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MINNESOTA PAID LEAVE LAW (“MPLL”)

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REGION V SPRING CONFERENCE
April 1, 2026

NOTE: The purpose of this presentation, and the accompanying materials, is to inform you of interesting and important legal developments. While current as of the date of presentation, the information given today may be superseded by court decisions and legislative amendments. We cannot render legal advice without an awareness and analysis of the facts of a particular situation. If you have questions about the application of concepts discussed in the presentation or addressed in this outline, you should consult your legal counsel.

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I. OVERVIEW.

As of January 1, 2026, as defined below, the Minnesota Paid Leave Law (“MPLL”) allows employees to receive paid medical leave, bonding leave, caring leave, safety leave, and military family leave.

II. WHEN IS AN EMPLOYEE ELIGIBLE FOR LEAVE UNDER THE MPLL?

A. **Eligible.** An applicant may be eligible to receive family or medical leave benefits for any week if:

1. The week for which benefits are requested is in the applicant’s benefit year;
2. The applicant was unable to perform regular work due to a serious health condition, a qualifying exigency, safety leave, family care, bonding, or medical care related to pregnancy.

b. ***Seven-Day Qualifying Event.***

- i. Except for bonding leave, the period for which an applicant is seeking benefits must be or have been based on a single event of at least seven calendar days’ duration related to medical care related to pregnancy, family care, a qualifying exigency, safety leave, or the applicant’s serious health condition. *See* Minn. Stat. § 268B.06, subd. 2(a)-(b); *see also* Section IV.A.
 - ii. The seven calendar days must be consecutive, unless the leave is intermittent. Minn. Stat. § 268B.06, subd. 2(a).
3. The applicant has sufficient wage credits to establish a benefit account
 4. The applicant meets the certification requirements.

See Minn. Stat. § 268B.06, subd. 1(a).

B. **Covered Employment.** “Wage credits” are the amount of wages paid within an applicant’s base period for “covered employment.” Minn. Stat. § 268B.01, subd. 45.

1. Covered Employment.

- a. “Covered employment” means performing services of whatever nature, unlimited by the relationship of master and servant as known to the common law, or any other legal relationship performed for wages or under any contract calling for the performance of services, written or oral, express or implied.
- b. Covered employment means an employee’s entire employment during a calendar year if:
 - i. 50 percent or more of the employment during the calendar year is performed in Minnesota; or
 - ii. 50 percent or more of the employment during the calendar year is not performed in Minnesota or any other single state within the United States, or United States territory or foreign nation, but some of the employment is performed in Minnesota and the employee's residence is in Minnesota during 50 percent or more of the calendar year.

Minn. Stat. § 268B.01, subd. 15(a), (b).

- c. Per guidance from the Minnesota Department of Employment and Economic Development (“DEED”), “[c]asual positions that are paid by a stipend are considered covered employment. These wages would count toward someone’s eligibility and could increase their payment amount.” *Minnesota Paid Leave for Educators*, MINNESOTA PAID LEAVE, https://mn.gov/deed/assets/paid-leave-educators_tcm1045-713511.pdf.

2. Not Covered Employment. Covered employment does not include a self-employed individual, an independent contractor, or employment by a seasonal employee in hospitality, as defined by Minnesota Statute. Minn. Stat. § 268B.01, subd. 15.

C. Ineligible. An applicant is ineligible for family or medical leave benefits for any portion of a typical workweek:

1. That occurs before the effective date of leave;
2. That the applicant fails or refuses to provide required information on an issue of ineligibility;
3. For which the applicant worked for pay;

3. For which the applicant is incarcerated; or
4. For which the applicant is receiving or has received unemployment insurance benefits.

Minn. Stat. § 268B.06, subd. 4.

D. Private Plan Requirements.

1. Coverage: Coverage must continue under the private plan:
 - a. While the employee remains employed by the employer; and
 - b. For former employees, until the individual is hired by a new employer or 26 weeks pass, whichever occurs first.

Minn. Stat. § 268B.10, subd. 2(10).

2. If an application for leave is filed by a former employee to a private plan, the plan must pay benefits for the totality of the leave. Private plans may not cut off eligibility for a former employee during the course of an approved leave. Minn. Stat. § 268B.10, subd. 2(11).

IV. RELEVANT DEFINITIONS.

A. Serious Health Condition.

1. A “serious health condition” means a physical or mental illness, injury, impairment, condition, or substance use disorder that involves:
 - a. Inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity; or
 - b. Continuing treatment or supervision by a health care provider which includes any one or more of the following:
 - i. A period of incapacity of seven or more days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - a. Treatment two or more times, within 30 days of the first day of incapacity, unless extenuating

circumstances beyond the individual's control prevent a follow-up visit from occurring as planned, by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider; or

- b. Treatment by a health care provider on at least one occasion that results in a regimen of continuing treatment under the supervision of the health care provider;
- ii. A period of incapacity due to medical care related to pregnancy;
- iii. A period of incapacity or treatment for a chronic health condition that:
 - a. Requires periodic visits, defined as at least twice a year, for treatment by a health care provider or under orders of, or on referral by, a health care provider;
 - b. Continues over an extended period of time, including recurring episodes of a single underlying condition; and
 - c. May cause episodic rather than continuing periods of incapacity;
- iv. A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The applicant or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider; or
- v. A period of absence to receive multiple treatments, including any period of recovery from the treatments, by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, for:
 - a. Restorative surgery after an accident or other injury; or

- b. A condition that would likely result in a period of incapacity of more than seven full calendar days in the absence of medical intervention or treatment.

Minn. Stat. § 268B.01, subd. 39(a).

B. A Qualifying Exigency.

- 1. "Qualifying exigency" means a need arising out of a military member's active duty service or notice of an impending call or order to active duty in the United States armed forces, including:
 - a. Providing for the care or other needs of the family member's child or other dependent;
 - b. Making financial or legal arrangements for the family member;
 - c. Attending counseling;
 - d. Attending military events or ceremonies;
 - e. Spending time with the family member during a rest and recuperation leave or following return from deployment; or
 - f. Making arrangements following the death of the military member.

Minn. Stat. § 268B.01, subd. 33(a).

- 2. A "military member" means a current or former member of the United States armed forces, including a member of the National Guard or reserves, who, except for a deceased military member, is a resident of the state and is a family member of the applicant taking leave related to the qualifying exigency. Minn. Stat. § 268B.01, subd. 33(b).

C. Safety Leave.

- 1. "Safety leave" means leave from work because of domestic abuse, sexual assault, or stalking of the applicant or applicant's family member, provided the leave is to:
 - a. Seek medical attention related to the physical or psychological injury or disability caused by domestic abuse, sexual assault, or stalking;

- b. Obtain services from a victim services organization;
- c. Obtain psychological or other counseling;
- d. Seek relocation due to the domestic abuse, sexual assault, or stalking; or
- e. Seek legal advice or take legal action, including preparing for or participating in any civil or criminal legal proceeding related to, or resulting from, the domestic abuse, sexual assault, or stalking.

Minn. Stat. § 268B.01, subd. 34.

D. Family Care and Family Member.

- 1. "Family care" means an applicant caring for a family member with a serious health condition or caring for a family member who is a military member. Minn. Stat. § 268B.01, subd. 22.
- 2. "Family member" means, with respect to an applicant:
 - a. A spouse or domestic partner;
 - b. A child, including a biological child, adopted child, foster child, stepchild, child of a domestic partner, or child to whom the applicant stands in loco parentis, is a legal guardian, or is a de facto custodian;
 - c. A parent or legal guardian of the applicant;
 - i. Note: Parent means the biological, adoptive, de facto custodian, or foster parent, stepparent, or legal guardian of an applicant or the applicant's spouse, or an individual who stood in loco parentis to an applicant when the applicant was a child.
 - d. A sibling;
 - e. A grandchild;
 - f. A grandparent or spouse's grandparent;

- g. A son-in-law or daughter-in-law; and
- h. An individual who has a personal relationship with the applicant that creates an expectation and reliance that the applicant care for the individual without compensation, whether or not the applicant and the individual reside together.

Minn. Stat. § 268B.01, subd. 23.

E. Bonding.

1. "Bonding" means time spent by an applicant who is a biological, adoptive, or foster parent with a biological, adopted, or foster child in conjunction with the child's birth, adoption, or placement. Minn. Stat. § 268B.01, subd. 9.
2. Bonding leave taken under the MLL begins at a time requested by the employee. Minn. Stat. § 268B.085, subd. 2.
3. Bonding leave must end within 12 months of the birth, adoption, or placement of a foster child, except that, in the case where the child must remain in the hospital longer than the mother, the leave must end within 12 months after the child leaves the hospital. Minn. Stat. § 268B.085, subd. 2.
4. Employees may use bonding leave before the actual placement or adoption of a child in situations that include where the employee may be required to:
 - a. attend counseling sessions;
 - b. appear in court;
 - c. consult with the attorney or doctors representing the birth parent;
 - d. submit to a physical examination; or
 - e. travel to another country to complete an adoption.

Minn. Stat. § 268B.085, subd. 2.

F. Medical Care Related to Pregnancy.

1. "Medical care related to pregnancy" includes prenatal care or incapacity due to pregnancy or recovery from childbirth, stillbirth, miscarriage, or related health conditions. Minn. Stat. § 268B.01, subd. 31.

V. COMMON MPLL QUESTIONS.

A. How Much Leave Does the MPLL Provide to Eligible Employees?

1. The total number of weeks that an applicant may take benefits in a single benefit year for a serious health condition is the lesser of 12 weeks, or 12 weeks minus the number of weeks within the same benefit year that the applicant received benefits for bonding, safety leave, family care, and qualifying exigency plus eight weeks. Minn. Stat. §268B.04, subd. 5(a).
2. The total number of weeks that an applicant may take benefits in a single benefit year for bonding, safety leave, family care, and qualifying exigency is the lesser of 12 weeks, or 12 weeks minus the number of weeks within the same benefit year that the applicant received benefits for a serious health condition plus eight weeks. Minn. Stat. §268B.04, subd. 5(b).

B. Is MPLL Leave Paid or Unpaid? How Do Applicants Apply?

1. MPLL leave is paid. Minn. Stat. § 268B.03, subd. 1.
2. The seven-day qualifying event is a retroactively payable period, not an unpaid waiting period. Minn. Stat. § 268B.06, subd. 2. The period must be paid retroactively after the applicant has met the seven-day qualifying event with the retroactive payment included in the first benefit payment to the applicant. Minn. Stat. § 268B.01, subd. 27(a).
3. Employees need to apply for MPLL benefits directly with DEED or apply directly to the employer's private insurance plan if the employer chooses to opt-out of the state-operated insurance policy. Minn. Stat. §§ 268B.04, subd.1; 268B.10.

C. Can Leave Be Taken from more than one job?

According to DEED, when someone applies for paid leave under the MPLL, they can take leave from one or more jobs. If an employee continues to work a second job, as a coach or otherwise, those wages should be reported and may

reduce their benefit payment. *Minnesota Paid Leave for Educators*, MINNESOTA PAID LEAVE, https://mn.gov/deed/assets/paid-leave-educators_tcm1045-713511.pdf.

D. Can Leave Be Taken Intermittently?

1. Definition. Intermittent leave is leave taken in separate blocks of time due to a single, seven-day qualifying event. Minn. Stat. § 268B.085, subd. 3(a).
2. Allowed.
 - a. Leave under the MPLL, based on a serious health condition, may be taken intermittently if such leave is reasonable and appropriate to the needs of the individual with the serious health condition.
 - b. For all leaves under MPLL other than a leave based on a serious health condition, leave may be taken intermittently.

Minn. Stat. § 268B.085, subd. 3(a).

3. Schedule, Increments, and Amount.
 - a. An employee requesting leave taken intermittently shall provide the employer with a schedule of needed workdays off as soon as practicable and must make a reasonable effort to schedule the intermittent leave so as not to disrupt unduly the operations of the employer. If this cannot be done to the satisfaction of both employer and employee, the employer cannot require the employee to change their leave schedule in order to accommodate the employer. Minn. Stat. § 268B.085, subd. 3(c).
 - b. Intermittent leave must be taken in increments consistent with the established policy of the employer to account for use of other forms of leave, so long as such employer's policy permits a minimum increment of at most one calendar day of intermittent leave. Minn. Stat. § 268B.04, subd. 6a.
 - c. An employer shall not be required under the MPLL to provide, but may elect to provide, more than 480 hours of intermittent leave in any 12-month period. Minn. Stat. § 268B.085, subd. 3(d).
4. Benefit.

- a. For an applicant who takes leave on an intermittent schedule, the weekly benefit amount shall be prorated. Minn. Stat. § 268B.085, subd. 3(a).
- b. An applicant is not permitted to apply for payment for benefits associated with intermittent leave until the applicant has eight hours of accumulated leave time, unless more than 30 calendar days have lapsed since the initial taking of the leave. Minn. Stat. § 268B.04, subd. 6a.

E. How Does the MPLL Interact With Other Employer Benefit and Leave Options?

- 1. The Minnesota Pregnancy and Parenting Leave Law and the FMLA. An employer may require leave taken under MPLL to run concurrently with leave taken for the same purpose under the Minnesota Pregnancy and Parenting Leave Statute or the Family and Medical Leave Act (“FMLA”). Minn. Stat. § 268B.27, subd. 1. Relatedly, an employer may run intermittent leave available under the FMLA concurrent with the employee’s entitlement to intermittent leave under MPLL. Minn. Stat. § 268B.085, subd. 3(d).
 - a. Minnesota Pregnancy and Parenting Leave Law.
 - i. An employer must grant an unpaid leave of absence to an employee who is: a biological or adoptive parent in conjunction with the birth or adoption of a child; or a female employee for prenatal care, or incapacity due to pregnancy, childbirth, or related health conditions. Minn. Stat. § 181.941, subd. 1.
 - ii. The length of the leave shall be determined by the employee, but must not exceed 12 weeks, unless agreed to by the employer. Minn. Stat. § 181.941, subd. 1.
 - iii. For leave taken in conjunction with a birth or adoption, the leave must begin within 12 months of the birth or adoption; except that, in the case where the child must remain in the hospital longer than the mother, the leave must begin within 12 months after the child leaves the hospital. Minn. Stat. § 181.941, subd. 2.

2. An employee may use vacation pay, sick pay, or paid time off pay in lieu of family or medical leave program benefits under the MPLL, provided the employee is concurrently eligible and subject to the total amount of leave available under the MPLL. Minn. Stat. § 268B.06, subd. 5.
3. Supplemental Benefit Payments.
 - a. An employer may, but is not required to, offer supplemental benefit payments to an employee taking leave under the MPLL, such as salary continuation, vacation leave, sick leave, or other paid time off. Minn. Stat. §§ 268B.06, subd. 5(b), 268B.01, subd. 41(b). The total amount of paid benefits under the MPLL and the supplemental benefits paid must not exceed the employee's usual salary. Minn. Stat. § 268B.06, subd. 5(b).
 - b. "Supplemental benefit payment" means:
 - i. A payment made by an employer to an employee as salary continuation or as paid time off. Such a payment must be in addition to any family or medical leave benefits the employee is receiving under the MPLL; and
 - ii. A payment offered by an employer to an employee who is taking leave under the MPLL to supplement the family or medical leave benefits the employee is receiving. Minn. Stat. § 268B.01, subd. 41.
 - c. Nothing under the MPLL requires an employee to receive supplemental benefit payments. Minn. Stat. § 268B.01, subd. 41.
4. Disability Insurance Payments. An employee may receive disability insurance payments in addition to family and medical leave benefits provided the employee is concurrently eligible for both benefits. Disability insurance benefits may be offset by family and medical leave benefits paid to the employee pursuant to the terms of a disability insurance policy. Minn. Stat. § 268B.06, subd. 7a.

F. Are Eligible Employees Entitled to Continued Health Insurance Benefits?

1. During any leave for which an employee is entitled to benefits or leave under the MPLL, the employer must maintain coverage under any group insurance policy, group subscriber contract, or health care plan for the employee and any dependents as if the employee was not on leave,

provided that the employee must continue to pay their share of the cost of such benefits. Minn. Stat. § 268B.09, subd. 5(a).

2. Any agreement to waive, release, or commute rights to benefits or any other right under the MPLL is void, except for a voluntary settlement agreement resolving disputed claims or a valid separation agreement releasing putative claims. Minn. Stat. § 268B.09, subd. 3.

G. What Reinstatement Rights Does an Employee Have After Taking MPLL Leave?

1. On return from leave under the MPLL, an employee is entitled to be returned to the same position the employee held when leave commenced or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. Minn. Stat. § 268B.09, subd. 6(a). This job protection begins ninety calendar days from the date of hire. Minn. Stat. § 268B.09, subd. 6(h).
 - a. An equivalent position is one that is virtually identical to the employee's former position in terms of pay, benefits, and working conditions, including privileges, prerequisites, and status. It must involve the same or substantially similar duties and responsibilities, which must entail substantially equivalent skill, effort, responsibility, and authority. Minn. Stat. § 268B.09, subd. 6(b)(1).
 - b. If an employee is no longer qualified for the position because of the employee's inability to attend a necessary course, renew a license, fly a minimum number of hours, or similar condition, as a result of the leave, the employee must be given a reasonable opportunity to fulfill those conditions upon return from leave. Minn. Stat. § 268B.09, subd. 6(b)(2).
2. An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the period of leave under the MPLL. An employer must be able to show that an employee would not otherwise have been employed at the time reinstatement is requested in order to deny restoration to employment. Minn. Stat. § 268B.09, subd. 7.
 - a. If an employee is laid off during the course of taking a leave under the MPLL and employment is terminated, the employer's responsibility to continue the leave, maintain group health plan benefits, and restore the employee cease at the time the employee is

laid off, provided the employer has no continuing obligations under a collective bargaining agreement or otherwise. An employer has the burden of proving that an employee would have been laid off during the period of leave under the MPLL and, therefore, would not be entitled to restoration to a job slated for layoff when the employee's original position would not meet the requirements of an equivalent position.

- b. If a shift has been eliminated or overtime has been decreased, an employee would not be entitled to return to work that shift or the original overtime hours upon restoration. However, if a position on, for example, a night shift has been filled by another employee, the employee is entitled to return to the same shift on which employed before taking leave under the MPLL.
- c. If an employee was hired for a specific term or only to perform work on a discrete project, the employer has no obligation to maintain group health plan benefits and restore the employee if the employment term or project is over and the employer would not otherwise have continued to employ the employee.

Minn. Stat. § 268B.09, subd. 7(1)-(3).

H. What Notice Must Employees Provide Employers to Receive Benefits?

- 1. If the need for leave is foreseeable, an employee must provide the employer at least 30 days' advance notice before leave under the MPLL is to begin. If 30 days' notice is not practicable because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable. Minn. Stat. § 268B.085, subd. 1(a).
- 2. In those cases where the employee is required to provide at least 30 days' notice of foreseeable leave and does not do so, the employee must explain the reasons why notice was not practicable upon request from the employer. Minn. Stat. § 268B.085, subd. 1(a).
- 3. An employer may require an employee to comply with the employer's usual and customary notice and procedural requirements for requesting leave, including the employer's attendance or call-out policies and procedures, absent unusual circumstances or other circumstances caused by the reason for the employee's need for leave. Leave under the MPLL must not be delayed or denied where an employer's usual and customary

notice or procedural requirements require notice to be given sooner than set forth in this subdivision. Minn. Stat. § 268B.085, subd. 1(e).