



## Wisconsin Bone Marrow and Organ Donation Leave Poster Now Available

Effective July 1, 2016, Wisconsin's Bone Marrow and Organ Donation Leave Act took effect, which provides qualifying employees with the right to take leave from work for the purposes of serving as a bone marrow or organ donor.

The new law requires that all employers with 50 or more employees display a copy of a poster in one or more conspicuous places. Employers with 25 or more employees are required to post their particular leave policy for bone marrow and organ donation leave. The penalty for not posting the poster is \$100 for each offense. A copy of the poster may be obtained from the Department of Workforce Development's website. [Click here to download a copy of the poster.](#)

It is also recommended that employers place a copy of their bone marrow and organ donor leave policy in their handbooks. [A sample policy can be obtained by clicking here.](#)

This law is very similar to the Wisconsin Family and Medical Leave Act, however, the right to take donor leave is in addition to an employee's right to take leave under the FMLA laws. While there are no regulations published yet for the donor law, many of the definitions in the law are identical or similar to those in the WFMLA and it is likely the laws will be interpreted similarly.

The donor leave law applies to all employers in Wisconsin who employ at least 50 employees on a "permanent basis." However, only employees who have worked for the employer for 52 consecutive weeks and have worked at least 1,000 hours in the last 52 weeks are eligible for leave to serve as a bone marrow or organ donor. The employee may take up to six weeks of leave in a twelve month period for the purpose of serving as a bone marrow or organ donor, and may only take leave for the period necessary for the employee to undergo their donation procedure and to recover from the procedure. It is likely that the "12 month period" during which leave is counted will be the calendar year; the anticipated regulations will likely clarify this point.

An employee who wishes to request donor leave must give notice of the need for leave in a reasonable and practicable manner and must schedule the donation procedure so that it does not unduly disrupt the employer's operations, subject to the approval of the donee's healthcare provider.

As a condition of approving the leave, the employer may require medical certification that states the following: (1) the donee has a serious health condition that necessitates a bone marrow or organ transplant; (2) the employee is eligible and has agreed to be a bone marrow or organ donor for the donee; and (3) the amount of time expected to be necessary for the employee to recover from the donation procedure.

Employees may substitute paid or unpaid time of any other type provided by the employer. Employees who take donor leave are not entitled to any right, employment benefit, or position to which they would not otherwise have been entitled had the leave not been taken. Employees are also not entitled to the accrual of any seniority or employment benefit during a donor leave. On the hand, employers may not reduce or deny any benefit that accrued prior to the employee's leave. In addition, an employee who takes donor leave must be returned to his or her former position, or if that position is not vacant, the employee must be returned to a position with equivalent pay, benefits, working shift, hours, and other terms and conditions of employment. If the employee wishes to return to work prior to the end of the scheduled leave, the employer must return the employee to work within a reasonable time.

Employees who claim a violation of the bone marrow and organ donor leave law may file administrative complaints similar to those authorized under the Wisconsin FMLA. As with the Wisconsin FMLA, employees have 30 days from the date of the alleged violation, or from the date the employee should reasonably have known of the violation, to file a complaint.

This Bone Marrow and Organ Donation Law poster requirement is a reminder that districts who have not reviewed their handbooks or posters recently should do so as laws are frequently being added or modified.

**Wisconsin Employment Relations Commission (WERC) Confirms 0.68% CPI For Bargaining Agreements Beginning January 1, 2017.**

The WERC's website now includes the most recent CPI calculation, 0.68% for agreements beginning January 1, 2017. A link to the WERC's Consumer Price Index Calculation Chart is included. [http://werc.wi.gov/doaroot/cpi-u\\_chart.htm](http://werc.wi.gov/doaroot/cpi-u_chart.htm).

If you have any questions regarding this topic, please call any of the following attorneys at Boardman & Clark LLP.

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