more employees must notify employees of their rights and responsibilities under the law, including those related to notification requirements and confidentiality.

Penalties

Failure to comply with this law can have harsh consequences. The Attorney General is empowered to enforce the law and seek injunctive relief or other necessary equitable relief. An employee can also seek injunctive relief, or bring a civil suit seeking lost wages, benefits, and other damages—which can include treble damages and attorneys' fees.

What Massachusetts Employers Should Do Now

- Notify employees of their right to domestic violence leave.
- Adopt a written policy, which should be incorporated into the employee handbook, outlining domestic violence leave, including the employer's decision as to whether the leave will be paid, whether employees must first use all accrued paid time off before requesting domestic violence leave, and whether documentation of the need for leave will be required.

- Train managers and human resources personnel that employees are entitled to domestic violence leave and how to handle requests for such leave.

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