

# Attention Illinois Employers: The Family Bereavement Leave Act Goes Into Effect January 2023

## Labor & Employment Law Update

on July 19, 2022

Illinois employers should update their leave policies in light of the new bereavement law going into effect on January 1, 2023. On June 9, 2022, Governor Pritzker signed into law the Family Bereavement Leave Act ("FBLA"). The FBLA amends the Child Bereavement Leave Act ("CBLA") and expands upon an employer's obligations to provide unpaid bereavement leave to its employees.

While the CBLA only provided bereavement leave for the loss of a child, the FBLA provides bereavement leave for the death of any family member covered by the act, as well as time off due to certain losses related to pregnancy or adoption. Under the FBLA, a "covered family member" includes "an employee's child, stepchild, spouse, domestic partner, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent." The FBLA provides for up to ten work days of unpaid leave.

Employees are eligible to take time off of work to grieve under the FBLA if they are eligible employees under the federal Family and Medical Leave Act (FMLA), which requires at least twelve months of employment and at least 1,250 hours worked within the previous twelve-month period. The FBLA cannot be used to take leave beyond the 12 weeks allowed under the FMLA.

Under the FBLA, employees can take bereavement leave for a covered family member in order to:

- attend a funeral or other related service, ritual, or event;
- make arrangements necessitated by the death of the covered family member; or
- grieve the death of the covered family member.

The FBLA also allows up to 10 workdays of unpaid leave where an employee faces the following losses related to pregnancy or adoption:

- a miscarriage;

- an unsuccessful round of intrauterine insemination or of an assisted reproductive technology procedure (e.g., artificial insemination or embryo transfer);
- 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
- a stillbirth.

Where practicable or reasonable, an employee must provide their employer with at least forty-eight hours of advance notice of the employee's intention to take bereavement leave under the FBLA. The employee must complete their bereavement leave within sixty days after the date on which the employee receives notice of the death of the covered family member or the occurrence of the pregnancy-related or adoption-related event. If an employee experiences the death of two or more covered family members in a twelve-month period, the employee may take up to a total of six weeks of unpaid bereavement leave in that twelve-month period.

Employers may require reasonable documentation demonstrating the need for bereavement leave. However, an employer may not require an employee to identify the specific reason for the employee taking leave related to a covered adoption or pregnancy loss.

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