

Washington State's Amended Leave Laws Provide Opportunities for New Parents

Earlier this year, Washington Governor Jay Inslee signed into law [amendments](#) to the state's Paid Family and Medical Leave Act (PFML Amendments), which permit additional paid leave opportunities for new parents. The PFML Amendments became effective on June 9, 2022.

Bereavement-Type Leave

The PFML Amendments add bereavement as one of the qualifying reasons for paid leave for new parents. Specifically, an employee is now permitted to take paid leave during the seven days following the death of the employee's child. The amendments apply only to the following individuals:

- Those who would have qualified for medical leave due to the employee's own pregnancy with the child.
- Those who would have qualified for family leave to bond with the employee's child in the first 12 months after the birth of the child.
- Those who would have qualified for family leave to bond with the employee's child in the first 12 months after placement of the child.

These additional rights are limited to new parents. Under the first two scenarios described above, the rights to paid leave are tied to the pregnancy and birth of the child, so the leave is available only to employees who suffer the loss of a stillborn baby, a newborn, or a child under 12 months of age. In the third situation, the leave could be available to an employee who suffers the loss of a child under 18 years old, but only if that child was placed with the employee in the previous 12 months.

The new leave opportunities are within existing leave limits, so the amendment does not expand the amount of leave available to employees. Instead, the amendment simply expands the reasons for taking leave to allow an employee to use their leave in the seven days following the death of the employee's child.

This particular amendment was partly motivated because, as the law was originally written, an employee's leave would automatically end upon the death of their child. If an employee's child died, the Washington State Employment Security Department (ESD) would then have to inform an employee that their leave was over. The legislature sought to add this amendment as a measure of compassion by allowing the employee to continue to take their already-approved leave.

Postnatal Leave

The PFML Amendments also provide that, for employees who are eligible for PFML paid leave benefits based on incapacity due to pregnancy or prenatal care, the leave taken during the postnatal period is presumed to be medical leave unless the employee chooses to use family leave during that period. The postnatal period is considered to be the first six weeks after birth. In addition, employees are no longer required to obtain a certification of a serious health condition to qualify for paid leave during the postnatal period.

Takeaways

Washington employers should review their handbooks and leave policies to ensure compliance with the PFML Amendments. This review includes adding bereavement leave following the death of a qualifying family member as an additional category of eligibility for leave under the PFML program. Employers should seek the advice of counsel if they have any questions preparing leave policies or determining entitlement to leave.

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