

Legal Update Article

Change to Massachusetts Paid Family and Medical Leave Act Vetoed, Current Law Remains In Place

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A provision in the enacted state budget for fiscal year 2023 would have amended the Massachusetts Paid Family and Medical Leave Act (PFMLA) to provide employers and employees more flexibility to use other accrued benefits to supplement paid benefits received from the state. The governor initially returned the legislation to the legislature with a recommendation, rather than accepting the change. The legislature then passed the bill again and returned it to the governor. The governor has not acted on the returned bill. The bill, therefore, as of this date, has not been amended.

Beginning in 2021, nearly all Massachusetts employees are entitled to receive up to 12 weeks of paid family leave to care for a family member or to bond with a new child, and up to 20 weeks of paid medical leave to address their own serious medical issues. Contributions from employers, employees, and the self-employed are collected to finance this paid leave benefit.

Currently, the maximum weekly benefit provided by the state for individuals on PFMLA leave is \$1,084.31. Individuals who earn more than this amount on a weekly basis wishing to supplement this state-paid benefit may use funds from:

1. A temporary disability policy or program of an employer, or
2. A paid family or medical leave policy of an employer (such as a paid parental leave policy).

If the employer participated in the state program, the Department of Family and Medical Leave did not allow employers to supplement the PFMLA benefits with payments from sick leave policies, vacation policies, or general paid time off policies (employers with private plans were not impacted by this policy). Further, if an employee received payments from any of those paid time off policies, the state took the position that it would not pay any PFMLA benefits during the leave.

Under the original amendment in the Massachusetts state budget, employers and employees could supplement the PFMLA benefit payments with “any accrued sick or vacation pay or other paid leave provided under an employer policy.” Accordingly, employers participating in the state plan would be able to supplement the PFMLA benefit with accrued sick, vacation, or other paid leave.

Vetoing the provision, the governor stated concerns about the cost and implementation of the amendment and asked for a study on the costs. After receiving the governor’s rejection of the amendment, the Massachusetts legislature voted to override the governor’s amendment veto and returned it to the governor for signature.

The governor can sign the returned legislation or veto it. At this time, the governor has not acted.

Accordingly, the Massachusetts PFMLA has *not* been amended. Employers are still prohibited from supplementing PFMLA benefits with accrued sick, vacation, or other paid leave.

Please contact a Jackson Lewis attorney with any questions.

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