

Massachusetts Enacts Domestic Violence Leave for Employees

On August 8, 2014, Governor Deval Patrick signed legislation (H.B. 2334) regarding leave for employees who are victims (or whose family members are victims) of abusive behavior. Abusive behavior is defined as domestic violence, stalking, sexual assault, or kidnapping. The law applies to employers with 50 or more employees and creates a new category of job-protected leave. The law took effect immediately.

Employers Who Must Provide Leave

Massachusetts employers with fifty (50) or more employees are now required to permit employees to take up to fifteen (15) days of leave from work per year if they or their family members are victims of domestic violence or abuse.

Who is an Employee?

“Employee” is defined as an individual who performs services for and under the control and direction of an employer for wages or other remuneration.

- There is no requisite number of hours an individual must work each week or each year to be considered an employee.
- There is no requirement that an employee work a certain number of months before becoming eligible to take leave.

Leave Requirements

1. Up to fifteen (15) days of leave in any twelve (12) month period.
 - 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.
 - The employee is using the leave from work to:
 - 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.
2. The employer has the sole discretion to determine whether the leave is paid or unpaid.
3. The employer may require an employee seeking leave to exhaust all available annual vacation, personal, and sick time before requesting or taking leave.

Notice of Employee Rights

Covered employers are required to notify each employee of their rights under the law. To satisfy this requirement, employers may need to develop a written policy regarding domestic violence leave and amend their handbooks. In addition, they may need to train managers and human resources professionals regarding this new category of job-protected leave.

Key Points and Next Steps for Employers

As a covered employer:

1. You must comply with these changes immediately.
2. You should update your employee handbooks and adopt a domestic violence leave policy.
 - The law requires you to notify employees of their rights and responsibilities under the law; best practice is to distribute a standalone policy and have employees acknowledge receipt of the policy.
3. You may not discharge or in any other manner discriminate against an employee for exercising their rights under the law. Furthermore, the taking of leave cannot result in the loss of any employment benefit accrued before the date on which the leave began.
4. You should adopt internal procedures for approval and administration of domestic violence leave.
5. To read the full law click here: <https://malegislature.gov/Bills/188/Senate/S2334>

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