

# New Job Protected Leaves Available For Family Emergencies



Employers operating in Ontario should take note that the statutory job-protected leaves of absence available to employees in the province will soon be expanded to allow for more time off in order to tend to family emergencies.

Bill 21, the *Employment Standards Amendment Act (Leaves to Help Families), 2014* has received Royal Assent. As a result, **effective October 29, 2014**, Ontario employees will be entitled to three new job-protected leaves of absence:

1. Family Caregiver Leave;
2. Critically Ill Child Care Leave; and
3. Crime-Related Child Death and Disappearance Leave.<sup>1</sup>

Ontario employers are obligated to make these leaves of absence available to employees, count the time on leave as time served during employment and, generally, must return employees to their position at the end of the leave. Employers are also required to continue making contributions to certain benefit plans including pension plans, life insurance plans and extended health and dental plans during the leave.

The following is a brief overview of the new leaves:

1. **Family Caregiver Leave:** Employees will be entitled to up to eight weeks of unpaid leave per year in order to provide care to an ill family member (as defined in the legislation), provided that a qualified medical practitioner has issued a certificate indicating that the family member has a “serious medical condition.” Employers are entitled to request and receive a copy of this medical certificate. Employee must provide written notice before taking the leave, however employees are not required to take the leave in complete weeks. No minimum period of service is required before employees become entitled to this leave.
2. **Critically Ill Child Care Leave:** Employees will be entitled to up to 37 weeks of unpaid leave in order to care for a critically ill child (under the age of 18) provided that a qualified medical practitioner has issued a certificate indicating that the child is critically ill (as defined in the legislation). Employers are entitled to request and receive a copy of this medical certificate. To qualify for this leave, employees must have been employed by the employer for six consecutive months and must provide written notice and a written plan indicating when the leave will be taken.

3. **Crime-Related Child Death and Disappearance Leave:** Employees will be entitled to up to 52 weeks of unpaid leave if the employee's child has disappeared as a result of a crime, and up to 104 weeks of unpaid leave if their child has died as a result of a crime. The leave is generally required to be taken in a single period, subject to limited exceptions. To qualify for this leave, the employee must have been employed by the employer for six consecutive months and must provide written notice and a written plan indicating when the leave will be taken.

Given these upcoming changes, now is a good time for employers to revisit their employment policies in order to incorporate the updates and also ensure overall compliance with Ontario's employment laws. To this end, we remind you that *Ontario's Employment Standards Act, 2000* already provides for numerous job-protected leaves of absence in addition to the standard pregnancy leave and parental leave. These leaves of absence include:

- Reservist Leave, available to reserve members of the Canadian Armed Forces in order to participate in training or duty;
- Organ Donor Leave, available to individuals who either require an organ transplant or are donating an organ;
- Personal Emergency Leave, available to employees whose employer has over 50 employees, in order to tend to short term personal emergencies;
- Family Medical Leave, a leave designed to provide time off to care for a family member who has a serious medical condition that is likely to lead to death within 26 weeks (notably, this is in addition to the new leaves of absence coming into force in October); and
- Emergency Leave, available to employees in the event of certain declared emergencies under the *Emergency Management and Civil Protection Act*.

#### **Footnote**

1. Note that while these new changes do not apply to federally regulated employees, similar leaves of absence have been introduced federally as well.

*The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought*

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Article by Geoffrey Breen and Caitlin Russell

**Cassels Brock**