

Family Caregiving Leave Entitlements in Employment Standards Legislation in Canada A Comparative Overview

Issue	Federal	B.C.	Alberta	Sask.	Manitoba	Ontario	Quebec	New Brunswick	Nova Scotia	P.E.I.	Nfld.	Yukon	N.W.T.	Nunavut
General														
Relevant legislation	<i>Canada Labour Code</i> , R.S.C., 1985, c. L-2 <i>Employment Insurance Regulations</i> , S.O.R./96-332	<i>Employment Standards Act</i> , R.S.B.C., 1996, c.113 <i>Compassionate Care Leave Regulation</i> B.C. Reg. 281/2006 O.C. 738/2006	<i>Employment Standards Code</i> , R.S.A., 2000, c. E-9	<i>Labour Standards Act</i> , R.S.S., 1978, c. L-1	<i>Employment Standards Code</i> , C.C.S.M., c. E110, S.M., 1998, c. 29 <i>Employment Standards Regulation</i> , Man. Reg. 6/2007	<i>Employment Standards Act</i> , S.O., 2000, c. 41 <i>Family Medical Leave – Prescribed Individuals</i> , O. Reg. 476/06	<i>An Act Respecting Labour Standards</i> , R.S.Q., c. N-1.1	<i>Employment Standards Act</i> , S.N.B., 1982, c. E-7.2	<i>Labour Standards Code</i> , R.S. N.S., 1989 c. 246 <i>General Labour Standards Code Regulations</i> , N.S. Reg. 298/90	<i>Employment Standards Act</i> , R.S.P.E.I., 1988, c. E-6.2	<i>Labour Standards Act</i> , R.S.N.L., 1990, c. L-2 <i>Labour Standards Regulations</i> , C.N.L.R. 781/96	<i>Employment Standards Act</i> , R.S.Y., 2002, c. 72 <i>Act to Amend the Employment Standards Act</i> , S.Y. 2003	<i>Employment Standards Act</i> , S.N.W.T. 2007, c. 13	<i>Labour Standards Act</i> , R.S.N.W.T. 1988, c. L-1
What short term statutory leave entitlements are available?	None	Family Responsibility Leave [s. 52]	None	Illness or Injury Leave [s. 44.2(1)(b)(ii)]	Family Responsibility Leave [s. 59.3]	Personal Emergency Leave [s. 50]	Family Responsibility Leave [s. 79.7]	Family Responsibility Leave [s. 44.022]	Sick Leave [s. 60G]	Family Leave [s. 22.1]	Sick and Family Responsibility Leave [s. 43.11]	None	None	None
What long term statutory leave entitlements are available?	Compassionate Care Leave [s. 206.3]	Compassionate Care Leave [s. 52.1]	None	Serious Illness or Injury Leave [s. 44.2(1)(b)]	Compassionate Care Leave [s. 59.2]	Family Medical Leave [s. 49.1]	Illness or Accident Absence [s. 79.8]	Compassionate Care Leave [s. 44.024]	Compassionate Care Leave [s. 60E]	Compassionate Care Leave [s. 22.3]	Compassionate Care Leave [ss. 43.13 & 42.14]	Compassionate Care Leave [s. 60.1]	Compassionate Care Leave [s. 30]	Compassionate care Leave [s. 39.1]
Who does the Act apply to?	-to employees in connection with the operation of any federal work, undertaking	-to employees not in connection with the operation of any federal work, undertaking, or	-to employees not in connection with the operation of any federal work,	-to employees not in connection with the operation of any federal work,	-to employees not in connection with the operation of any federal work, undertaking, or business	-to employees not in connection with the operation of any federal work, undertaking, or	-to employees not in connection with the operation of any federal work, undertaking, or	-to employees not in connection with the operation of any federal work, undertaking, or business	-to employees not in connection with the operation of any federal work, undertaking, or	-to employees not in connection with the operation of any federal work,	-to employees not in connection with the operation of any federal work, undertaking, or	-to employees not in connection with the operation of any federal work,	-to employees not in connection with the operation of any federal work, undertaking, or business	-to employees not in connection with the operation of any federal work,

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	or business -does not apply to managers, superintendents, -does not apply to members of the architectural, dental, engineering, legal or medical professions.	business -does not apply to members of various professions such as lawyers, doctors, and professional foresters. See s. 31 of <i>Employment Standards Regulation</i> for the full list.	undertaking, or business -does not apply to professions such as architects, accountants, and engineers. See s. 2(2) of the <i>Employment Standards Regulations</i> for a full list.	undertaking, or business -does not apply to certain professionals as set out in ss. 4 – 12 of the <i>Labour Standards Regulations</i> .	-does not apply to certain professionals, salespersons, and family businesses as set out in ss. 2 – 8 of the <i>Employment Standards Regulation</i> .	business -does not apply to professions such as law, architecture, surveying. For a full list see s. 2 of the <i>Exemptions, Special Rules and Establishment of Minimum Wage O. Reg. 285/01</i> .	business -health care professionals, prisoners, persons working in employment assistance measures, embassy workers.	- professionals are not exempt from the leave provisions. See ss. 3 – 4 of <i>New Brunswick Regulation 85-179</i> .	business -some professions are excluded such as architecture, dentistry, and law. See s. 2 of the <i>General Labour Standards Code Regulations</i> for a full list.	undertaking, or business -does not include commission salespersons, farm labourers, employees of non-profits and certain caregivers See s. 2 of the <i>Employment Standards Act</i> .	business -does not include professions such as teachers, engineers, and accountants. See s. 2(b) of the <i>Labour Standards Act</i> for a full list.	undertaking, or business -does not apply to government employees, guides, caretakers and others as set out in s. 3 of the <i>Employment Standards General Exemption Regulation</i> .	-does not apply to live in caregivers, student interns, drivers as set out in s. 2-4 of the <i>Employment Standards Regulations</i> .	undertaking, or business - does not apply to certain professions, trappers, as set out in s. 2 of the <i>Labour Standards Act</i> .

Short Term Leave

What short term family caregiving entitlements exist under the legislation?	None	Family responsibility Leave up to 5 days per year.	None	No dismissal or discipline for absences up to 12 days for illness that is not serious.	leave for family responsibilities for up to 3 days.	Personal Emergency Leave for up to 10 days (Note: only employees working at places that hire more than 50 employees are eligible).	Family Responsibility Leave for up to 10 days.	Family Responsibility Leave up to 3 days per year.	Sick Leave up to 3 days per year.	Family Leave of up to 3 days per year.	Sick and Family Responsibility Leave of 7 days in a year.	None	None	None
What are the criteria for short term family caregiving entitlement?	N/A	To meet the care, health or education of a child in the employee's care, or the care or health of any other member of the employee's immediate family.	N/A	Must provide employer with certificate of duly qualified medical practitioner certifying that a member of the employee's immediate family was incapable of	May take leave to the extent that the leave is necessary for the employee to meet his or her family responsibilities in relation to a family member.	May take leave of absence due to the death, illness, injury medical emergency, or urgent matter for relating to prescribed individuals. Can be combined with long term	May take absences relating to the care, health or education of the employee's child or child of their spouse, or because of the state of health of prescribed individuals	May take leave to meet responsibilities related to health, care, or education of a person in a close family relationship with the employee.	May take leave due to sickness of child, parent, or family member.	To meet responsibilities related to health or care of a person who is a member of the immediate family or extended family of the employee.	May take family responsibility leave, and must simply provide employer with a statement in writing of the nature of the family responsibility where the leave is of 3 or	N/A	N/A	N/A

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				working due to illness or injury.		leave.	(see below).				more consecutive days.			
Does short term leave and sick leave accumulate together?	N/A	No	N/A	Yes	Yes	Yes	No	No	Yes	No	Yes	N/A	N/A	N/A
Does short term leave combine leave for child care and leave for adult caregiving?	N/A	Yes	N/A	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/A	N/A	N/A
Is the employee required to provide notice?	N/A	No	N/A	No	As much notice as is reasonable and practicable.	No - but must advise employer.	As soon as possible and must take reasonable steps within his power to limit the leave and the duration.	Must advise of intention to take leave, the anticipated commencement, and duration of leave.	No	Must advise of intention to take leave, the anticipated commencement, and duration of leave.	No – but must provide a written statement for leave longer than 3 days.	N/A	N/A	N/A
Length of service requirement for eligibility?	N/A	No	N/A	13 consecutive weeks prior to absence	30 days	No	No	No	No	6 months	30 days	N/A	N/A	N/A
How is family defined?	N/A	-the spouse, child, parent, guardian, sibling, grandchild or	N/A	-A dependent spouse (CL and/or parent of child), parent,	-a spouse/CL (conjugal relationship of some permanence)	-spouse -brother or sister -parent, step parent, foster	An employee's: -spouse, father, mother, brother, sister,	Close family relationship is between: -married persons, parent	(See appendix)	Immediate family: -spouse/CL, child, parent, brother, or	-Undefined in act or regulations	N/A	N/A	N/A

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		grandparent of an employee, and -any person who lives with an employee as a member of the employee's family		grandparent, child, brother, sister of an employee or a spouse [s. 29.3(1)] Regs define "immediate family" as: -spouse -parent, grandparent, child, brother, or sister of an employee or their spouse	-a child or a child of the employee's spouse/CL; -a parent or a spouse/CL of the parent; and -any other person who is a member of a class of persons prescribed in the regulations for the purpose of this definition (see appendix)	parent of employee or their spouse -child, step-child, or foster child of employee or their spouse -grandparent, step-grandparent, grandchild or step grandchild of employee or their spouse -child's spouse -relative dependent for care or assistance	or grandparents	and child, siblings, grandparent and grandchild, unmarried or unrelated persons who demonstrate an intention to extend to one another the mutual affection and support normally associated w/ the relationships first mentioned.		sister Extended family: -grandparent, grandchild, brother-in-law, sister-in-law, mother-in-law, father-in-law, son-in-law, or daughter-in-law				
Are there any constraints on how leave is taken?	N/A	No	N/A	No	Any portion of a day taken may count as a whole day of leave.	Any portion of a day taken may count as a whole day of leave.	Leave may be divided into days. Days may be divided with employer consent.	No	No	No	No	N/A	N/A	N/A
Long Term Leave														
What long term leave entitlements exist under this legislation?	Compassionate care leave up to 8 weeks	Compassionate care leave up to 8 weeks.	None	No dismissal or discipline for absences up to 12 weeks per year due to serious illness and up to 16-weeks leave per year if the individual is receiving the federal compassionate care	Compassionate care leave up to 8 weeks.	Compassionate care leave (called "family medical leave") up to 8 weeks. Can be combined with short term leave.	Up to 12 weeks and in the case of potentially ill minor child, up to 104 weeks.	Compassionate care leave up to 8 weeks.	Compassionate care leave up to 8 weeks.	Compassionate care leave up to 8 weeks.	Compassionate care leave of up to 8 weeks.	Compassionate care leave of up to 8 weeks.	Compassionate Care Leave of up to 8 weeks.	Compassionate Care Leave of up to 8 weeks.

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				benefit, up to 26 weeks if employee is receiving compensation pursuant to the <i>Worker's Compensation Act</i> .										
What are the criteria for long term family caregiving entitlement?	A qualified medical practitioner must issue a certificate stating that the family member has a serious medical condition with a significant risk of death within 26 weeks.	A qualified medical practitioner must issue a certificate stating that the family member has a serious medical condition with a significant risk of death within 26 weeks.	N/A	Must provide employer with certificate of duly qualified medical practitioner certifying that a member of the employee's immediate family was incapable of working due to illness or injury.	A qualified medical practitioner must issue a certificate stating that the family member has a serious medical condition with a significant risk of death within 26 weeks.	A qualified medical practitioner must issue a certificate stating that the family member has a serious medical condition with a significant risk of death within 26 weeks.	12 weeks is for a family member's serious illness or serious accident a medical certificate (no requirement that it states risk of death within 26 weeks) is required for the 104 week leave.	A qualified medical practitioner must issue a certificate stating that the family member has a serious medical condition with a significant risk of death within 26 weeks.	A qualified medical practitioner must issue a certificate stating that the family member has a serious medical condition with a significant risk of death within 26 weeks.	A qualified medical practitioner must issue a certificate stating that the family member has a serious medical condition with a significant risk of death within 26 weeks.	A qualified medical practitioner must issue a certificate stating that the family member has a serious medical condition with a significant risk of death within 26 weeks.	A qualified medical practitioner must issue a certificate stating that the family member has a serious medical condition with a significant risk of death within 26 weeks.	A qualified medical practitioner must issue a certificate stating that the family member has a serious medical condition with a significant risk of death within 26 weeks.	A qualified medical practitioner must issue a certificate stating that the family member has a serious medical condition with a significant risk of death within 26 weeks.
Are there any constraints on how leave is taken?	Leaves may only be taken in one week periods.	Leave must be taken in units of one or more weeks.	N/A	No	No period of leave may be less than a week's duration.	No period of leave may be less than a week's duration.	No	No period of leave may be less than a week's duration.	No period of leave may be less than a week's duration.	No period of leave may be less than a week's duration.	No period of leave may be less than a week's duration.	No period of leave may be less than a week's duration.	No period of leave may be less than a week's duration.	No period of leave may be less than a week's duration.
Is the employee required to provide notice?	No	No	N/A	No	Notice of at least one pay period unless circumstances necessitate a shorter period.	No – but employee must advise employer in writing.	No	Must advise of intention to take leave, the anticipated commencement and duration of leave.	Must advise employer as soon as possible.	No	Must give 2 weeks notice unless valid reason why notice cannot be given.	No	No	No
Length of	No	No	N/A	13	30 days	No	3 months	No	3 months	No	30 days	No	No	No

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service requirement for eligibility?				consecutive weeks prior to absence.										
Requirement that patient faces significant risk of death?	Yes	Yes	N/A	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Can leave be renewed if patient does not die?	No	Yes – employee must acquire new certificate.	N/A	No	No	Yes	No	No	No	No	No	No	No	No
How are family members defined?	-spouse/CL (1 yr.) -child of employee or employee's spouse/CL -parent of employee or employee's spouse/CL -any person defined in s. 23.1(1) of the <i>EI Act</i> (see appendix). [CLC, 206.3(1)]	a member of an employee's immediate family -any other individuals member of a prescribed class (see appendix) .[ESA, s. 52.1(1)]	N/A	Same definition as short term leave.	Same definition as short term leave.	an employee's: -spouse, parent, step-parent, foster parent, -child, step-child, foster child (or that of their spouse -"any individual prescribed as a family member for the purpose of this section (see appendix).	An employee's: -child -spouse -child of spouse -father -mother -spouse of father or mother -brother -sister -grandparents	Same definition as short term leave.	-spouse/CL (1 yr) -child or child of spouse or CL -parent or parent's spouse/CL -any other person member of a class prescribed (see appendix).	-spouse/CL, child, parent, brother, sister, and any other person prescribed by regulations. [Note: regulations are silent on this issue]	-spouse/CL (2 yrs.) -child or spouse/CL's child -parent or CL partner of parent or employee or spouse -any other person as defined in regulations (See appendix).	-spouse,/CL -child or child of spouse/CL -parent, parent of spouse/CL or CL of parent -any other person prescribed in 41.11(1) of <i>EI Regulations</i> (Canada) (See appendix).	-spouse -child or child of spouse -parent or spouse of parent -any other person in the def of family member in 23.1(1) of <i>EI Act</i> (Canada) (see appendix), or s. 206.3(1) of <i>Canada Labour Code</i> (see federal column) -any other person prescribed by regulation (regulations silent).	Same as in the <i>Federal Canada Labour Code</i> .