

FAMILY BEREAVEMENT LEAVE ACT SIGNED INTO LAW

To: ICRMT Members
From: O'Halloran Kosoff Geitner & Cook, LLC
Re: Family Bereavement Leave Act
Date: June 21, 2022

Governor Pritzker signed [Public Act 102-1050](#), the Family Bereavement Leave Act, into law on June 9, 2022. The law amends the Child Bereavement Leave Act and expands the reasons for which employees can take unpaid leave. The amendment goes into effect on January 1, 2023.

Currently under the Child Bereavement Leave Act, eligible employees can take up to 10 work days of unpaid leave to attend the funeral or alternative to a funeral of their child, to make arrangements necessitated upon the death of a child, or to grieve the death of a child. Criteria for employee leave eligibility mirrors that of the FMLA. To be eligible, an employee must have worked for the employer for 12 months or longer. In addition, the employee must have worked at least 1,250 hours in the previous 12 months, and the employee must work at a site with 50 or more employees. Leave must be taken within 60 days after the date on which the employee receives notice of the death. In the event of a death of more than one child in a 12-month period, the employee is entitled to a total of 6 weeks of bereavement leave. The Act does not create a right to take unpaid leave time that exceeds the unpaid leave available under the Family and Medical Leave Act (FMLA).

Under the amendment which goes into effect on January 1, 2023, employees can also take up to 10 work days of unpaid leave for the death of a family member, which is defined as an employee's child, stepchild, spouse, domestic partner, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent. In the event of a death of more than one covered family member in a 12-month period, the employee is entitled to a total of 6 weeks of bereavement leave.

The amendment also provides up to 10 workdays of unpaid leave for the following reasons relating to pregnancy, fertility, adoption, and surrogacy:

- A miscarriage
- An unsuccessful round of intrauterine insemination or an assisted reproductive technology procedure

- A failed adoption match or an adoption that is not finalized because it is contested
- A failed surrogacy agreement
- A diagnosis that negatively impacts pregnancy or fertility, or
- A stillbirth.

An employer may, but is not required to require reasonable documentation of the need for leave, which may, in the case of a death include 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.

For covered leave related to pregnancy, fertility, adoption, and surrogacy, the employer may require reasonable documentation from the healthcare provider of the employee, or their spouse or surrogate, or documentation from an adoption or surrogacy organization certifying that the employee or his or her spouse or domestic partner has experienced an event for which leave is required. The employer may not require that the employee identify the specific condition or event which entitles the employee to leave, however.

The Family Bereavement Leave Act takes effect on January 1, 2023. In the meantime, employers should examine their policies to ensure that required updates go into effect on the law's effective date.