

One Minute Memo®



New Illinois Law Requires Unpaid Child Bereavement Leave

By Megan Toth and Edward Bergmann

Seyfarth Synopsis: Illinois recently became one of two states to enact a statute requiring certain employers provide two weeks of unpaid leave to employees who suffer the loss of a child.

On July 29, 2016, Illinois became one of only two states to require employers provide unpaid leave to employees who suffer the loss of a child. Under the Illinois Child Bereavement Leave Act (CBLA), Illinois employers with 50 or more employees must provide covered employees with up to two weeks (10 work days) of unpaid leave.

The CBLA defines “employer” and “employee” in the same manner as the Family Medical Leave Act (FMLA). Therefore, any employer subject to the FMLA is covered by the CBLA and any employee eligible to take leave under the FMLA is eligible to take leave under the CBLA.

Using Bereavement Leave

Leave under the CBLA must be taken within 60 days after the employee receives notice of the death of a child. “Child” is defined as “an employee’s son or daughter who is a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis.” If an employee loses more than one child in any 12-month period, they are entitled to take up to six weeks of unpaid bereavement leave in that 12-month period.

Employees may use child bereavement leave for the following purposes: (1) to attend the funeral, or an alternative to a funeral, of a child; (2) to make arrangements necessitated by the death of the child; or (3) to grieve the death of the child.

Employees may elect to substitute paid leave for unpaid leave under the CBLA, but unlike the FMLA, employers *may not require* employees to do so. Employees, however, are not entitled to more unpaid leave beyond what is available under the FMLA. In other words, once an employee exhausts their 12 weeks of leave under the FMLA, they are not permitted to take an additional 10 days for the loss of a child (unless the employer opts to provide such additional leave).

Employee Obligations

To take leave under the CBLA, an employee must provide at least 48 hours’ notice of their intention to take leave under

the CBLA, unless it is not reasonable and practicable. An employer may require the employee requesting leave provide reasonable documentation, including a death certificate, a published obituary, or written verification of death, burial, or memorial services from a mortuary, funeral home, burial society, crematorium, religious institution, or government agency.

What the CBLA Means For Employers

All covered employers should immediately review and revise their employee handbooks and/or leave policies as necessary to address child bereavement leave. Employers should also notify employees that Illinois has enacted the Child Bereavement Leave Act, inform employees of their rights and obligations under the CBLA, and tell employees that if they lose a child that they should contact Human Resources for more information regarding the company's child bereavement leave policy. Finally, management-level employees should understand employees' rights and obligations under the CBLA, as well as the company's obligations, including the CBLA's no-retaliation provision.

Should you have any questions regarding the Illinois Child Bereavement Leave Act or if you need assistance reviewing your current leave policies, please contact your Seyfarth attorney, [Megan Toth](mailto:mtoth@seyfarth.com) at mtoth@seyfarth.com, or [Edward Bergmann](mailto:ebergmann@seyfarth.com) at ebergmann@seyfarth.com.

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