

Family Caregiver Leave on the Horizon in Ontario

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In December, legislation proposing the addition of new leave provisions to Ontario's Employment Standards Act, 2000 ("ESA") received first reading. If Bill 30, An Act to amend the Employment Standards Act, 2000 in respect of family caregiver leave is ultimately passed the ESA will be amended to include "Family Caregiver Leave" which will provide for unpaid and protected job leave for employees who have to provide care and support to a sick or injured family member.

Family Caregiver Leave would allow an employee a leave of absence without pay to provide care or support to a family member who has a serious medical condition. The legislation requires an employee to provide a certificate from a "qualified health practitioner" upon his or her employer's request stating that his or her family member has a serious medical condition.

The contemplated leave is up to eight weeks per calendar year with respect to each family member set out in the legislation and must be taken in periods of entire weeks. Moreover, the entitlement to Family Caregiver Leave is in addition to an employee's entitlement to Family Medical Leave (up to eight weeks) or Personal Emergency Leave (10 days) already available under the ESA.

For the purposes of Family Caregiver Leave, a family member is:

1. The employee's spouse;
2. A parent, step-parent or foster parent of the employee or the employee's spouse;
3. A child, step-child or foster child of the employee or the employee's spouse;
4. A grandparent, step-grandparent, grandchild or step-grandchild of the employee or the employee's spouse;
5. The spouse of a child of the employee;
6. The employee's brother or sister;
7. A relative of the employee who is dependent on the employee for care or assistance; and
8. Any individual prescribed as a family member for the purposes of this section.

An employee who wishes to take a Family Caregiver Leave will be required to advise his or her employer in writing that he or she intends to do so or as soon as possible after the leave has begun in cases where the employee must begin the leave prior to notifying his or her employer. The Bill does not specify the amount of notice that must be given to an employer.

We will keep you updated on the progress of this legislation. ■