



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

February 19, 2025

SB 785 – Labor and Employment - Unpaid Parental Leave - Definition of Employer

Chair Beidle, Vice Chair Hayes, and members of the Finance Committee,

Senate Bill 785 is a technical correction the Maryland’s Parental Leave law. Currently, an employer can be covered under both the law for employing at least 50 employees at the same as the law for 15-49 employees. I believe that this is an unintended consequence of the law.

For example, an employer crossed the 50-employee threshold in January 2024. The employer will become an FMLA-covered employer in June 2024, after employing at least 50 employees for 20 or more weeks. But the employer will still be covered under Maryland’s Parental Leave law through December 31, 2024, because it employed 15-49 employees for at least 20 weeks in the preceding calendar year. I think this is an intended consequence of the law and that was *not* the intent, e.g., to have a small employer subject to both laws concurrently.

If covered under both, how are the leaves to be administered?

- Is the leave under each law stacked or do they run concurrently?
- If the leave is stacked, which leave must be administered first, the 12 weeks of federal FMLA leave, followed by the six weeks of Maryland parental leave or vice versa?
- Does the answer depend upon the reason leave is taken? For example, if an employee takes 12 workweeks of FMLA leave for his or her own serious health condition, would the employee still be able to use 6 workweeks of parental leave but if the FMLA leave was taken for parental leave, would that be counted against the parental leave entitlement under Maryland’s law?
- Maryland’s law provides the six weeks of leave be provided in “any year” but does not identify who chooses or defines the year, while the FMLA permits the employer to choose any 12-month period such as fiscal year, calendar year, forward or backward rolling year. How do we administer these two leave programs with these different leave periods?
- The right to job restoration is more generous under MD’s law than the FMLA, so if the leaves run concurrently and an employer may properly deny job restoration to an employee under the FMLA but *not* under Maryland’s Parental Leave law, which of the

12 weeks of FMLA leave will be considered to run concurrently with Maryland's six weeks of parental leave, e.g., the first six weeks, the last six weeks, or something else?

This bill amends the language to allow employers more clarity on law.

I respectfully request a favorable report on Senate Bill 785.