

ASSEMBLY THIRD READING

AB 2999 (Low)

As Amended May 4, 2020

Majority vote

SUMMARY:

Authorizes employees to take up to 10 days of unpaid bereavement leave for the death of a spouse, child, parent, sibling, grandparent, grandchild or domestic partner.

Major Provisions

- 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 10 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) Requires an employer to maintain the confidentiality of a bereavement request including any documentation submitted by the employee.
- 8) Provides an employee with protections from retaliation and allows such an employee to 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.

COMMENTS:

The COVID-19 global pandemic has had and continues to have a tragic and fatal effect on families across the world. As of June 3, 2020, the World Health Organization reported 379,941 COVID-19 deaths worldwide. According to the Centers for Disease Control and Prevention, as of June 3, 2020, the COVID-19 global pandemic has resulted in 106,202 deaths in the United States. As of June 2, 2020, the California Department of Public Health reported 4,361 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:

"This 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 member."

Arguments in Opposition:

In opposition, a coalition of employer organizations, including the California Chamber of Commerce, asserts "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."

FISCAL COMMENTS:

According to the Assembly Appropriations Committee,

- 1) Annual special fund costs to DLSE of approximately \$100,000 in the first year of implementation and \$91,000 ongoing each year thereafter.
- 2) Additional staffing costs for state departments by raising the minimum amount of available bereavement leave. Currently, an excluded state employee may take three days of paid bereavement leave and, upon approval of their employer, may take additional time off using unpaid time or accrued sick or vacation time. This bill's practical impact is to raise the floor and guarantee a bereaved employee a minimum of 10 days.

VOTES:**ASM LABOR AND EMPLOYMENT: 5-1-1**

YES: Kalra, Carrillo, Gonzalez, Jones-Sawyer, Luz Rivas

NO: Flora

ABS, ABST OR NV: Diep

ASM APPROPRIATIONS: 13-4-1

YES: Gonzalez, Bauer-Kahan, Bloom, Bonta, Calderon, Carrillo, Chau, Eggman, Gabriel, Eduardo Garcia, Petrie-Norris, McCarty, Robert Rivas

NO: Bigelow, Megan Dahle, Fong, Voepel

ABS, ABST OR NV: Diep

UPDATED:

VERSION: May 4, 2020

CONSULTANT: Justin Delacruz / L. & E. / (916) 319 - 2091

FN: 0002906