

ONTARIO'S THREE NEW LEAVES COME INTO EFFECT OCTOBER 29TH – Here's What You Need



"The one thing working Ontarians need most when it comes to caring for seriously ill or injured family members is the time to be with their loved ones. These proposed leaves are a matter of compassion, and the right thing to do for Ontario families."

- Yasir Naqvi, Minister of Labour, Ontario

As many of us in Ontario know by now (hopefully), there are three new protected leaves coming into effect this October 29th. The three leaves were outlined in Bill 21, the Employment Standards Amendment Act

(Leaves to Help Families) 2014 which received Royal Assent on April 29th, 2014. The three leaves are Family Caregiver Leave, Critically Ill Child Care Leave and Crime-Related Child Death or Disappearance Leave. For the full text of the bill, click [here](#).

Once the leaves come into effect, this will bring the total number of leaves available to Ontario employees to 10 (not including leave for voting). Note: these leaves are in addition to the Family Medical Leave which is still available to employees who have a family member with a significant risk of death occurring within twenty six weeks. So what do employers need to know about the leaves that will be available to employees? Read on to find out.

Action Plan

Action Plan 1

1 Family Caregiver Leave

Family Caregiver leave is intended to provide unpaid, job-protected time away from work for employees who need to provide care or support for a family member who has a serious medical condition. The leave entitles the employee to up to eight weeks of leave. Employees must request this leave in writing, including the proposed start date. In a case where an employee has to start the leave before providing notice, as long as the employee provides notice, the employee is still entitled to the leave. Employers may request that the employee provide a certificate from a qualified medical practitioner attesting to the illness of the family member. This leave is available once in a calendar year. Family member is defined as:

- The employee's spouse
- A parent, step-parent or foster parent of the employee or the employee's spouse
- A child, step-child or foster child of the employee or the employee's spouse
- A grandparent, step-grandparent, grandchild or step-grandchild of the employee or the employee's spouse
- The spouse of a child of the employee
- The employee's brother or sister
- A relative of the employee who is dependent on the employee for care or assistance

- Any individual prescribed as a family member for the purpose of this section

For a full policy on this leave, try HRd's [Family Caregiver Leave Policy \(Effective Oct 29, 2014\) – Ontario](#).

Action Plan 2

2 [Critically Ill Child Care Leave](#)

The second leave introduced by this bill was one for the parents of a child who is critically ill. To be eligible, an employee must have worked for his/her employer for a minimum of six consecutive months. The definition of child, for the purposes of this leave is:

- Child
- Step-child
- Foster child
- Child who is under legal guardianship
- Child who is under 18 years of age

Critically ill, for this leave, means a child whose baseline state of health has significantly changed and whose life is at risk as a result of an illness or injury. The employee must request this leave in writing from his/her employer, including the requested weeks of leave. An employer may ask for a verification of the need for leave from a qualified medical practitioner. An employee is entitled to take up to 37 weeks of leave to provide the care or support to the critically ill child. If the medical practitioner's certificate is for less than 37 weeks, the employer is only required to provide the amount of leave outlined in the certificate. Please note that even if more than one child of the employee is critically ill as a result of the same occurrence, the entitlement remains the same at 37 weeks. An employee may be eligible for an extension of this leave if the child remains critically ill and part of the 37 week entitlement has not been used before the expiration of a 52 week period (starting from the time of the first medical certificate or first date of leave, whichever is sooner). As with other leaves, an employee can make changes to the dates of the leave and it is the employer's discretion as to whether or not it will be approved. Looking for a policy to provide information to employees about the parameters of this leave? Try HRd's [Critically Ill Child Leave Policy \(Effective Oct 19, 2014\) – Ontario](#).

Action Plan 3

3 [Crime-Related Child Death or Disappearance Leave](#)

The third leave involves job protected time away from work for an employee if the employee's child dies and it is probable that the child died as a result of the crime or if the employee's child disappears and it is probable that it was a result of a crime. This leave is available to an employee who has been with his/her employer for a minimum six consecutive months. As per this leave, 'child' refers to a child, step-child or foster child who is under 18 years of age and 'crime' refers to an offence under the Criminal Code of Canada, for the full text of the Code, click [here](#).

The leave is for a maximum 52 week period if a child of the employee disappears and it is probable, considering the circumstances, that the child disappeared as a result of the crime. If it becomes known that the child did not disappear or die as a result of a crime, the employee's leave ends on the day this is discovered. This also means that if the child is found within the 52 week period, the employee is entitled to either remain on leave for 14 days after the day the child is found (if the child is found alive) or take 104 weeks of leave from the day the child

disappeared, if the child is found dead, regardless of whether or not the employee was on leave when the child was found. Note: if the child is found dead more than 52 weeks after the week when the disappearance occurred, the employee is entitled to a leave of up to 104 weeks. This leave is intended to be taken in a continuous period; however, during the 105 week period that begins in the week the child died, then the leave may be taken in two or more periods. The TOTAL amount of leave that an employee may take for the same event is 52 weeks.

Action Plan 4

4 What Can You Do to Make it Easier?

The federal government has done its part to aid employees in difficult situations by amending the Employment Insurance Act (through the Helping Families in Need Act) to include provisions for an employment insurance benefit for eligible parents of critically ill children. So when your employees come to let you know that they need a protected leave of absence, it is important to be understanding, to have all of the necessary information BEFORE the employee embarks on his or her leave and to provide the employee with any necessary records for Employment Insurance to take one less stress away from an employee who is having a difficult time. Also, it is important to have benefit information available for the employee if your company offers benefits, such as what the employee needs to pay for his/her share of the benefits, etc. And remember, employees shouldn't be in any way negatively affected for having gone on a leave so ensure to keep those lines of communication open and let the employee know what is happening in your company and any positions or promotions that become available during the leave.

Still uncertain about the differences between the leaves? Try HRd's [Protected Leaves with Provisions - Ontario](#) for a full chart to outline the differences in length and eligibility for the different available leaves. Also, make sure to keep on top of the [Workplace News and Legislation page for Ontario updates](#). And if you ever need confirmation of the leaves offered in each jurisdiction in Canada, check out our Compliance Centre's [Comparison Chart by Jurisdiction](#).

The death, disappearance, illness or injury to a child or to a close family member is a devastating event that can thoroughly disrupt the life of an employee, in the personal and employment spheres. As employers and HR practitioners, we need to provide the necessary support for those employees placed in those very difficult situations. The legislative protections are now in place and it is up to us to ensure that employees are provided with the full benefits to which they are entitled under Employment Standards regulations. If we plan on keeping employees or generating loyalty amongst staff, how we react to upsetting situations tells a lot to employees, and we need to make sure that we can support them appropriately.