



LEGISLATIVE SUMMARY

BILL C-220: AN ACT TO AMEND THE CANADA LABOUR CODE (BEREAVEMENT LEAVE)

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For clarity of exposition, the legislative proposals set out in the bill described in this Legislative Summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the House of Commons and Senate, and have no force or effect unless and until they are passed by both houses of Parliament, receive Royal Assent, and come into force.

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(Legislative Summary)

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LEGISLATIVE SUMMARY OF BILL C-220: AN ACT TO AMEND THE CANADA LABOUR CODE (BEREAVEMENT LEAVE)

1 BACKGROUND

Bill C-220, An Act to amend the Canada Labour Code (bereavement leave)¹ was introduced in the House of Commons on 25 February 2020 by Matt Jeneroux, Member of Parliament for Edmonton Riverbend, and it received first reading on the same day. Bill C-220 died on the *Order Paper* when the 1st Session of the 43rd Parliament was prorogued on 18 August 2020. The bill was subsequently reinstated when the 2nd Session began on 23 September 2020.

In the first reading version, Bill C-220 proposed amending the *Canada Labour Code* (CLC)² to extend the period of compassionate care leave for employees beyond the week in which the family member they were caring for dies. Provided that the maximum 28-week entitlement had not been exhausted, the compassionate care leave period would be extended by up to three weeks. At the time of the bill's introduction, Mr. Jeneroux provided the following explanation for the amendments:

This legislation, if passed, would allow caregivers using the compassionate care leave program to take additional time off work following the death of their loved one. Currently, this leave ends immediately following a loved one's death, not leaving enough time for the caregiver to make the practical necessities like funeral arrangements and estate planning and to have the time to grieve. My bill would extend compassionate care leave so that caregivers can take up to three extra weeks off work following their loved one's death.³

Bill C-220 received second reading on 17 February 2021. It was referred to the House of Commons Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities (HUMA) on the same day. On 26 February 2021, HUMA reported the bill to the House of Commons with various amendments. Notably, the committee replaced the clause amending compassionate care leave with a provision amending bereavement leave, such that a greater number of people are entitled to more days of leave following the death of a loved one. The title of the bill was also changed to reflect these amendments.⁴ A description of the clause as it appeared in the first reading version of the bill can be found in the appendix to this legislative summary.

1.1 FEDERAL LEGISLATIVE FRAMEWORK

Employees in the federally regulated private sector⁵ have access to various unpaid and paid leaves of absence under Part III of the CLC. These are job-protected leaves, which means that employers cannot dismiss, suspend, lay off, demote or discipline employees because they have taken a leave of absence.⁶ In addition, pension, health and disability benefits continue to accumulate during the leave period, provided the employee pays any necessary contributions. The employee's seniority also accumulates during this time.⁷ It should be noted that Part III of the CLC does not apply to the federally regulated public sector.⁸

Compassionate care leave is one of the job-protected leaves in the CLC. Under section 206.3(2) of the CLC, an employee is entitled to take up to 28 weeks of compassionate care leave to provide care or support to a family member. This family member must have a serious medical condition with a significant risk of death within 26 weeks, as stated in a certificate issued by a health care practitioner. Compassionate care leave is unpaid.⁹

An employee may also take up to 37 weeks of leave to provide care or support for a critically ill child under 18, or up to 17 weeks of leave to provide care or support for a critically ill adult, pursuant to sections 206.4(2) and 206.4(2.1) of the CLC. A certificate from a health care practitioner must indicate that the child or adult is critically ill and requires the care or support of one or more of their family members. The certificate must also set out the period of time for which care or support is needed. The leave related to critical illness is unpaid.¹⁰

Lastly, under section 210(1) of the CLC, an employee may be entitled to bereavement leave for a maximum of five days in the event of the death of an immediate family member. This leave may be taken during the period beginning on the day the death occurs and ending six weeks after the date of the funeral, burial or memorial service (whichever is later). An employee who has completed three consecutive months of continuous employment with their employer is entitled to the first three days of leave with pay, in accordance with section 210(2) of the CLC. Payment will be made at the employee's regular rate of wages for their normal hours of work.

These leaves cannot be taken simultaneously. However, an employee may take compassionate care leave following the end of their leave related to critical illness, and vice versa. An employee may also take bereavement leave following the end of their compassionate care leave.¹¹

It should be noted that the term "family member" is defined broadly for the purposes of compassionate care leave and leave related to critical illness. It includes, among others, spouses and common-law partners, children, parents, grandparents, grandchildren, aunts, uncles, nieces and nephews. It also includes a person the

employee considers to be like a close relative or a person who considers the employee to be like a close relative.¹²

By contrast, the term “immediate family” for the purposes of bereavement leave is defined more narrowly. It means, among others, spouses and common-law partners, parents, parents-in-law, grandparents, children, grandchildren, siblings and relatives residing permanently with the employee.¹³

2 DESCRIPTION AND ANALYSIS

Under section 210(1) of the CLC, employees are entitled to up to five days of bereavement leave in the event of the death of an immediate family member. Clause 1 of the bill amends this provision to extend the maximum length of this leave from five days to 10 days.

Clause 1 also expands the entitlement to bereavement leave to include any employee who is on compassionate care leave or leave related to critical illness at the time of the death of the family member they were caring for while on leave. Currently, only those employees who lose an immediate family member (defined more narrowly than family member, as explained above) have access to bereavement leave.

Clause 2 of the bill stipulates that these amendments come into force three months following the day the bill receives Royal Assent.

NOTES

1. [Bill C-220, An Act to amend the Canada Labour Code \(bereavement leave\)](#), 43rd Parliament, 2nd Session.
2. [Canada Labour Code](#), R.S.C. 1985, c. L-2.
3. House of Commons, [Debates](#), 25 February 2020, 1010 (Matt Jeneroux, Edmonton Riverbend, CPC).
4. House of Commons, Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities, [Bill C-220, An Act to amend the Canada Labour Code \(compassionate care leave\)](#), Second report.
5. Federally regulated businesses and industries include interprovincial and international services (such as railways, road and air transport, and shipping services), radio and television broadcasting, telecommunications, banks, most federal Crown corporations and private businesses necessary to the operation of a federal Act. See Government of Canada, [List of federally regulated industries and workplaces](#).
6. [Canada Labour Code](#), R.S.C. 1985, c. L-2, s. 209.3(2).
7. *Ibid.*, s. 209.2.
8. The rights and responsibilities of federal public servants and parliamentary employees regarding compassionate care leave and other labour standards are subject to collective agreements established in accordance with federal legislation. See [Federal Public Sector Labour Relations Act](#), S.C. 2003, c. 22, s. 2; and [Parliamentary Employment and Staff Relations Act](#), R.S.C. 1985, c. 33 (2nd Supp.), respectively.

9. Although compassionate care leave is unpaid under the *Canada Labour Code* (CLC), employment insurance compassionate care benefits are paid for up to 26 weeks to eligible claimants who are absent from work to provide care or support to a family member who is gravely ill. Benefits are paid at a rate of 55% of a claimant's insurable weekly earnings, up to a maximum of \$595 per week in 2021. See Employment and Social Development Canada (ESDC), [EI caregiving benefits and leave: What caregiving benefits offer](#).
10. Although the leave related to critical illness is unpaid under the CLC, employment insurance family caregiver benefits are paid for up to 35 weeks in the case of a critically ill child, or for up to 15 weeks in the case of a critically ill adult. Benefits are paid at a rate of 55% of a claimant's insurable weekly earnings, up to a maximum of \$595 per week in 2021. See ESDC, [EI caregiving benefits and leave: What caregiving benefits offer](#).
11. [Canada Labour Code](#), R.S.C. 1985, c. L-2, ss. 206.3(7.1) and 206.4(7). See also Government of Canada, [Compassionate Care leave – 808-1-IPG-063](#).
12. For the purposes of compassionate care leave and leave related to critical illness, the term “family member” has the same meaning as that provided in the *Employment Insurance Regulations*. See [Canada Labour Code](#), R.S.C. 1985, c. L-2, ss. 206.3(1) and 206.4(1); and [Employment Insurance Regulations](#), SOR/96-332, s. 1(3).
13. [Canada Labour Standards Regulations](#), C.R.C., c. 986, s. 33.

APPENDIX – DESCRIPTION AND ANALYSIS OF BILL C-220, CLAUSE 1, AS IT APPEARED IN THE FIRST READING VERSION OF THE BILL

This section contains a description and analysis of Bill C-220, An Act to amend the Canada Labour Code (compassionate care leave), clause 1, as it appeared in the first reading version of the bill.¹ This provision was replaced with a clause regarding bereavement leave by the House of Commons Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities in its report of 26 February 2021 to the House of Commons.²

COMPASSIONATE CARE LEAVE

Section 206.3(3)(b) of the *Canada Labour Code* (CLC) sets out the parameters for determining when compassionate care leave ends. Clause 1(1) of the bill amends this section to extend the period of leave beyond the week of the death of a family member, depending on the number of weeks of leave taken by the employee up to that point. The maximum entitlement of 28 weeks of compassionate care leave is not amended.

Under amended section 206.3(3)(b), compassionate care leave ends as follows:

- where an employee has taken 27 weeks of leave, the last day of the week in which the family member dies (section 206.3(3)(b)(i));
- where an employee has taken more than 19 weeks but less than 27 weeks of leave, the last day of the week after the week in which the family member dies, which is equivalent to one additional week (section 206.3(3)(b)(ii));
- where an employee has taken more than four weeks but less than 20 weeks of leave, the last day of the second week after the week in which the family member dies, which is equivalent to two additional weeks (section 206.3(3)(b)(iii));
- where an employee has taken less than five weeks of leave, the last day of the third week after the week in which the family member dies, which is equivalent to three additional weeks (section 206.3(3)(b)(iv)); or
- the last day of the week in which the 52-week period during which the leave may be taken ends (section 206.3(3)(b)(v)).

Clause 1(2) of the bill makes consequential amendments to section 206.3(4)(b) of the CLC to reflect renumbered section 206.3(3)(b)(v).

NOTES

1. [Bill C-220, An Act to amend the Canada Labour Code \(compassionate care leave\)](#), 43rd Parliament, 1st Session (first reading version, 25 February 2020).
2. House of Commons, Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities, [Bill C-220, An Act to amend the Canada Labour Code \(compassionate care leave\)](#), Second report.