

New Leave Rights Granted for Employees: Child Bereavement and Sick Leave

This past month, Illinois has expanded employee leave rights by creating the Child Bereavement Leave Act (Public Act 99-0703) and the Employee Sick Leave Act (Public Act 99-0841).

Child Bereavement Leave Act - Public Act 99-0703

The Child Bereavement Leave Act, which is now in effect, requires employers with at least fifty employees to provide eligible employees with up to two weeks (ten working days) of unpaid leave following the death of a child. An employee is eligible for leave under this Act if he or she is otherwise eligible to take leave under the federal Family and Medical Leave Act (i.e. has worked 1,250 hours for the employer during the prior twelve month period.)

The Act permits covered employees to use unpaid child bereavement leave to:

1. attend the funeral or an alternative to the funeral of a child;
2. make arrangements necessitated by the death of a child; or
3. grieve the death of a child.

The employee must complete the bereavement leave within sixty days of receiving notice of the death of a child. Where reasonable and practicable, the employee must provide at least forty-eight hours notice of his or her intention to take bereavement leave. An employer may also require reasonable documentation to verify the necessity of the leave.

Unlike FMLA requirement, employers cannot mandate that an employee use paid time during this leave. Additionally, the Act does not create a right for employees to take unpaid leave that exceeds, or is in addition to, the unpaid leave time available under the FMLA. Therefore, an employee who has already utilized his or her twelve weeks of FMLA is not entitled to an additional ten working days of leave time under the Act. With that said, nothing in the Act prohibits an employee who is entitled to take paid or unpaid leave (including family, medical, sick, annual, or personal) pursuant to federal, state, or local law, a collective bargaining agreement, or employment benefits program, from substituting a period of such leave for an equivalent period of leave under the Act.

For more information about matters discussed in this issue, please feel free to contact Klein, Thorpe and Jenkins, Ltd.



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Employers are prohibited from taking any adverse action against an employee in response to the employee: (1) exercising rights or attempting to exercise rights under the Act; (2) opposing practices which an employee believes to be in violation of the Act; or (3) supporting the exercise of rights of another employee under the Act.

Covered employers should update their employee manuals or leave policies to ensure that qualified employees are eligible for this leave benefit.

The full text of Public Act 99-0703 can be accessed at:

[Public Act 99-0703](#)

Employee Sick Leave Act - Public Act 99-0841

The Employee Sick Leave Act, which becomes effective on January 1, 2017, requires Illinois employers to provide employees with the ability to use employer-provided personal sick leave benefits for absences due to illness, injury, or medical appointments concerning the employee's child, spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or step-parent. In other words, it expands an employee's ability to use sick leave for an eligible family member on the same terms upon which he or she is able to use sick leave benefits for his or her own illness or injury.

The Act allows an employer to limit the use of such benefits to an amount not less than the personal sick leave that would be accrued during six months at the employee's then current rate of entitlement. The rights and remedies specified in the Act are in addition to any other rights or remedies afforded by contract or law, including FMLA entitlements. However, the Act does not extend the maximum period of leave under the FMLA. Notably, employers who already have a paid time off policy that would otherwise provide benefits as required under the Act are not required to modify such policy.

The Act also prohibits employers from denying an employee the right to use personal sick leave benefits in accordance with this Act or retaliating against an employee for using the benefits granted in this Act.

Employers should review their employment manual or leave policy to ensure that an employee may use his or her sick leave time to care for the above-specified family members.

The full text of Public Act 99-0841 can be accessed at:

[Public Act 99-0841](#)



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