

Child Death or Disappearance Leave Policy – Ontario Version



The employment standards laws of most jurisdictions (Northwest Territories and Nunavut are the only exceptions) entitle employees to take unpaid leave if their child dies or disappears as a result of a crime. But while child death and disappearance leave is an almost universal right, the rules and requirements vary from province to province. So, it's important to establish and implement a child death or disappearance leave policy that complies with the employment standards laws of your jurisdiction. Here's a template Policy based on Ontario laws. Go to the HR Insider website for a template policy suited to your own jurisdiction.

UNPAID LEAVE FOR A CHILD'S DEATH OR DISAPPEARANCE

1. PURPOSE

The disappearance or death of a child is a nightmare of unspeakable dimensions for any parent. ABC Company has adopted this Child Death/Disappearance Leave Policy (Policy) to ensure that employees who ever have the misfortune of experiencing such an ordeal get the unpaid time off from work that they need to recover without suffering any retribution or adverse consequences to their employment and to establish clear ground rules for requesting, taking and returning from leave in accordance with the requirements of the Ontario *Employment Standards Act* (ESA).

2. DEFINITIONS

For purposes of this Policy:

1. **"Child"** means a person under 18 years of age;
2. **"Crime"** means an offence under the *Criminal Code (Canada)*;
3. **"Week"** means a period of 7 consecutive days beginning on Sunday and ending on Saturday.

3. ELIGIBILITY FOR LEAVE

Employees are entitled to unpaid leave of up to 104 weeks if:

1. They have at least 6 consecutive months of employment with ABC Company;
2. A child of the employee disappears or dies;

3. In the case that the child has disappeared, it is probable, in the circumstances, that the child disappeared as a result of a crime;
4. The employee requests leave under this Policy; and
5. The employee provides the notification and verification required for taking leave under this Policy.

3.2 Exception to Eligibility

Employees have no right to leave under this Policy if they are charged with the crime that resulted in the child's death or disappearance or the child is a party to the crime.

4. HOW & WHEN LEAVE MAY BE TAKEN

4.1 Child Disappearance Leave

Employees must take child disappearance leave under this Policy during the 105-week period that starts on the date the child disappears. Child disappearance leave will end on the earliest of the following dates, if any apply:

1. The date on which circumstances indicate that it is no longer probable that the child's disappearance is a result of a crime;
2. The date the employee is charged with a crime that resulted in the child's disappearance;
3. 14 days after the date on which the child is found alive;
4. The date on which the child is found dead, in which case the employee becomes eligible for child death leave of up to 105 weeks from the date of the child's disappearance.

4.2 Child Death Leave

Employees must take child death leave under this Policy during the 105-week period that starts on the child's death, unless ABC Company provides consent allowing employees to take longer leave. Child death leave will end before the normal 105 weeks on the earliest of the following dates, if any apply:

1. The date on which circumstances indicate that it is no longer probable that the child's death is a result of a crime;
2. The date the employee is charged with a crime that resulted in the child's death.

4.3 Leave Must Be Taken in One Unit

Employees must take child death or disappearance leave under this Policy in a single unit of time.

5. AGGREGATE LEAVE

In accordance with ESA requirements, 104 weeks is the maximum leave one or more employees may take for a child's death or disappearance resulting from the same event. This aggregate total applies regardless of whether those employees all work for ABC Company.

6. NOTIFICATION OF LEAVE

6.1 Initial Notification

Employees wishing to take unpaid leave under this Policy must give their supervisor or the ABC Company HR director written notice as soon as possible, along with a written plan listing:

1. The reasons for leave, i.e., the death or disappearance of the child;
2. The weeks leave will be taken; and
3. An estimated date of return.

6.2 Changes to Time of Leave

Employees may take child death or death leave at a time other than that indicated in their written plan, provided that:

1. The change to the time of leave meets the applicable ESA requirements; and
2. Either:
 1. The employee requests permission, in writing, from ABC Company to so alter the timing and ABC Company grants such permission; or
 2. The employee provides ABC Company 4 weeks' written notice before the change is to take place.

6.3 Notification of Return

Once leave begins, employees must notify their supervisor or the ABC Company HR director of any changes in their estimated date of return including the occurrence of any of the post-leave developments which may affect the duration of the leave listed in Section 4 above.

7. EMPLOYEE DUTY TO FURNISH VERIFICATION OF LEAVE

ABC Company may require employees to provide evidence that is reasonable in the circumstances that they are entitled to take child death or disappearance leave.

8. RETURN FROM LEAVE

When employees return to work after child death or disappearance leave, they will either be reinstated in the position occupied when the child death or disappearance leave started or provided alternative work of a comparable nature at no less than the earnings and other benefits that had accrued to the employee when the death or disappearance of child leave started. Employees who don't want to resume employment after leave ends must provide their supervisor or the ABC Company HR Director written notice of their intention to terminate of at least:

1. One week if they've been employed by ABC Company for less than 2 years;
2. Two weeks if they've been employed by ABC Company for more than 2 years.

9. ASSURANCE OF NON-RETALITAION

Neither ABC Company nor any of its managers, supervisors, employees, or other representatives and agents will discharge, threaten, penalize, or in any other manner discriminate or retaliate against any employee for exercising their rights under this Policy, including but not limited to requesting or taking child death or disappearance leave or inquiring about their leave rights.