

Massachusetts Paid Family and Medical Leave Insurance Program  
Chapter 121 of the Acts of 2018, SECTION 29  
June 28, 2018

Provisions	Description
Covered employers and other covered business entities	All employers who are required to contribute to the state's unemployment insurance (UI) program; certain covered business entities; all employers not covered by the UI program <sup>1</sup> but who choose to join the paid family and medical leave (PFML) insurance program. Cities and towns can vote to accept the law, join the program and cover their employees.
Eligible employees and other program participants	All employees who meet the monetary eligibility requirements of the state's UI program; and self-employed individuals who meet the monetary eligibility requirements of the state's UI program, as if they were employees, who have four consecutive quarters of reported earnings to the Massachusetts Department of Revenue and who join the program and pay premiums for at least three years.
Leaves covered	<p>Paid Family Leave (PFL) to bond with a new child arriving by birth, adoption, foster care, or guardianship; to care for a family member with a serious health condition; or to address a military exigency arising from a family member's new military assignment or orders.</p> <p>Paid Medical Leave (PML) for the worker's own non-work related serious health condition.</p>
Length of leave allowed	<p>12 weeks of PFL to bond with a new child.</p> <p>Up to 12 weeks of PFL to care for a family member with a serious health condition.</p> <p>Up to 26 weeks of PFL to care for a family member whose serious health condition arose from active duty military service.</p> <p>Up to 20 weeks of PML.</p> <p>Leave capped at 26 weeks in a single benefit year.</p>

<sup>1</sup> Certain employees are excluded from the Commonwealth's UI program and therefore from the PFML program: employees of churches, trainees at certain nonprofit organizations, work-study jobholders at a college or university, certain federal employees, prison inmates, certain agricultural laborers, and election workers. See M.G.L. ch. 151A, §§ 6, 6A.

**For more information contact:** Debra Fastino, Executive Director, Coalition for Social Justice, [dfastino@aol.com](mailto:dfastino@aol.com) (508-982-3108) or Elizabeth Whiteway, Senior Attorney, Greater Boston Legal Services, [ewhiteway@gbls.org](mailto:ewhiteway@gbls.org) (617-603-1626)

Job protection while on leave	Yes, up to a cap of 26 weeks (unless other employees in similar positions have been laid off in the interim).
Waiting period for use of leave	Employees are not paid for the first seven days of a leave, except in the case of an employee whose PFL absence immediately follows a period of PML leave, such as the birth of a child.
Impact on, and interaction with, other leave programs	<p>Leave under this bill runs concurrently with job protected leave under the Massachusetts Parental Leave Act, and the federal Family and Medical Leave Act (FMLA).</p> <p>Employers cannot require employees to exhaust rights to any sick, vacation or personal time prior to or while taking either leave.</p>
Benefit amount	<p>Provides partial wage replacement on a graduated basis (<i>80% of a worker's average weekly wage up to an amount equal to 50% of the statewide average weekly wage and 50% of a worker's average weekly wage above an amount equal to 50% of the statewide average weekly wage</i>), with the total weekly benefit capped at \$850.00, and adjusted annually on January 1 to 64% of the state's average weekly wage.</p> <p>The benefit amount is pro-rated for workers taking leave on a part-time basis.</p>
Family members covered	The spouse, domestic partner, child, parent, parent of a spouse or domestic partner of the employee; a person who was like a parent to the employee when the employee was a minor; a grandchild, grandparent, or sibling of the employee.
Definition of "child"	A biological, adopted, or foster child, stepchild or legal ward, a child to whom the employee is like a parent, or a person to whom the employee stood in the place of a parent when the person was a minor, without regard to the child's age.
Funding method	Employers can require employees to contribute up to 100% of the premium cost for family leave and up to 40% of the premium cost for medical leave; self-employed people must contribute 100% of their premium costs for family and medical leave. Employers and covered business entities must pay 60% of the premiums for medical leave, except that employers with fewer than 25 workers on their workforce are not required to contribute the

	<p>employer's share of premiums as long as less than 50% of their workforce is comprised of self-employed individuals.</p> <p>Contributions cease at the maximum taxable earnings for social security (\$128,400 for 2018). This cap is adjusted annually.</p> <p>Employers may pay into a state fund, secure private insurance approved by the department, or maintain a private plan approved by the department.</p>
Agency charged with processing applications for leave, approving private plans, issuing regulations and enforcing statute	Department of Family and Medical leave within the Executive Office of Labor and Workforce Development
Appeal rights of aggrieved claimants	Administrative review before the Department of Family and Medical Leave under G.L. c. 30A; complaint for judicial review in the district court
Employer's existing PFML policies	Does not affect any company policy or employment contract that provides for greater or additional rights.
Collectively bargained agreements	Does not affect or modify any collective bargaining agreement that provides for greater or additional rights.
Prohibition against discrimination and retaliation for use of PFML	Rebuttable presumption of retaliation exists when negative changes occur in employment status during leave time or up to six months thereafter. Aggrieved workers can seek injunctive relief and up to three times their lost wages, benefits, and other compensation, plus attorneys' fees and costs in superior court.

Certification requirement	The employee must provide the employer with a certification from a health care provider, a birth certificate, or a certification from an adoption or foster care agency (as required by the circumstances of the leave).
Confidentiality requirement	Medical information provided by the employee as part of the certification requirement must be kept confidential by the employer.
Notification requirement	When leave is foreseeable, employee must give employer 30 days' notice. If that is not possible, the employee must give the employer as much notice as is practicable.
Law takes effect	1/1/19
Regulations due	3/31/19
Contributions commence	7/1/19
PFL for bonding and PFL caring for family member with serious health condition from military service commences	1/1/21
PML commences	1/1/21
PFL for all other family care giving needs commences	7/1/21