

## Wisconsin Expands WFMLA Rights to Domestic Partners

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The new Wisconsin Budget, signed into law on June 29, 2009, expands leave rights under the Wisconsin Family Medical Leave Act ("WFMLA") to same-sex and opposite-sex domestic partners. Wisconsin employers who are subject to the WFMLA should immediately update their practices and policies to comply with these new requirements.

The amendment defines "domestic partner" to include same-sex couples who have registered their domestic partnership with the Register of Deeds in their county of residence and same-sex or opposite-sex couples who are not registered but who must meet more stringent requirements.

To qualify as registered domestic partners, the employee and their partner must meet the following criteria:

1. The individuals must be at least 18 years old and able to consent to a domestic partnership;
2. Neither individual in the domestic partnership may be married to, or in a domestic partnership with, another individual;
3. The individuals must share a residence;
4. The individuals must not be more closely related than second cousins; and
5. The individuals must be of the same gender.

If the couple is in an unregistered domestic partnership, in which the individuals need not be of the same sex, the couple must meet the first three of the above-referenced criteria and the following:

1. The individuals must not be related by blood in a way that would prohibit marriage under Wisconsin law;
2. The individuals must consider themselves to be members of each other's immediate family; and
3. The individuals must agree to be responsible for each other's basic living requirements.

Presumably, employers may ask employees to certify that they meet these requirements and provide proof to the extent the employer requires proof of other familial relationships. As amended, the WFMLA does not require employers to grant leave for the serious health condition or birth of the children of domestic partners, although the serious health conditions of parents of domestic partners are now covered.

It is crucial to understand that this extension of rights only involves WFMLA leave, not Federal Family and Medical Leave. Under the WFMLA, employees are entitled to two weeks of leave for their own serious health condition, two weeks of leave for the serious health condition of a child, parent, parent-in-law, and now domestic partner, and six weeks for family leave, per calendar year.

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