

Whitten & Lublin is a team of legal experts who provide practical advice and advocacy for workplace issues.

## MORE STATUTORY LEAVES OF ABSENCE ARE COMING TO ONTARIO - ARE YOU READY?

Ontario employers should start preparing now for some substantial changes to the Ontario Employment Standards Act, 2000 (the "ESA").

On April 29, 2014, Bill 21, the Employment Standards Amendment Act (Leaves to Help Families), 2014, [available here](#), received Royal Assent and is set to come into force on October 29, 2014.

The amendments allow employees to take three new statutory protected leaves of absence.

The ESA presently provides job protected leaves of absence :

- Pregnancy leave;
- Parental leave;
- Family medical leave;
- Organ donor leave;
- Personal emergency leave;
- Emergency leave, declared emergencies; and
- Reservist leave.

The recent amendments add three new job-protected leaves of absence:

- Family caregiver leave;
- Critically ill child care leave; and
- Crime-related child death or disappearance leave.
- Family Caregiver Leave

Family caregiver leave allows an employee to take up to 8 weeks of unpaid leave to provide care or support to those who are effectively "family". The leave is only allowed if a health practitioner issues a certificate confirming the family member has a "serious medical condition". A health practitioner is not limited to a physician, and could include a registered nurse or psychologist. The employee should submit the request, in writing, and include a copy of the certificate.

Note that this leave is distinct from the existing Family Medical Leave which only allows an absence in the event that a qualified health practitioner issues a certificate indicating that death is likely within the next 26 weeks. It is also distinct from Personal Emergency Leave which only applies to employers with over 50 employees and only provides up to 10 days' unpaid leave.

### Critically Ill Child Care Leave

Employees with at least six months' service will be able to take up to 37 unpaid weeks to support a "critically ill child". A "critically ill child" is defined as a child, step-child, foster child, or child who is under legal guardianship and is under 18 years of age whose life is at risk due to illness or injury.

The employee should submit a request, in writing, and produce a copy of a certificate

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from a qualified health practitioner confirming that the child is critically ill. The certificate should state that the child is critically ill and requires the care or support of one or more parents as well as the period of time in which the child requires the care or support.

### **Crime-Related Child Death or Disappearance Leave**

Employees with at least six months' service can take up to 104 unpaid weeks of leave if it is probable that the employee's child's death was as a result of a crime.

The employee would be entitled to up to 52 weeks' leave if it is probable that the child's disappearance was due to a crime.

### **Take Aways and Next Steps**

Over the next few months, our employer clients should take some time to review and update their contracts and employee handbooks to specifically include these leaves of absence.

Additionally, our employers must remember that while these new leaves may be unpaid, they are statutorily protected, meaning the employee will have a right to return to work at the conclusion of the leave. Failure to return the employee to their position at the conclusion of the leave may result in a complaint to the Ministry of Labour.

If you have any questions about your obligations, and whether your policies are compliant, do not hesitate to contact us. We would be happy to answer any questions.

## LATEST NEWS

David Whitten will be presenting on Executive Employment Agreements at Feldman Daxon Partners Inc. on July 9, 2014. For more information contact Feldman Daxon Partners Inc.

## LAW BLOG

Read more at  
<http://blog.toronto-employmentlawyer.com/>

## PUBLICATION

### **HR MANAGER'S GUIDE TO INDEPENDENT CONTRACTORS IN THE WORKPLACE**

Available for purchase from  
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