

Leaves Gone Wild: New Job Protected Leaves in Canada for 2014

Leaves of absence appear to be on the mind of legislatures across the country. Saskatchewan has already instituted five new unpaid leaves and Ontario will be introducing three later this year. Meanwhile New Brunswick has drafted a bill that will add new statutory leaves (if passed into law) and one other Province (Alberta) and one territory (Yukon) have asked for public feedback related to the addition and modification of their respective leaves.

Saskatchewan

As part of Saskatchewan's amalgamation of twelve (12) employment-labour related statutes, which culminated in the *Saskatchewan Employment Act*, five (5) new unpaid job protected leaves were created: Organ Donation Leave (26 weeks), Critically Ill Child Care Leave (37 weeks), Crime-Related Child Death (104 weeks) or disappearance Leave (52 weeks) & Citizenship Ceremony Leave (1 day). These new leaves were effective April 30, 2014.

Ontario

Effective October 29, 2014, the *Employment Standards Act, 2000* (Ontario) will be amended to include three (3) new unpaid job protected leaves.

The first is the Family Caregiver Leave which will require employers to give employees an unpaid job protected leave of up to eight (8) weeks per calendar year to provide care and support to a family member with a serious medical condition (chronic or episodic). This leave will be in addition to the existing Family Medical Leave but it will only require that the family member has a serious medical condition (according to a medical practitioner) but not necessarily a significant risk of death.

The second new leave is the Critically Ill Child Care Leave. To qualify for this leave (up to 37 weeks), employees must be employed for at least six (6) consecutive months. Similar to the new Family Caregiver Leave, this leave does not need to be taken in entire weeks. A medical certificate confirming the illness will be required where requested by an employer.

The last leave is a Crime-Related Child Death and Disappearance Leave, which is available to employees who have been employed at least six (6) consecutive months where it is probable that their child has either died or disappeared as a result of a crime. In the case of a disappearance, the leave is up to 52 consecutive weeks. Where the child has died or death is probably related to a crime, the leave is up to 104 consecutive weeks.

Alberta, New Brunswick & Yukon

While unlikely for the 2014 calendar year, Alberta, New Brunswick and the Yukon are exploring the idea of adding new or modifying existing employee leaves of absence.

In particular, the Alberta government has announced that it is reviewing its *Employment Standards Code*. As part of that process, it will look to see if additional unpaid leaves should be included. Presently, Alberta only has five (5) unpaid leaves: Maternity Leave, Parental Leave, Compassionate Care Leave, Reservist Leave and Jury Duty Leave.

In New Brunswick, Bill 22 (*An Act to Amend the Employment Standards Act*), which contains two (2) new leaves, has already passed its first reading. Should the Bill become law as currently written, New Brunswick would be adding a Critical Illness Leave and a Child Death or Disappearance Leave.

Lastly, the Yukon government is considering changes to its leaves and has asked the public for feedback relating to (i) increasing the maximum length of unpaid leave an employee may be eligible for when his/her child goes missing due to a suspected crime from 35 weeks to 52 weeks and (ii) reducing the eligibility (currently 12 months of service) needed to take a leave related to a Critically Ill Child or Death/Disappearance Leave.

As an employer it is important to be aware of these new leaves and in particular what the respective employee and employer obligations are. If you have any questions about these new leaves or any other leave of absence, please do not hesitate to contact e2r Solutions®.

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