



**Human Resource Professionals Must Administer Two Sets of
(Sometimes Conflicting) Guidelines: State and Federal Family and Medical Leave
Senate Bill 490 (Sen. Darling)/ Assembly Bill 772 (Rep. Ballweg)**

When it comes to Family and Medical Leave, HR professionals are charged with administering two different sets of criteria – one federal and one state. These criteria are sometimes in conflict and create considerable confusion for HR professionals and employees. Being in compliance with one, federal or state, is not a “safe harbor” with respect to the other.

Issue: Wisconsin is one of only a handful of states with two (2) family and medical leave laws that employers must navigate in order to avoid penalties and costly litigation. Unfortunately, the federal and state family and medical leave laws have several areas of conflict and have not yet been standardized. These differences force employers to follow two (2) sets of complicated laws. This exposes employers to additional risk of costly litigation, risks that their competitors in other states simply do not have to worry about. For employers that operate across state lines, they must maintain different rules and policies for their Wisconsin employees as compared to their employees in other states. Wisconsin employers need reform.

For employees, the two (2) sets of laws create considerable confusion. For example, state medical leave is two (2) weeks, whereas federal medical leave is twelve (12) weeks and the requirements an employee must satisfy to qualify (and for an employer to be covered under state and federal family and medical leave laws) are different as well. Further, state and federal family and medical leave periods often overlap – with different rules in place for each. For instance, under state law an employer cannot require that an employee substitute accrued, paid time off as part of their family and medical leave. The federal law is the opposite. Accordingly, an employee using family and medical leave could conceivably have unpaid leave for two (2) weeks followed by paid leave (when state family and medical leave expires and the employee transitions to federal family and medical leave). This is difficult to administer and to explain to employees.

WISHRM Position: Wisconsin needs to align its family and medical leave provisions with the federal family and medical leave provisions. Doing so will reduce issues with administration that HR professionals have to deal with, reduce the threat of costly litigation and will put employers in Wisconsin on equal footing with those in neighboring states.

Talking Points:

- Administration of family and medical leave utilizing two (2) different standards is burdensome for HR professionals.
- Employers face increased legal consequences due to the challenge of not being in compliance with state and federal family and medical leave laws due to the complexity of the two systems.
- Employees face uncertainty due to the potential mixed messages and opportunity for inconsistent administration.