



## State-Administered Paid Family And Medical Leave Is On Its Way

All Massachusetts employers, regardless of the employer's size, must begin putting into place mechanisms to implement the newly-passed Massachusetts Paid Family and Medical Leave Law, M.G.L. c. 175M (PFML).

The law provides paid leave benefits for W-2 employees of Massachusetts employers. It also provides benefits for 1099 contractors if they make up more than 50% of the employer's total workforce (W-2 employees plus 1099 contractors) and unemployed persons so long as they have been unemployed for less than twenty-six (26) weeks and have met the earnings requirements. Much like unemployment benefits, the weekly paid leave benefit is calculated as a percentage of the worker's earnings, up to \$850 per week.

While workers may not claim benefits from the Commonwealth until 2021, employers must begin collecting a payroll tax as of July 1, 2019 to fund the program.

Workers may take up to twelve (12) weeks of paid leave in a year to care for family members and up to twenty (20) weeks in a year for their own serious health condition, with a total cap of twenty-six (26) weeks for the year. While workers may not claim benefits until 2021, employers must begin collecting a payroll tax as of July 1, 2019 to fund the program.

Employers who offer their own paid family and/or medical leave should review, and if necessary, adjust their policies in light of the new law. Such employers also may be eligible to apply annually for an exemption from either or both portions of PFML.

The newly-created Department of Family and Medical Leave issued draft regulations on March 29, 2019, which will be finalized and promulgated prior to July 1, 2019. The following deadlines and implementation requirements are therefore subject to change.

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### Firm News



Jessica Conklin

**Jessica Conklin** was named to the Boston Bar Association's White Collar Criminal Law Section as a Steering Committee Member and to the Board of Editors for the BBA's Journal.



Matt Kane

**Matt Kane** was named to *Best Lawyers* in the area of Commercial Litigation for New England.



Payal Salsburg

**Payal Salsburg** served as a volunteer judge for the American Association of Justice's national Student Trial Advocacy Competition at the Moakley Courthouse, in addition to sitting as a judge for the Harvard Law School 1L Ames Moot Court Competition.

**Matt Kane and Payal Salsburg** taught high school students about the First Amendment at the William J. Ostiguy High School in Boston, MA as part of the BBA's Law Day in Schools Program.

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**By June 30, 2019**, all Massachusetts employers must display a PFML poster and notify workers and new hires in writing about their PFML benefits, their (both worker's and the employer's) payroll tax contributions, and instructions on filing a claim for benefits. Employers must collect written acknowledgments confirming receipt of the notice. The PFML poster and employer written notices are available for download on [www.mass.gov](http://www.mass.gov).

**On July 1, 2019**, Massachusetts employers without an approved exemption must begin funding the Family and Employment Security Trust Fund. Employers must contribute on behalf of their employees at a rate of 0.63% of each employee's wages up to the Social Security Administration's annually calculated contribution and benefit base (\$132,900 in 2019) – 0.52% of the wages will go toward medical leave, while 0.11% will go toward family leave. For the family leave portion of the contribution, all employers may deduct up to 100% of the contribution from an employee's wages. For the medical leave portion, employers with fewer than twenty-five (25) employees may deduct the full amount of the contributions from an employee's wages while employers with 25 or more employees may only deduct up to 40% of the contribution from an employee's wages.

**On January 1, 2021**, eligible workers may begin claiming benefits for bonding with a child; service-member related events; and dealing with the worker's own serious health condition.

**On July 1, 2021**, eligible workers may begin claiming benefits to care for a family member with a serious health condition.

Employers may not retaliate against workers for exercising their PFML rights, and returning employees are entitled to their same or equivalent position with the same pay, benefits, and seniority.

Employers should review and update their policies and practices, including their employee handbooks, to make sure that they are complying with the new law and, if necessary, adjust them accordingly.

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101 Federal Street, Suite 650 | Boston, MA 02110 | 617-443-1100  
[www.laredosmith.com](http://www.laredosmith.com)

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