

Progress Comes Marginally—Paternity Leave Becomes Law in Bay State; Hold the Applause

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Massachusetts has officially recognized the importance of paternity leave. On April 7, the Bay State updated its

Maternity Leave Act (MMLA), expanding it to include time off for fathers. The new Act Relative to Parental Leave, with its more inclusive title, offers both men and women eight weeks of unpaid leave from employers with six or more employees. Such leave is available for the birth or adoption of a child, or for the placement of a child under the age of 18.

Qualified employees must be full-time workers and have passed their employer's probationary period, not to exceed three months, and must provide two weeks' notice of their intended leave. Two parents at the same job are limited to a total of eight weeks between them.

Employers, upon the new father's return, must restore him to the same position, or one similar (with an exception if there is a similarly qualified individual who had been laid off). Employers may not reduce the father's benefits because of leave taken — no reduction in sick time, vacation, seniority, or pay for example —but that time off can be discounted in calculating such benefits.

Businesses may grant a longer leave. In such cases, these job protections cease at the end of eight weeks only

if the employer informs the employee in writing before the leave is taken. Any violation of this act is a violation of Massachusetts anti-discrimination laws.

The Family Medical Leave Act (FMLA) remains in place with time off for mothers and fathers alike, but is applicable only to employers of 50 or more. This act provides for 12 weeks of unpaid leave for full-time employees of one year or more.

This extension of Massachusetts law to provide for fathers is a step in the right direction. Massachusetts, after all, has a reputation for being a state with progressive policy (e.g., it was the first in the nation to legalize same-sex marriage). Consider, however, the affordability of unpaid leave for the 99%. Whether eight weeks or 12, mothers or fathers, how many new parents have the luxury of foregoing a paycheck for any stretch of time?

California, New Jersey, and the District of Columbia stand alone in the U.S. for offering paid family leave to both men and women. Globally, the U.S. is an embarrassment: Out of 185 countries, the U.S. is one of only three that do not offer national paid maternity leave (the other two are Oman and Papua New Guinea).

For perspective, Iran offers 12 weeks, the Democratic Republic of Congo offers 14, and the United Kingdom offers 40 weeks of paid maternity leave. The U.S. and Massachusetts offer none. Further, there

are 70 countries that offer national paid leave. Iceland provides three months, Finland six weeks, and Kenya two weeks. The U.S. and Massachusetts offer none.

Some may laud Massachusetts for moving toward more family-friendly policy, for expanding the rights of new fathers, and protecting employees of small businesses. Certainly this movement is preferable to the status quo. But any celebration should be tempered until true progress is made, in this state and the nation, toward the support of an employee's responsibilities at home.

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