# CLIENT ALERT: New Massachusetts Parental Leave Law

Massachusetts employers should be familiar with the existing Massachusetts Maternity Leave Act, which provides eight weeks of unpaid leave to eligible full-time female employees for purposes of the birth of a child or adoption. On January 7, 2015, just prior to leaving office, Governor Patrick signed into law the Parental Leave bill, which amends the Massachusetts Maternity Leave Act (MMLA). This new law becomes effective April 7, 2015.

The Parental Leave Law changes the MMLA in a few notable ways. While the MMLA covered only female employees, the Parental Leave Law extends its benefits and rights to male employees as well. Accordingly, employers must now provide both female and male employees with eight weeks of job protected leave for the birth of a child or for the adoption of a child under 18 years old (or under 23 in the case of a child who is physically or mentally disabled).

Eligibility requirements for this leave remain mostly unchanged by the new Parental Leave Law, but the new Law does provide clarification in a few areas. Employees must have worked full-time for three months or for the employer's established probationary period (but not to exceed three months). Employers may request two weeks' notice of the anticipated date of departure for the leave and the intention to return from leave. In the event that an employee is unable to give two weeks' notice because of reasons beyond the employee's control, the employee can be required to provide as much notice as is practicable. The new Law also makes clear that if two employees working for the same employer take leave for the birth or placement of the same child, such leave shall be no longer than a combined eight weeks.

Parental leave may be with or without pay; the employer's policy in this regard should not mandate the use of accrued paid time for such leave, but can allow an employee to use it for the leave if that is the employer's preference. The specific benefits provided by the new Parental Leave Law largely reiterate the MMLA's provisions – employees who take leave must be returned to the same position, or a similar position with regard to status, pay and seniority. Further, the taking of parental leave may not affect the

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employee's right to benefits for which the employee was entitled as of the date leave commenced. During parental leave, benefits should accrue to the extent they accrue during other leaves of absence.

One additional clarification provided by the Parental Leave Law is worth noting. If the employer agrees to provide parental leave for longer than eight weeks, the employer must provide all the rights and benefits provided by the Law unless the employer clearly informs the employee in writing prior to the commencement of the parental leave, and prior to any subsequent extension of that leave, that taking longer than eight weeks of leave will result in the denial of reinstatement or loss of any other rights and benefits.

Employers are encouraged to review their existing leave policies and to consult with counsel regarding any necessary revisions prior to the new Law's effective date in April.

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