

Child Death or Disappearance Leave Rights

– Know The Laws of Your Province



While child death or disappearance leave is required by the employment standards laws of every jurisdiction except Northwest Territories and Nunavut, there are significant differences with regard to:

- How long employees must be employed to be eligible for leave;
- When leave must start and end;
- How long leave may last;
- Whether leave may be taken in one or more units;
- Whether employees can share allotted leave time;
- The kind of notice employees must provide to take leave;
- Whether employers can require pregnant employees to start leave early; and
- Whether employees continue to accrue seniority while they're on leave.

Another key variable is whether the child's death or disappearance must be crime-related. Normally, employees must be able to show not only that the child died or disappeared but also that it's "probable," under the circumstances, that the death or disappearance was the result of a crime. However, child death leave in BC, Ontario, and Québec covers any death of a child, regardless of whether it's crime related. The same rule applies for a child's disappearance in Québec.

Here's a look at the requirements in each jurisdiction. Go to the HR Insider website for a complete [Child Death or Disappearance Leave Compliance Game Plan](#) and a [template policy](#) tailored to the laws of your particular province.

ALBERTA

- **Definition of "Child":** Under age 18.
- **Minimum employment for eligibility:** At least 90 days with same employer.
- **Length of leave:** Up to 52 weeks for a crime-related disappearance of a child; up to 104 weeks for a crime-related death of a child.
- **Leave may be taken:** starting on date of child's disappearance or death and ending 52 weeks after the disappearance date or 104 weeks after the death date; **Exception:** If a child who disappears is later found, leave ends: (a) if the child is found alive, 14 days after the day on which the child is found but no

later than the end of the 52-week period, or (b) if the child is found dead, 104 weeks after the day on which the disappearance occurred.

- **Early end of leave:** Death or disappearance of child leave ends on the day: (a) on which the circumstances are such that it's no longer probable that the death or disappearance was the result of a crime; or (b) the employee is charged with the crime related to the child's death or disappearance.
- **Combined leave:** Not addressed.
- **Notice:** Employee must give employer written notice of leave and estimated return to work date as soon as is reasonable and practicable in the circumstances; employee must also notify employer of any change in estimated return date.
- **Verification:** Employee must provide reasonable and practicable verification that they're entitled to leave as soon as reasonably possible.
- **Reinstatement:** To same or comparable position at same salary and benefits as if leave hadn't been taken; seniority accumulates during leave.
- **Other:** If an employee is on child death or disappearance leave on the day by which they must use their vacation, they must use any unused part of the vacation immediately after the leave expires or later date agreed to by the employer and employee.

(*Emp. Standards Code, Division 7.3*)

BRITISH COLUMBIA

- **Definition of "Child":** Under age 19.
- **Minimum employment for eligibility:**
- **Length of leave:** Up to 52 weeks for a crime-related disappearance of a child; up to 104 weeks for a crime-related death of a child.
- **Leave for child disappearance may be taken on date of child's disappearance and end** 53 weeks after the disappearance date or upon the earliest of the date: i. on which circumstances indicate it's no longer probable that the child's disappearance is a result of a crime; ii. the employee is charged with a crime that resulted in the child's disappearance of the child; iii. that's 14 days after the date on which the child is found alive; iv. on which the child is found dead; or v. that's the last day of the last unit of time in respect of which the employer consents.
- **Leave for child death may be taken on the date the child dies or is found dead and end** 105 weeks after that date or earlier on the date: (a) the employee is charged with a crime that resulted in the child's death; or (b) that's the last day of the last unit of time in respect of which the employer consents to a leave taken in more than one unit.
- **Combined leave:** Not addressed.
- **Notice:** Employee must notify employer, preferably in writing, of need to take leave and how long it's expected to last.
- **Verification:** If employer requests, employee must, as soon as practicable, provide reasonably sufficient proof that the child has disappeared or died as the probable result of a crime.
- **Reinstatement:** To same or comparable position at same salary and benefits as if leave hadn't been taken; seniority accumulates during leave.
- **Other:** Employees must take leave in one unit at a time unless employer consents to leave in multiple units.

(*Emp. Standards Act, Secs. 52.3 + 52.4*)

MANITOBA

- **Definition of “Child”:** Under age 18.
- **Minimum employment for eligibility:** 30 days with same employer.
- **Length of leave:** Up to 52 weeks for a crime-related disappearance of a child; up to 104 weeks for a crime-related death of a child; Unless employee and employer agree otherwise, employee may end a leave earlier by giving employer written notice at least one pay period.
- **Combined leave:** Not addressed.
- **Notice:** Employee must provide employer notification of at least one pay period, unless circumstances necessitate a shorter period.
- **Verification:** Employee must provide employer reasonable verification of need for leave as soon as possible.
- **Reinstatement:** To same or comparable position at same salary and benefits as if leave hadn’t been taken; seniority accumulates during leave.

(Emp. Standards Code, Sec. 59.9)

NEW BRUNSWICK

- **Definition of “Child”:** Under age 18.
- **Minimum employment for eligibility:**
- **Length of leave:** Up to 37 weeks for a crime-related disappearance or death of a child.
- **When leave may be taken:** Starting on the day the death or disappearance is discovered, and ending 37 weeks after that day.
- **Early end of leave:** Exceptions: i. Leave ends 14 days after the day a child who has disappeared is found alive; ii. If a child who has disappeared is found dead during the 37-week period, and it’s probable, that the child died as a result of a crime, leave ends 37 weeks after the day on which the child is found; iii. Leave ends 14 days after the day that, considering the circumstances, it’s no longer probable that the child disappeared or died as a result of a crime, unless the employer and employee agree to an earlier date to return to work.
- **Combined leave:** Employees who are parents of the same child who has disappeared or died may each take the 37-week leave.
- **Notice:** Employee must give employer written notice of intent to take leave, anticipated start date and anticipated duration as soon as possible, as well as changes in leave duration after leave begins.
- **Verification:** Employer may require employee to provide reasonable documentation of entitlement to leave.
- **Reinstatement:** To same or comparable position at same salary and benefits as if leave hadn’t been taken; seniority accumulates during leave.

(Employment Standards Act, Sec. 44.026)

NEWFOUNDLAND & LABRADOR

- **Definition of “Child”:** Under age 18.
- **Minimum employment for eligibility:** At least 30 days with same employer.
- **Length of leave:** Up to 52 weeks for a crime-related disappearance and up to 104 weeks for crime-related death of a child—however, in either case, employee must limit duration of leave to that which is “reasonably necessary in the circumstances”.

- **When leave may be taken:** Employees must provide at least 2 weeks' notice, if they can.
- **Combined leave:** Not addressed.
- **Notice:** Employee must give employer at least 2 weeks' notice that lists the duration of the leave unless there's a valid reason why that notice can't be provided.
- **Verification:** Employee must provide employer with reasonable verification of the necessity of leave as soon as possible.
- **Reinstatement:** To same or comparable position at same salary and benefits as if leave hadn't been taken; Unless employer and employee agree otherwise, time spent on crime-related child death or disappearance leave doesn't count as time for purposes of employee's entitlement to notice of termination, vacation entitlement or other benefits under the *Labour Standards Act*.

(*Labour Standards Act*, Part VII.5)

NOVA SCOTIA

- **Definition of "Child":** Under age 18.
- **Minimum employment for eligibility:** At least 3 months with same employer.
- **Length of leave:** Up to 52 weeks for a crime-related disappearance and up to 104 weeks for crime-related death of a child.
- **When leave may be taken:** Child disappearance leave may only be taken during the 53-week period that begins the week the child disappears; Child death leave may only be taken during the 105-week period that begins the week the child is found dead.
- **Change of circumstances:** If child who has disappeared is found within the 52-week period that begins the week the child disappears, the employee may: (a) continue taking leave for 14 days after the day on which the child is found, if the child is found alive; or (b) take 104 weeks unpaid leave from the day the child is found dead and, in this situation, any remaining leave ends; 2. If the child is found dead more than 52 weeks after the week in which the child disappeared, employee may take unpaid leave of up to 104 weeks from the day the child is found dead; 3. Leave also ends early after no later than 14 days where circumstances change and it no longer seems probable that the death or disappearance was the result of a crime, unless the employee and employer agree in writing to an earlier return to work; and 4. Employee can end leave early by giving employer 14 days' notice, unless the sides agree otherwise.
- **Combined leave:** Not addressed.
- **Notice:** Employee must give employer written notification of intention to take leave as soon as possible, along with a written plan outlining the leave period, which can be changed during the leave period with the employer's agreement or by giving the employer 4 weeks' written notice.
- **Verification:** Employer may require an employee to provide evidence, reasonable in the circumstances, of the employee's entitlement to leave.
- **Reinstatement:** To same or comparable position at same salary and benefits as if leave hadn't been taken.
- **Other:** Leave must be taken in a single period.

(*Labour Standards Code*, Secs. 60T to 60X)

NORTHWEST TERRITORIES AND NUNAVUT

Crime-related child death and disappearance leave not included in *Employment*

ONTARIO

- **Definition of "Child":** Under age 18.
- **Minimum employment for eligibility:** At least 6 consecutive months with same employer.
- **Length of leave:** Up to 104 weeks for crime-related death or disappearance of a child.
- **When leave may be taken:** Leave may only be taken during the 105-week period that begins in the week the child disappears or dies.
- **Change of circumstances for disappearance leave:** Entitlement to disappearance leave ends if and on the day circumstances change and it no longer seems probable that the child disappeared as a result of a crime; 2. If an employee takes a child disappearance leave and the child is found within the 104-week period that begins in the week the child disappears: (a) If the child is found alive, the employee may remain on leave for 14 days after the child is found; (b) If the child is found dead, the employee's entitlement to leave ends at the end of the week in which the child is found.
- **Combined leave:** 104 weeks is the maximum leave one or more employees can take for a death or disappearance resulting from the same event; aggregate total applies regardless of whether employees work for same employer.
- **Notice:** Employee must give employer written notification of intention to take leave as soon as possible, along with a written plan listing the weeks of leave; Exception: employee may take a leave at a different time from that listed on the plan, as long as: (a) the change to the time of the leave meets the ESA requirements for crime-related child death or disappearance; and (b) either: i. the employee requests permission from the employer to do so in writing and the employer grants permission in writing; or ii. the employee provides the employer 4 weeks written notice before the change is to take place.
- **Verification:** Employer may require employee to provide evidence, reasonable in the circumstances, of entitlement to leave.
- **Reinstatement:** To same or comparable position at same salary and benefits as if leave hadn't been taken; seniority accrues during leave.
- **Other:** Leave must be taken in a single period.

(Employment Standards Act, Secs. 49.5 + 49.6)

PRINCE EDWARD ISLAND

- **Definition of "Child":** Under age 18.
- **Minimum employment for eligibility:** At least 3 continuous months with same employer.
- **Length of leave:** Up to 52 weeks for crime-related disappearance of a child and 104 weeks for crime-related death of a child.
- **When child disappearance leave may be taken:** Starts the first day of the work week during which the child disappears and ends on the last day of the work week in which any of the following occur: (a) 14 days expire since the child is found alive; (b) 14 days expire since circumstances change and it no longer seems probable that the disappearance of the child was the result of a crime; (c) 52 weeks expire since the first day of the work week during which the child disappeared; (d) the child is found dead.
- **When child death leave may be taken:** Starts the first day of the work week during which the child is found dead and ends on the last day of the work week

in which any of the following occur: (a) 14 days expire since circumstances change and it no longer seems probable that the child's death was the result of a crime; (b) 104 weeks expire since the first day of the work week during which the child is found dead.

- **Combined leave:** Total amount of 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.
- **Notice:** Not specifically addressed.
- **Verification:** If employer requests it in writing, employee must provide reasonable documentation in the circumstances to support employee's entitlement to leave.
- **Reinstatement:** To same or comparable position at same salary and benefits as if leave hadn't been taken; seniority accrues during leave.
- **Other:** Leave must be taken in periods of at least one work week in duration.

(*Employment Standards Act, Secs. 19, 20, 22*)

[QUÉBEC](#)

- **Definition of "Child":** Minor child.
- **Minimum employment for eligibility:**
- **Length of leave:** Up to 104 unpaid weeks for the death or disappearance of a child, regardless of whether it's crime-related; another 104 weeks for crime-related death of a child; if a missing child is found safe, employee must return within 11 days.
- **When leave may be taken:** Not specifically addressed.
- **Combined leave:** Not addressed.
- **Notice:** Not addressed.
- **Verification:** Not addressed.
- **Reinstatement:** To same or comparable position at same salary and benefits as if leave hadn't been taken; seniority maintained during leave.

(*Labour Standards Act, Division V.0.1*)

[SASKATCHEWAN](#)

- **Definition of "Child":** Under age 18.
- **Minimum employment for eligibility:** At least 13 consecutive weeks with employer.
- **Length of leave:** Up to 52 weeks for crime-related disappearance of a child and 104 weeks for crime-related death of a child.
- **When leave may be taken:** Child disappearance leave may be taken only during the 52-week period that begins in the week the child disappears; Child death leave may be taken only during the 104-week period that begins in the week the child dies.
- **Changes in leave circumstances:** If the circumstances that made it probable that the child died or disappeared as a result of a crime change and it no longer seems probable that the child died or disappeared as a result of a crime, entitlement to leave ends on the day on which it no longer seems probable; 2. Leave ends on the day on which the employee is charged with a crime connected to the child's death or disappearance; and 3. Child disappearance leave ends when the child is found within the 52-week period that begins in the week the child disappears, in which case the employee is entitled: (a) to remain on leave for 14 days after the day the child is found, if the child is found alive; or (b) to

take 104 weeks of leave from the day the child disappeared, if the child is found dead, regardless of whether the employee is still on leave when the child is found.

- **Combined leave:** Not addressed.
- **Notice:** Employee must provide employer notice of leave and return date as far in advance as possible.
- **Verification:** If employer requests it, employee must provide written evidence verifying eligibility for leave.
- **Reinstatement:** To same or comparable position at same salary and benefits as if leave hadn't been taken; seniority accrues during leave.

(*Sask Emp Act*, Sec. 2-58)

YUKON TERRITORY

- **Definition of "Child":** Under age 18.
- **Minimum employment for eligibility:** At least 6 months of continuous employment.
- **Length of leave:** Up to 52 weeks for crime-related disappearance of a child and up to 104 weeks for crime-related death of a child.
- **When leave may be taken:** Leave begins on the day on which the death or disappearance occurs, and ends: (i) in the case of child death leave, 104 weeks after the day on which the death occurs, or (ii) in the case of disappearance leave, 52 weeks after the day on which the disappearance occurs.
- **Combined leave:** Aggregate amount of leave that may be taken by 2 or more employees for the same death or disappearance of a child, or the same children who die or disappear as a result of the same crime, may not exceed 104 weeks in the case of death or 52 weeks in the case of a disappearance.
- **Notice:** Employee must give employer written notice at least 2 weeks before leave starts unless the circumstances necessitate a shorter period.
- **Verification:** Not specifically addressed.
- **Reinstatement:** To same or comparable position at same salary and benefits as if leave hadn't been taken; seniority accrues during leave.
- **Other:** Leave must be taken in increments of at least one week.

(*Employment Standards Act*, Sec. 60.03)

FEDERAL

- **Definition of "Child":** Under age 25.
- **Minimum employment for eligibility:** None.
- **Length of leave:** Up to 156 weeks for crime-related death and disappearance of a child.
- **Leave may be taken** starting on the day of the child's death or disappearance and ending: (a) 156 weeks after the death or disappearance; or (b) if the child is found before 156 weeks after the disappearance date, the 14th day after the day on which the child is found.
- **Combined leave:** Aggregate amount of leave that may be taken by employees for the same death or disappearance of a child – or the same children who die or disappear as a result of the same event – must not exceed 156 weeks.
- **Notice:** Employee must notify employer of reasons for, planned length of, and/or changes in length of leave in writing as soon as possible.
- **Verification:** Employee must prove that a child has died, and that death was the result of a probable crime—while this normally requires finding the body, unless the remains can't be found or identified but it's clear that the child died as a

result of a crime.

- **Reinstatement:** To same or comparable position at same salary and benefits as if leave hadn't been taken; seniority accumulates during leave.
- **Other:** If employee requests in writing, employer must inform her in writing of every employment, promotion, or training opportunity for which the employee is qualified that arises while the employee is on leave.

(Canada Labour Code, Division VII)