

Legal Trends

PAID BEREAVEMENT LEAVE

The last several years have seen a sea change in attitudes toward paid leave. More and more employees demand (or require) paid leave of all types. Many employers, loathe to fall behind in recruiting, have met such demands, while legislatures around the country have enacted laws mandating paid leave, such as paid sick leave and paid family leave.

One area that traditionally has been unregulated is bereavement. In a recent survey 88% of employers reported offering some type of bereavement leave, up from 79% in 2017. Yet employers historically have had discretion on whether to offer (and pay for) bereavement leave, how much to provide, and how to define “family member.” This area, too, is changing. As Ellen Bravo, co-director of Family Values @ Work, recently stated: “Policymakers in the past just didn’t pay attention to bereavement leave. What’s changed is that there’s a powerful movement in support of paid leave, and it’s winning and it’s growing. As stories emerge, people have been making the issue of bereavement visible in a way that wasn’t talked about before.”

Illinois was the first to act. It passed a law in 2016 requiring employers covered by the Federal Family and Medical Leave Act to provide employees eligible for FMLA leave with up to 10 days of *unpaid* leave in a 12-month period for reasons related to the death of a child. Such leave must be taken within 60 days after the death.

In **Oregon**, employers with at least 10 workers are required to provide 40 hours of paid sick leave annually to employees to deal with a variety of issues, including the death of a family member. For purposes of this law, “family member” includes children, spouses, domestic partners, parents, stepparents, parents-in-law, grandparents, grandchildren, and those with an “in loco parentis” relationship.

Finally, in June the **New York** legislature passed a bill that would expand the state’s existing paid family leave law to cover workers who have experienced the death of a child, spouse, domestic partner, parent, grandparent or grandchild. If signed by Governor Cuomo by the December 31 deadline, the law would go into effect on January 1, 2020.

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