

Illinois Child Bereavement Leave Act Becomes Law

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On July 29, 2016, Governor Rauner signed the Child Bereavement Leave Act, making Illinois one of only two states with this type of law. Public Act 099-0703 takes effect immediately, providing up to a maximum of ten unpaid days of leave for employees to: 1) attend the funeral of a child; 2) make arrangements necessitated by the death of a child; or 3) grieve the death of a child. The leave must be used within 60 days of the date on which the employee receives notice of the death of the child. The law requires that the employee provide the employer at least 48 hours' notice that the employee intends to use the leave, unless such notice is impracticable.

The law borrows its definitions from the federal Family and Medical Leave Act (FMLA). A covered employer is the same as a covered employer under the FMLA (those with at least 50 or more employees during 20 or more calendar workweeks in the current or preceding calendar year). Likewise, a covered employee must have been employed for at least 12 months and have at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave. A "child" can be the employee's biological, adopted or foster child. Stepchildren, legal wards and children the employee stands in loco parentis to are also included.

Other facts about the law:

- An employer may require reasonable documentation to support the request for leave. This could include a death certificate, obituary or other written verification of death (e.g., from a funeral home, mortuary or crematorium).
- Should an employee experience the death of more than one child in a 12-month period, the employee may take up to six weeks of unpaid leave.
- An employee may substitute any paid or unpaid leave available from the employer (such as sick, personal, PTO or bereavement). This paid time could run

concurrently with the Illinois Child Bereavement Leave. Further, should the employee be eligible for time under FMLA, the Illinois Child Bereavement Leave would run concurrently. The law specifically states that is not intended to create a right to unpaid leave that exceeds, or is in addition to, the amount of leave available under FMLA.

The law contains an anti-retaliation clause and will be enforced by the Department of Labor. The Department of Labor is authorized to issue administrative regulations to administer and enforce the law. Currently, there is no required posting concerning this law.

Covered employers should update their bereavement policies to reflect this new law. If you need assistance updating your policy, Association members should contact us at 800-448-4584 or hotline@hrsourc.org to speak with one of our attorneys in the Employment Law Services Department, who will be happy to assist you. We will continue to keep you apprised concerning any new regulations or posting requirements.

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