

Date of Hearing: May 20, 2020

ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT

Ash Kalra, Chair

AB 2999 (Low) – As Amended May 4, 2020

SUBJECT: Employees: bereavement leave

SUMMARY: Authorizes employees to take up to ten days of unpaid bereavement leave for the death of a spouse, child, parent, sibling, grandparent, grandchild or domestic partner.

Specifically, **this bill:**

- 1) Defines “employee” as any person who performs services for wages or salary under a contract of employment, express or implied, for an employer.
- 2) Defines “employer” as a person employing an employee under any appointment or contract of hire, including the state, any political subdivision of the state, or any municipality.
- 3) Requires an employer to allow an employee to take up to ten business days of unpaid bereavement leave for the death of a spouse, child, parent, sibling, grandparent, grandchild or domestic partner.
- 4) Provides that days of bereavement need not be consecutive and the leave must be taken within three months of the date of the death of the person prompting the need for the leave.
- 5) Authorizes employees to use vacation, personal leave, or compensatory time off in conjunction with the unpaid bereavement leave.
- 6) Provides that an employer may request documentation of the death prompting the need for the leave and that the employee must provide that documentation within 30 days of the first day of the leave.
- 7) Provides that an employee who is discharged, disciplined, or otherwise discriminated against in the terms or conditions of employment by their employer because the employee exercised their right to bereavement leave is entitled to reinstatement and to recover actual damages.
- 8) Provides that an employee who believes they have been discharged, disciplined, or discriminated against in violation of their right to bereavement leave may file a complaint with the Labor Commissioner (LC) or bring a civil action without exhausting any administrative remedies.
- 9) Provides that in any action brought to enforce these rights, a court may award to the prevailing plaintiff reasonable attorney’s fees and costs, including expert witness fees.
- 10) Requires an employer to maintain the confidentiality of a bereavement request including any documentation submitted by the employee.

EXISTING LAW: Provides that an employee the opportunity to take both paid and unpaid time away from work without fear of discharge or discrimination for a number of specified purposes.

FISCAL EFFECT: Unknown

COMMENTS: The COVID-19 global pandemic has had and continues to have a tragic and fatal effect on families across the world. As of May 15, 2020, the World Health Organization reported 297,119 COVID-19 deaths worldwide. According to the Centers for Disease Control and Prevention, as of May 15, 2020, the COVID-19 global pandemic has resulted in 85,990 deaths in the United States. As of May 15, 2020, the California Department of Public Health reported 3,108 COVID-19 deaths in California. The unfortunate and sober reality is that many California workers will likely lose loved ones in the foreseeable future due to COVID-19.

According to the author, “[t]his legislation will ensure that workers are entitled to take up to ten days of job-protected unpaid bereavement leave to mourn the loss of their immediate family member. No person should fear that taking the time to grieve the death of their loved one will cause them to lose their job. AB 2999 will protect workers during one of the most trying moments of their life.”

Arguments in Support

The California Labor Federation, in support, argues that “[w]orkers in California have no right to bereavement leave, paid or unpaid, when a close family member dies, and without adequate time to grieve the loss of a loved one, employees return to work grief-stricken and unable to concentrate. Their grief can manifest in emotional, mental, and physical ways. Employees should not have to force themselves to be at full productivity as they cope with the loss of a loved one.”

The California Employment Lawyers Association (CELA) argues that this bill “fills a critical gap in current family leave laws. While the federal Family Medical Leave Act and the California Family Rights Act provide employees with job-protected leave in order to care for an ailing family member, the protected leave immediately ends upon the death of the family.”

Arguments in Opposition

In opposition, a coalition of employer organizations, including the California Chamber of Commerce, assert “California has numerous protected, overlapping leaves, which already burden employers. There are numerous additional proposals this year, including proposed budget trailer bill language, to further expand these leave mandates. The continued mandates placed on California employers to provide employees with numerous rights to protected leaves of absences is simply overwhelming. By making a 10-day bereavement leave mandatory in every situation, AB 2999 removes the flexibility employers need to balance bereavement leave requests with other pressing leave requests. Coordinating overlapping leave requests can be especially challenging for small businesses with limited staff.”

Prior Legislation

AB 325 (Lowenthal) of 2011 proposed providing employees with up to three days of unpaid bereavement leave. This measure was vetoed by Governor Brown.

AB 2340 (Monning) of 2010 proposed providing employees in California with the right to take up to three days of unpaid bereavement leave. This measure was vetoed by Governor Schwarzenegger.

SB 549 (Corbett) of 2007 proposed providing employees in California with the right to take up to four days of unpaid leave from work upon the death of a specified relative. This measure was vetoed by Governor Schwarzenegger.

AB 1019 (Harman) of 2005 proposed to extend paid bereavement leave for state employees not covered by a collective bargaining agreement from three days to five days. This measure died on the Assembly Appropriations Suspense File.

REGISTERED SUPPORT / OPPOSITION:

Support

California Employment Lawyers Association
California Labor Federation
California Teachers Association
Consumer Attorneys of California
Equal Rights Advocates
Legal Aid At Work

Oppose

Acclamation Insurance Management Services
Allied Managed Care
Associated Builders and Contractors Northern California Chapter
Auto Care Association
California Association of Health Facilities
California Association of Joint Powers Authorities
California Association of Sheet Metal & Air Conditioning Contractors National Association
California Bankers Association
California Beer and Beverage Distributors
California Chamber of Commerce
California Farm Bureau Federation
California Food Producers
California Grocers Association
California Hospital Association
California Landscape Contractor's Association
California Landscape Contractors Association
California Manufacturers and Technology Association
California Professional Association of Specialty Contractors
California Restaurant Association
California Retailers Association
California Special Districts Association
Cawa - Representing the Automotive Parts Industry
Civil Justice Association of California
Coalition of Small & Disabled Veteran Business
Csac Excess Insurance Authority
Family Business Association of California
Family Winemakers of California
Flasher Barricade Association

League of California Cities
National Federation of Independent Business
Official Police Garages of Los Angeles
Society for Human Resource Management
Western Car Wash Association
Western Growers Association

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