

Significant Amendments To Maine Family Medical Leave Law

Kate S. Debevoise, Esq. | August 1, 2007

The Maine Family Medical Leave Law has been amended effective September 20, 2007 to add two significant provisions that expand employees' rights. This law applies to all employers of 15 or more employees in the state of Maine.

DOMESTIC PARTNER LEAVE

First, the law has been expanded to allow employees to take up to ten work weeks of leave in a two-year period to care for the serious health condition of a domestic partner or a domestic partner's child, or for the birth or adoption of a child by the employee's domestic partner. Domestic partner is defined under the law as the partner of an employee who: (a) is a mentally competent adult as is the employee; (b) has been legally domiciled with the employee for at least twelve months; (c) is not legally married to or legally separated from another person; (d) is the sole partner of the employee and expects to remain so; (e) is not a sibling of the employee; and (f) is jointly responsible with the employee for their common welfare as evidenced by joint living arrangements, joint financial arrangements, or joint ownership for real or personal property.

The new provisions of the Maine law providing for domestic partner leave are broader than the Federal Family Medical Leave Act (which applies to employers with fifty or more employees) but does not provide for domestic partner leave.

INTERMITTENT OR REDUCED SCHEDULE LEAVE

The second significant expansion of the Maine Family Medical Leave law is that the leave allowed does not need to occur consecutively within ten work weeks, but may be taken on an intermittent or reduced leave schedule basis. "Reduced leave schedule" means a leave schedule that reduces the usual number of hours per work week, or hours per work day. An intermittent leave or reduced leave schedule is allowed in the circumstances of the need to care for the serious health condition of the employee, the employee's child, parent, spouse, domestic partner, or domestic partner's child, and in the case of the employee's donation of an organ for transplant. In the case of intermittent leave or reduced leave schedule, the employer is entitled to require the employee to transfer temporarily to an available alternative position for which the employee is qualified as long as the position has equivalent pay and benefits and better accommodates recurring periods of leave.

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The new provision providing for intermittent or reduced leave schedule is comparable to that which currently exists under the Federal Family Medical Leave Act.

For more information, including a copy of a new Maine Family Medical Leave policy that is in compliance with the recent amendments, contact your Bernstein Shur attorney or Kate S. Debevoise at 228-7333 or kdebevoise@bernsteinshur.com.