



BILL NO. 3

Government Bill

*5th Session, 61st General Assembly
Nova Scotia
62 Elizabeth II, 2013*

**An Act to Amend Chapter 246
of the Revised Statutes, 1989,
the Labour Standards Code,
to Support Parents of Critically Ill
or Abducted Children**

CHAPTER 11
ACTS OF 2013

**AS ASSENTED TO BY THE ADMINISTRATOR OF THE PROVINCE
MAY 10, 2013**

The Honourable Frank Corbett
Minister of Labour and Advanced Education

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

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**An Act to Amend Chapter 246
of the Revised Statutes, 1989,
the Labour Standards Code,
to Support Parents of Critically Ill
or Abducted Children**

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Support for Parents of Critically Ill or Abducted Children Act*.

2 Section 7 of Chapter 246 of the Revised Statutes, 1989, the *Labour Standards Code*, as amended by Chapter 14 of the Acts of 1991, Chapter 4 of the Acts of 2003 (Second Session), Chapters 10 and 13 of the Acts of 2006, Chapter 18 of the Acts of 2009, Chapter 37 of the Acts of 2010 and Chapter 19 of the Acts of 2011, is further amended by adding immediately after clause (bi) the following clauses:

(bj) prescribing classes of persons entitled to a leave of absence to provide care or support for a critically ill child for the purpose of clause (f) of subsection (1) of Section 60L;

(bk) prescribing classes of persons for the purpose of subclause (v) of the definition of “parent” in clause (d) of Section 60T;

3 Chapter 246 is amended by adding immediately after Section 60J the following headings and Sections:

CRITICALLY ILL CHILD CARE LEAVE

60K (1) In Sections 60L to 60Q,

(a) “common-law partner” means a common-law partner as defined in Section 60E;

(b) “critically ill child” has the same meaning as in regulations made under the *Employment Insurance Act* (Canada);

(c) “week” means a week as defined in Section 60E.

(2) Notwithstanding clause 60K(1)(b), for the purpose of this Section and Sections 60L to 60S where the definition of critically ill child in regulations made under the *Employment Insurance Act* (Canada)

(a) does not include a step-child or foster child, it shall be read as if it did; and

(b) does not apply with respect to an injury, it shall be read as if it did, subject to any condition or restriction in the definition that applies to an illness and that can apply with respect to an injury.

60L (1) This Section and Sections 60M to 60S apply to an employee who is

- (a) a parent of a critically ill child;
- (b) the spouse or common-law partner of a parent of a critically ill child;
- (c) a person with whom a critically ill child has been placed for the purpose of adoption;
- (d) a guardian or foster parent of a critically ill child;
- (e) a person who has the care and custody of a critically ill child pursuant to the *Children and Family Services Act*; or
- (f) a member of a class of persons prescribed in the regulations.

(2) An employee who has been employed by an employer for a period of at least three months is entitled to an unpaid leave of absence of up to thirty-seven weeks to provide care or support to the critically ill child if a legally qualified medical practitioner issues a certificate

- (a) stating that the child is a critically ill child and requires the care or support of the employee; and
- (b) setting out the period during which the child requires the care or support.

(3) An employee shall advise his or her employer in writing as soon as possible of any intention to take a leave of absence under this Section and shall provide the employer with a written plan that indicates the weeks in which the employee will take the leave.

(4) Where an employee must begin a leave under this Section before advising the employer pursuant to subsection (3), the employee shall so advise the employer as soon as possible.

(5) Where requested in writing by the employer, the employee shall provide the employer with a copy of the certificate referred to in subsection (2).

(6) A leave of absence under this Section may only be taken in periods of not less than one week's duration, not exceeding in total the number of weeks to which the employee is entitled.

60M (1) The leave of absence referred to in Section 60L may only be taken during the fifty-two week period that begins on the first day of the week in which the child with respect to whom the certificate was issued became critically ill.

(2) The leave of absence referred to in Section 60L ends with the last day of the week in which any of the following occurs:

- (a) subject to subsection (2) of Section 60N, the child dies;
- (b) the number of weeks in the period specified in the certificate has been taken, if the certificate sets out a period of less than thirty-seven weeks;
- (c) a thirty-seven week leave has been taken.

60N (1) Where more than one child of the employee is critically ill as a result of the same event and the period specified in any certificate described in subsection (2) of Section 60L that was issued with respect to any of the children is fifty-two weeks or longer, the leave ends no later than the last day of the last week of the fifty-two week period that begins on the first day of the week in which the first of the children with respect to whom a certificate was issued became critically ill.

(2) Clause (a) of subsection (2) of Section 60M does not apply if more than one child of the employee is critically ill as a result of the same event, unless all of the children die while the employee is on leave, in which case the employee's entitlement to be on leave ends at the end of the last week in which the last child dies.

60O (1) Where more than one child of the employee is critically ill as a result of the same event, the employee is not entitled to take a leave for a longer period than would otherwise apply under subsection (2) of Section 60L or clause (b) of subsection (2) of Section 60M.

(2) Where one or more children with respect to whom an employee has taken a leave under Section 60L remain critically ill while the employee is on leave or after the employee returns to work, the employee is entitled to take an extension of the leave or a new leave if

(a) a legally qualified medical health practitioner issues an additional certificate described in subsection (2) of Section 60L for the child or children that sets out a different period during which the child or children require care or support;

(b) the total amount of leave taken in the leave or combined leaves, as the case may be, does not exceed thirty-seven weeks; and

(c) the leave or combined leaves end no later than the last day of the period described in subsection (1) of Section 60M or subsection (1) of Section 60N, as the case may be.

(3) Where one or more children with respect to whom an employee has taken a leave under Section 60L remain critically ill after the fifty-two week period described in subsection (1) of Section 60M or subsection (1) of Section 60N, as the case may be, expires, the employee is entitled to take another unpaid leave beginning the first day of the week in which the additional certificate is issued, and Sections 60L to 60N and Sections 60P to 60R apply *mutatis mutandis* to the new leave.

60P (1) Unless the employee and employer agree otherwise, an employee may end a leave earlier than the expiry of thirty-seven weeks by giving the employer written notice of at least fourteen days before the employee wishes to end the leave.

(2) An employee may take a leave at a time other than that indicated in the plan provided under subsection (3) of Section 60L if the change to the time of the leave meets the requirements of Sections 60L to 60Q and the employee

(a) requests permission to do so from the employer in writing and the employer grants permission in writing; or

(b) provides the employer with such written notice as is reasonable in the circumstances.

60Q (1) Where an employee who takes a leave to provide care and support to a person pursuant to Section 60E, 60L or 60O ceases to provide care or support during a week of leave,

(a) the employee's entitlement to leave continues until the end of the week; and

(b) the employee may return to work during the week only if the employer agrees, whether in writing or not.

(2) Where an employee returns to work under clause (b) of subsection (1), the week counts as an entire week for the purpose of any provision in Section 60E, 60L or 60O that limits the entitlement to leave to a certain number of weeks.

60R Sections 59F to 60 apply *mutatis mutandis* to an employee who takes a leave of absence pursuant to Section 60L or 60O.

60S An employee's entitlement to leave under Section 60L or 60O is in addition to any entitlement to leave under Section 60E, 60U, 60V or 60X.

CRIME-RELATED CHILD DEATH OR DISAPPEARANCE LEAVE

60T In this Section and Sections 60U to 60X,

(a) "child" means a child, step-child or foster child who is under eighteen years of age;

(b) "common-law partner" means a common-law partner as defined in Section 60E;

(c) "crime" means an offence under the *Criminal Code* (Canada), other than an offence that is prescribed by the regulations made under paragraph 209.4(f) of the *Canada Labour Code*;

(d) "parent" includes

(i) the spouse or common-law partner of a parent of a child,

(ii) a person with whom a child has been placed for the purpose of adoption,

(iii) a guardian or foster parent of a child,

(iv) a person who has the care and custody of a child pursuant to the *Children and Family Services Act*, and

(v) a member of a class of persons prescribed in the regulations;

(e) "week" means a week as defined in Section 60E.

60U (1) An employee who has been employed by an employer for a period of at least three months is entitled to an unpaid leave of absence of up to one hundred and four weeks if the employee is the parent of a child who dies and it is probable, considering the circumstances, that the child died as a result of a crime.

(2) The leave of absence referred to in subsection (1) may only be taken during the one hundred and five week period that begins the week the child is found dead.

60V (1) An employee who has been employed by an employer for a period of at least three months is entitled to an unpaid leave of absence of up to fifty-two weeks if the employee is the parent of a child who disappears and it is probable, considering the circumstances, that the child disappeared as a result of a crime.

(2) Except as otherwise provided in subsection (1) of Section 60X, the leave of absence referred to in subsection (1) may only be taken during the fifty-three week period that begins the week the child disappears.

60W (1) An employee is not entitled to a leave of absence under Section 60U or 60V if the employee is charged with the crime with respect to which the leave was granted.

(2) A leave of absence under Section 60U or 60V may only be taken in a single period.

(3) An employee shall advise his or her employer in writing as soon as possible of any intention to take a leave of absence under Section 60U or 60V and shall provide the employer with a written plan that indicates the weeks in which the employee will take the leave.

(4) Where an employee must begin a leave under Section 60U or 60V before advising the employer pursuant to subsection (3), the employee shall so advise the employer as soon as possible.

(5) An employer may require an employee who takes a leave under Section 60U or 60V to provide evidence, reasonable in the circumstances, of the employee's entitlement to the leave.

60X (1) Subject to subsection (2), where an employee takes a leave of absence under subsection (1) of Section 60V and the child is found within the fifty-two week period that begins the week the child disappears, the employee is entitled to

(a) continue taking leave for fourteen days after the day on which the child is found, if the child is found alive; or

(b) take one hundred and four weeks unpaid leave from the day the child is found dead,

and, for greater certainty, in the latter case, any remaining leave under subsection (1) of Section 60V ends.

(2) Where the child is found dead more than fifty-two weeks after the week in which the child disappeared, the employee is entitled to take an unpaid leave of up to one hundred and four weeks from the day the child is found dead.

(3) Where the circumstances change and it no longer seems probable that the death or disappearance was the result of a crime,

(a) a leave under Section 60U or 60V or this Section ends no later than fourteen days following the day on which it no longer seems probable unless the employee and employer agree in writing to an earlier return to work; and

(b) the employee shall provide written notice to the employer as soon as possible that the leave is ending.

(4) Unless the employee and employer agree otherwise, an employee may end a leave earlier than the expiry of the leave period by giving the employer written notice of at least fourteen days before the employee wishes to end the leave.

(5) An employee may take a leave at a time other than that indicated in the plan provided under subsection (3) of Section 60W if the change to the time of the leave meets the requirements of Section 60U, 60V or this Section, as the case may be, and Section 60W and the employee

(a) requests permission to do so from the employer in writing and the employer grants permission in writing; or

(b) provides the employer with four weeks' written notice before the change is to take place.

(6) Subsection (2) of Section 60U and Section 60W apply *mutatis mutandis* to a leave under this Section.

60Y Sections 59F to 60 apply *mutatis mutandis* to an employee who takes a leave of absence pursuant to Section 60U, 60V or 60X.

60Z An employee's entitlement to leave under Section 60U, 60V or 60X is in addition to any entitlement to leave under Section 60E, 60L or 60O.

4 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
