



PARENTING LEAVE ISSUES IN THE WORKPLACE

INTRODUCTION

New laws have enabled working parents, in certain circumstances, to take time off to care for infants and children without the fear of job loss. In some situations, parenting leave laws extend to men as well as women. These laws enable employees to balance work and family life by taking unpaid leave to care for their children. This pamphlet offers parents some basic information about leave rights. Specific questions about leave issues require the service of an attorney.

MATERNITY LEAVE UNDER MASSACHUSETTS LAW

Parent's rights under these laws depend upon how many employees work for the employer. If a business has between 6 and 49 employees, Massachusetts Maternity Leave law provides certain female employees may take an eight week leave upon giving birth, adopting a child under the age of 18 or adopting a mentally or physically disabled person under the age 23. The Massachusetts law extends these rights only to female employees. Prior to taking maternity leave, the employee must work for three consecutive months and must give at least two weeks of notice of her expected departure date and when she intends to return.

PARENTAL LEAVE UNDER FEDERAL LAW

Under federal law, Massachusetts employers with 50 or more employees, including "part-timers," must provide a much broader range of parental leave entitlements. The federal Family and Medical Leave Act allows up to 12 weeks of unpaid leave (or paid leave under limited circumstances) each year for eligible male or female employees, for one or more of the following reasons:

- for the birth and care of a newborn child;
- for placement with the employee of a child for adoption or foster care; and
- to care for his son or daughter with a serious health condition.

You are eligible for these benefits if you have worked at least twelve months for your current employer; have worked at least 1250 hours during the last 12 months; and work for an employer with at least 50 employees. You must give your employer at least 30 days notice of intent to leave if the need for a leave is foreseeable. Where it is not possible to give as much as 30 days notice, you must give notice as soon as practicable. This means within one or two business days after you become aware of the need for leave. Eligible employees are entitled to return to their jobs at the end of their leave. Although, "key" employees - the highest paid 10 percent of the employer's workforce - may be denied job restoration.

LEAVE FOR ILLNESS OR INJURY OF A CHILD

Under the Family and Medical Leave Act, eligible employees whose workplace employees at least 50 people may take time off to care for a child who has a "serious health condition." These employees may take up to 12 weeks of leave to care for their child with an illness, injury or impairment involving any of the following:

- Inpatient care;
- Absence from school for more than three calendar days and continuing treatment by health-care provider; or
- Continuing treatment by health-care provider for a chronic or long-term condition.

CONTINUITY OF HEALTH BENEFITS AND RESTORATION OF JOB RIGHTS

Under Massachusetts law, an employer with six to 49 employees must maintain health benefits for female workers taking maternity leave. The employer does not have to pay for health benefits during maternity leave but must allow them to be maintained and/or fully paid by the woman on leave. Women who return from maternity leave under these circumstances must be restored to the same position held prior to taking leave or to a similar position, unless other comparable employees were laid off during the leave.

Federal law provides greater rights for eligible male and female employees. Employers with 50 or more employees must maintain eligible workers health insurance benefits during the leave the employer must also continue to pay the health insurance premiums paid all the employee was on the job. The employee must pay the share that he or she had been paying while working.

This pamphlet is issued as a public service of the Massachusetts Bar Association and does not constitute legal advice, which can only be given by an attorney. The contents of this pamphlet pertain only to the laws of Massachusetts at the time of publication.

Legal assistance is available through the Massachusetts Bar Association services listed below.

■ Dial-A-Lawyer

Call and speak to an attorney, free of charge, on the first Wednesday of every month.

5:30–7:30 p.m. (617) 338-0610

■ Lawyer Referral Service

Open Monday through Friday, from 9 a.m. to 4:45 p.m., the Lawyer Referral Service helps solve legal problems by referring callers to lawyers or appropriate agencies. The LRS does not offer legal advice. There is no charge to use the service. To contact the LRS, call:

Boston area: (617) 654-0400

Toll-free: (866) MASS LRS (866) 627-7577

TTY: (617) 338-0585

E-mail: LRS@massbar.org

Web site: MassLawHelp.com

■ Legal Fee Arbitration Board

When your attorney's fee is in dispute, call:

Statewide: (617) 338-0552

E-mail: FAB@massbar.org

Web site: www.MassBar.org/LawHelp

■ MassLawHelp.com

Free legal information and online referrals to attorneys is available on the Massachusetts Bar Association's Web site at www.MassLawHelp.com.

■ Speakers Bureau

Whether you're looking to educate your group or class about a particular area of law or trying to add variety to your regular meetings, the Massachusetts Bar Association Speakers Bureau is your solution. Speakers Bureau attorneys are available for free presentations on a wide variety of legal topics.

Statewide: (617) 338-0571

E-mail: communityservices@massbar.org



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