Bereavement Leave Compliance Game Plan



In addition to being emotionally devastating, losing a loved one is often disruptive to the extent it requires employees to miss a couple of days of work to attend the funeral and spend time with family. It's also rather grotesque to think that not too long ago, employees who took time to grieve risked losing their jobs. Today, the right to take unpaid bereavement leave is a fixture of employment standards laws in all parts of Canada (except Nunavut). But leave rules vary by jurisdiction. This creates compliance challenges for HR directors, particularly if your organization operates in more than one province. Here's a 9-step Game Plan for complying with the bereavement leave laws of your jurisdiction and implementing a legally sound bereavement leave policy.

Step 1. Ensure Employees Are Eligible for Bereavement Leave

In many provinces, employees must have a minimum amount of continuous service with the same employer to qualify for bereavement leave. At a minimum, make sure you provide bereavement leave to any employee who's eligible for it under the employment standards rules of your province:

Minimum Employment for Bereavement Leave Eligibility

None (all employees eligible)	90 Days	13 Consecutive Weeks	30 Days	2 Consecutive Weeks
FED(1), BC, NB, NL(2), NS, PEI, QC, YK	Alberta	Saskatchewan	Manitoba	Ontario

1. Employees of federally regulated companies need at least 3 months of continuous employment to qualify for **paid** bereavement leave.
2. In Newfoundland, employees must have 30 days of employment to qualify for **paid** bereavement leave.

Source: Bongarde Media

Step 2. Ensure Employee Has Proper Grounds to Take Bereavement Leave

Employees can take bereavement leave if a "family member" dies. In 3 jurisdictions (FED, BC, and SK) the death must be to an "immediate family member." In New

Brunswick, the person who dies must be in a "close family relationship" to the employee. The rules also vary in terms of who counts as a family member triggering the right to take bereavement leave but typically include:

- The employee's "spouse" (generally defined as including a common-law spouse and, in some cases, adult interdependent partner), child, parent, grandparent, grandchild, or sibling; and
- A spouse's child, parent, grandparent, grandchild, or sibling.

Other relationships for which bereavement leave is allowed in some jurisdictions:

- An uncle, aunt, niece, or nephew (AB, MB, PEI, NT, YK);
- A current or former ward or guardian (AB, BC, MB, NS, NT, YK);
- A person that the employee considers to be like a family member regardless of actual blood or marriage relationship (AB, MB, NB);
- A person with whom the employee permanently resides (FED, BC)
- A person who was dependent on the employee for care or assistance (ON).

Pregnancy Related Bereavement Leave

Alberta also allows for bereavement leave in the event the employee or employee's spouse experiences a pregnancy that ends other than in a live birth. In PEI, employees who experience a prenatal pregnancy loss or stillbirth are entitled to bereavement leave in the same manner as those who lose an immediate family member. An employee who's the spouse, partner, or an intended parent of a child born as a result of a surrogacy agreement would also be entitled to this leave where there's a prenatal pregnancy loss or stillbirth.

Step 3. Ensure Employees Get Their Full Allotment of Bereavement Leave Days

The number of days of bereavement leave employees get per year depends on jurisdiction:

- **10 days:** Federal;
- **1 week:** Yukon (if the funeral falls within that week);
- **7 days:** Northwest Territories (if the family member's funeral is outside the region where the employee resides);
- **6 days:** Québec;
- **5 days:** Saskatchewan, Manitoba;
- **5 consecutive calendar days:** New Brunswick;
- **5 consecutive work days:** Nova Scotia;
- **4 or 3 days depending on whether immediate or extended family member dies:** PEI;
- **3 days:** Alberta, BC, Newfoundland, Northwest Territories (if the family member's funeral is outside the NWT region where the employee resides); and
- **2 days:**

Step 4. Ensure Employees Receive Bereavement Leave Pay to Which They're Entitled

Bereavement leave is generally unpaid. **Exceptions:** In 4 jurisdictions, employees get not just unpaid but also paid bereavement leave:

- **Federal:** First 3 of 10 days of bereavement leave are paid at the employee's regular wage rate if the employee has at least 3 months' continuous service;
- **Newfoundland:** Employees with at least 30 days' continuous service get 1 paid day and 2 unpaid days; employees with less service get only the 2 unpaid days;

- **Prince Edward Island:** Employees get 1 day of paid leave and 3 days of unpaid leave if the death is to an immediate family member and 2 days of unpaid leave if the death is to an extended family member; and
- **Quebec**: First 2 days of the 5 days of leave are paid if the family member who dies is a spouse, child, spouse's child, parent, or sibling; employees also get 1 additional unpaid day per year if a son/daughter-in-law, grandparent, grandchild, or a spouse's parent or sibling also dies during that year.

Compliance Pointer: Some jurisdictions, including Newfoundland and PEI, also require employers to provide employees an extra day of vacation if a family member's funeral for whom the employee would have taken bereavement leave takes place while the employee is on vacation.

Step 5. Ensure Employees Start & End Bereavement Leave at the Proper Time

A few jurisdictions specify a start date or time window when employees must take their bereavement leave.

- **Federal:** Leave must start on the date of the family member's death and end 6 weeks after the funeral, burial, or memorial service, whichever comes latest;
- **New Brunswick & Prince Edward Island:** Leave must start no later than the date of the funeral or memorial service; and
- **Saskatchewan:** Leave must be taken within the period that starts 1 week before and ends 1 week after the funeral.

Step 6. Ensure Employees Take Bereavement Leave in Appropriate Increments

Some jurisdictions establish rules governing the increments in which bereavement leave must be taken:

- **Federal:** Leave must be taken in 1 or 2 increments;
- **Federal/Manitoba/Ontario:** Employer can require leave increments to be of at least 1 full day's duration, e.g., by charging employees who take off the morning a full day of leave even if they work the afternoon of that day;
- **BC:** 3 days of bereavement leave need not be consecutive;
- **New Brunswick:** Leave of 5 consecutive calendar days; and
- **Nova Scotia:** Leave of 5 consecutive workdays.

Step 7. Require Employees to Provide Appropriate Notification of Bereavement Leave

Employees generally must give employers written notification of their intent to take bereavement leave and its expected duration, preferably in advance but, if that's not possible, as soon as possible after leave begins. Once leave starts, they must notify employers of changes to their return date.

Step 8. Require Employees to Provide Appropriate Verification of Need for Bereavement Leave

Unlike most other forms of family leave, employees generally don't have to provide verification of their need to take bereavement leave. **Exceptions:** In Ontario, employers can require employees to provide request evidence of their entitlement to leave, e.g., the family member's death certificate or obituary. Manitoba says that employers are allowed to request verification but doesn't say they can require it.

Step 9. Don’t Take Reprisals Against Employees for Exercising their Bereavement Leave Rights

Keep in mind that as with any other kind of leave provided under employment standards laws, it’s illegal to terminate, demote, cut the pay or benefits, or take other adverse employment action against employees for taking or asking about their bereavement leave rights.