

Score One for Dads in Massachusetts: New Law Requires Small Employers To Provide Paternity Leave

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Under a new law signed by the former Massachusetts governor on January 7, 2015—just one day before he left office—fathers in Massachusetts will be guaranteed up to eight weeks of unpaid job-protected paternity leave following the birth or adoption of a child.

The new law expands the scope of Massachusetts's existing maternity leave statute to afford parental leave on a gender-neutral basis. Where both parents work for the same employer, the law affords only eight weeks of leave between the two of them.

While the federal Family and Medical Leave Act already affords up to 12 weeks of unpaid leave following the birth or adoption of a child, the FMLA applies only to businesses with more than 50 employees. The Massachusetts parental leave law applies to employers with six or more employees, so will extend leave rights to male employees of much smaller businesses. The state law also eliminates the one-year-of-service requirement to be entitled to leave under the FMLA. Instead, parental leave must be available to employees who have worked for at least 3 consecutive months as a full-time employee.

The Massachusetts law also provides that if employers agree to extend parental leave beyond the eight weeks under the statute, that extended leave must be treated as job-protected leave. One limited exception to this rule applies where the employer informs the employee in writing and prior to the commencement of any extended leave that taking longer than eight weeks of leave may result in denial of reinstatement rights.

The new Massachusetts law takes effect on April 7, 2015. President Obama recently announced that paid parental leave would be provided to federal employees, and it is likely that other states may soon follow suit with gender-neutral parental leave policies.