

# Child Death or Disappearance Leave Compliance Game Plan



The death or disappearance of a child is the ultimate nightmare. Expecting a parent to continue working while undergoing such an ordeal is unrealistic and cruel. That's why employment standards laws in all parts of the country (with the exception of Northwest Territories and Nunavut) provide a special form of unpaid leave when a child's death or disappearance is the result of a crime. But [leave rules vary by jurisdiction](#). This can create compliance challenges for HR directors, particularly if your organization operates in more than one province. Here's a 12-step Game Plan for complying with the child death or disappearance leave laws of your jurisdiction. Go to the HR Insider website for a [template policy](#) tailored to the laws of your province.

## **Step 1. Ensure Employees Are Eligible for Child Death or Disappearance Leave**

Because its duration is so long, most provinces require employees to have a minimum amount of continuous service with the same employer to qualify for child death or disappearance leave:

**Table 1. Minimum Employment for Child Death or Disappearance Leave Eligibility**

None (all employees eligible)	6 Consecutive Months	90 Days/3 Months	13 Consecutive Weeks	30 Days
Federal, British Columbia, New Brunswick, Québec	Ontario, Yukon	Alberta, Nova Scotia, Prince Edward Island	Saskatchewan	Manitoba, Newfoundland

Source: Bongarde Media

## **Step 2. Ensure Employee Has Grounds to Take Child Death or Disappearance Leave**

To be eligible for leave, an employee must be the "parent" of a "child" who

disappears or dies and it's "probable in the circumstances" that the death or disappearance was the result of a crime (although a death need not be crime-related in BC, Ontario, and Québec and the disappearance need not be crime-related in Québec). There are 3 definitions you must understand to apply this rule.

**"Child"** generally means a person under age 18. Exceptions:

- Federal: "child" is defined as a person under age 25; and
- BC: "child" is defined as a person under age 19;

**"Parent"** typically means a person who has a parental relationship with the child who dies or disappears, which typically includes:

- A biological parent;
- A parent's spouse or common law partner;
- A person with whom a child has been placed for adoption;
- A guardian or foster parent; and
- A person who has the care, custody, or control of a child regardless of whether they're related by blood or adoption.

**"Crime"** includes offences under the *Canada Criminal Code*. However, employees aren't eligible for leave if they're charged with the crime related to the child's death or disappearance.

### **Step 3. Ensure Employees Start Child Death or Disappearance Leave at the Proper Time**

The window during which employees may begin child disappearance or death leave opens during the week that occurs on the date of disappearance or death and, in most jurisdictions, remains open until the week that occurs on the date that falls 53 weeks from the disappearance date and 105 weeks from the death date (or date the body is found). **Example:** The parent of a child who gets murdered on January 1, 2025 must start child death leave no later than the week on which January 1, 2027 falls.

### **Step 4. Ensure Employees End Child Death or Disappearance Leave at the Proper Time**

In most jurisdictions, child disappearance leave can last up to 52 weeks and child death leave can last up to 104 weeks if a child disappears and 104 weeks if the child dies. However, in 3 jurisdictions, leave is the same for both:

- Federal: 156 weeks for a child's death or disappearance;
- New Brunswick: 37 weeks for a child's death or disappearance;
- Ontario: 104 weeks for a child's death or disappearance.

### **Step 5. Recognize Grounds for Shortening or Extending Child Death or Disappearance Leave**

Child death or disappearance leave may be cut short or extended when certain contingencies occur after the employee begins leave:

## **Table 2. Potential Changes to Duration of Child Disappearance or Death Leave**

## Scenario

Employee goes on child disappearance leave and missing child is found alive.

Employee goes on child disappearance leave and missing child is found dead.

Employee goes on child death or disappearance leave and it later becomes clear that the death or disappearance isn't crime-related.

Employee who goes on child death or disappearance leave is charged with a crime related to the death or disappearance.

## Consequences

Leave ends within 14 days after child found (or sooner if 53-week maximum would be exceeded).

Disappearance leave ends but employee becomes eligible for child death leave of up to 104 weeks from the date of disappearance.

Leave ends immediately.

Leave ends on date employee is charged.

Source: Bongarde Media

## Step 6. Limit Aggregate Leave by Multiple Employees for Same Child Death or Disappearance

When an employee takes disappearing child leave and that disappeared child is found dead, the leave flips to death leave, i.e., from 52 weeks to 104 weeks, **starting from the date of the disappearance**. In other words, the time already spent on disappearance leave counts towards the maximum child death leave allotment and doesn't increase it. **Result:** Combined leave can't exceed the maximum duration for child leave. In addition, some jurisdictions have rules governing the sharing of leave by employees:

- **Federal:** Aggregate leave for the same death or disappearance of a child or the same children who die or disappear as a result of the same event may not exceed 156 weeks;
- **New Brunswick:** Employees who are parents of the same child who disappears or dies may each take the 37-week leave;
- **Ontario:** Aggregate leave for a death or disappearance resulting from the same event by one or more employees is 104 weeks; aggregate total applies regardless of whether the employees work for same employer; and
- **Prince Edward Island, Yukon:** Total leave that may be taken by 2 or more employees for the disappearance or death of the same child, or for the same children who disappear or die as a result of the same crime, may not exceed 52 weeks for a disappearance and 104 weeks for a death.

## Step 7. Make Employees Take Child Death or Disappearance Leave in Appropriate Increments

Some jurisdictions establish rules governing the increments in which child death or disappearance leave must be taken:

**Table 3. Required Increments for Child Death or Disappearance Leave**

Not Specifically Addressed	One Unit	Units of at Least One Week
FED, AB, MB, NB, NL, QC, SK BC*, NS, ON EI, YT		

### Note:

\* In BC, employers may consent to allowing employees to take child death or

disappearance leave in multiple units.

**Source:** Bongarde Media

### **Step 8. Require Notification of Child Death or Disappearance Leave**

Require employees to provide you written notification of their intent to take child death or disappearance leave and its expected duration. While advance notice is always preferable, a child's death or disappearance is almost always an unforeseen event. So, require employees to give you notice as soon as possible after leave begins and to notify you of any changes to their return date as soon as possible thereafter.

### **Step 9. Require Verification of Entitlement to Child Death or Disappearance Leave**

As with most forms of employment standards leave, you're generally allowed to require employees to verify their entitlement to child death or disappearance leave. The mere fact that the child has died or disappeared isn't enough; employees are also expected to provide "reasonable documentation" that the death or disappearance was the probable result of a crime, such as a police report. **Exceptions:**

- **Any child disappearance:** In Québec, child disappearance leave applies to any disappearance of a child regardless of whether it's crime-related; and
- **Any child death:** In BC, Ontario, and Québec, child death leave applies to any death of a child regardless of whether it's crime-related.

### **Step 10. Properly Reinstate Employees Returning from Child Death or Disappearance Leave**

Employers must reinstate employees returning from child death or disappearance leave to their previous jobs or a comparable position in terms of pay and benefits, and with no loss in seniority. In most jurisdictions, employees also continue to accrue benefits, vacation and service time while they're on leave.

### **Step 12. Don't Take Reprisals Against Employees for Exercising their Leave Rights**

Employers aren't allowed to terminate, demote, cut the pay or [benefits](#), or take other adverse employment action against employees for taking or asking about their child death or disappearance leave rights.