

Illinois Expands Unpaid Bereavement Leave

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On June 9, 2022, Governor Pritzker signed the Family Bereavement Leave Act (SB3120) into law, which expands unpaid bereavement leave for Illinois employees. The Family Bereavement Leave Act (FBLA) amends the Child Bereavement Leave Act and was enacted to not only expand the definition of a covered family member, but also to include fertility-related losses as a reason for allowing leave.

The definition of a “covered family member” under the FBLA now includes an employee’s child, stepchild, spouse, domestic partner, sibling, parent, mother/father in-law, grandchild, grandparent or stepparent. The FBLA allows leave to attend the funeral or alternative to a funeral of a covered family member, make arrangements necessitated by the death of a covered family, or grieve the death of the covered family member.

Additionally, the new law requires eligible employers to provide up to 10 days of unpaid leave to employees who are absent due to:

- A miscarriage;
- An unsuccessful round of intrauterine insemination or of an assisted reproductive technology procedure;
- A failed adoption match or an adoption that is not finalized because it is contested by another party;
- A failed surrogacy agreement;
- A diagnosis that negatively impacts pregnancy or fertility; or

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- A stillbirth.

An employee will be eligible to take this leave if they are eligible employees under the federal Family and Medical leave Act (FMLA). Notably, the FMLA does not create a right for an employee to take unpaid leave in addition to, or that exceeds the leave time permitted by the FMLA.

Employers are able to request reasonable documentation upon an employee's request for leave under the FMLA. However, an employer may not require an employee to identify which category of event the leave pertains. Employers should review their handbooks and policies to ensure that they are compliant with the Family Bereavement Leave Act by its January 1, 2023 effective date.