

Oregon Becomes First State to Mandate Protected Bereavement Leave

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Time is a physician that heals every grief. ~ Diphilus

When an employee suffers the death of a family member, the employee is often faced not only with the shock of grief, but also a time-consuming, difficult struggle to make arrangements and deal with practical necessities. Oregon is the first state to decide that dealing with death – like dealing with birth – should be a protected category of leave.

Effective January 1, 2014, the Oregon Family Leave Act (OFLA) will include a provision for bereavement leave. An employee may take up to two weeks of unpaid leave within 60 days of the date on which the employee receives notice of the death of a family member. A "family member" is defined as a spouse, same-sex domestic partner, biological, adoptive, or foster parent, child, grandparent, or grandchild, parent-in-law, or a person with whom the employee was or is in an *in loco parentis* relationship. An employee may take multiple leaves, if the employee unfortunately qualifies, up to the two-week maximum each year.

The employee should provide oral notice to the employer within 24 hours of the start of the leave, and written notice no later than three days following the employee's return to work, although unlike under other provisions of OFLA there is no reduction of leave if non-compliant notice is given. An employer may require the employee to use accrued vacation or paid sick leave during bereavement leave, however. Also unlike other provisions of OFLA, when two or more family members work for the same employer, they may both take bereavement leave at the same time.

OFLA generally protects leave for employees who have been employed at an average of 25 hours per week or more, for more than 180 days, for an employer which has 25 or more employees working in Oregon. Previously, leave was available following pregnancy, the birth or adoption of a child, a serious health condition of one's self or family, to care for a sick child, or for the partner of a service member called to duty. Time taken for bereavement leave does count towards the overall 12 weeks per year to which employees are entitled under OFLA.

Do remember to also update your posted OFLA information (which state law requires be posted in a prominent place, if you are a covered employer).

Do you have questions about this new regulation, the new paid sick leave requirements, or your insurance obligations under the ACA? We are happy to consult with you to examine whether your existing policies are compliant with the new requirements or develop new policies to come into compliance. Please contact Katherine Somervell, at katherine.somervell@bullivant.com to discuss how we can help your company successfully comply with all applicable requirements.