

New Illinois Child Bereavement Leave

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Governor Bruce Rauner signed the Child Bereavement Leave Act into law on July 29, 2016. The Law requires employers with at least fifty (50) employees to provide up to ten (10) working days of unpaid leave for the loss of a child.

The Act further provides that an employee cannot take unpaid leave exceeding unpaid leave time available under the Family and Medical Leave Act (FMLA).

The law further provides that leave must be taken within sixty (60) days after an employee receives notice of the death of his or her child to attend the funeral or an alternate to a funeral of the child; to make arrangements necessitated by the death of the child; or, to grieve.

In the event an employee suffers the death of more than one child in any twelve month period, he or she is entitled to six (6) weeks of unpaid bereavement leave in that period.

Importantly, the Act defines “child” to include an employee’s child who is biological, adopted, a foster child, step child, legal ward or a child of an employee who stands in loco parentis.

The law provides employees must provide employers at least 48 hours advance notice of intent to take the leave, unless the notice is not reasonable or practicable. Of course, employers may require employees to provide documentation of the need for leave under the Act including a death certificate, an obituary which has been published or written documentation of death, burial or memorial services from a mortuary, funeral home, burial society, crematorium, religious institution, or a government agency.

An employee may elect to substitute paid leave, however, the substitution may not be required by employers unlike the FMLA.

As with most recent statutes that are enacted to provide benefits to employees, employers may not retaliate against employees who exercise their rights under the Act, oppose practices which employees believe constitute violations of the Act, or against employees who support the exercise of the rights of other employees under the Act.

Finally, the Illinois Department of Labor will administer the Act and we will have to await its promulgation of regulations. The Act does permit a private right of action to be filed in state court within sixty (60) days of an alleged violation.

Clearly, this new statute requires employers to update their leave policies and employee handbooks and manuals to provide notice of the Act and its provisions and manage this new leave properly.