

# LABOUR MANAGEMENT REVIEW COMMITTEE

November 16, 2012

Honourable Jennifer Howard  
Minister of Family Services and Labour  
Room 357 Legislative Building  
Winnipeg MB R3C 0V8

Dear Minister:

Thank you for providing the Labour Management Review Committee (LMRC) with an opportunity to review and make recommendations on potential changes to *The Employment Standards Code* (Code) to provide for an unpaid leave for employees who are the parents of murdered or missing children, or the parents of gravely ill children.

The LMRC recognizes the very significant challenges parents experience when their child has been murdered or gone missing, or is critically ill. The Code currently does not provide employees with the right to take an unpaid leave of absence to deal with the circumstances relating to their children. Such a leave would also allow employees to access recently announced federal benefits.

The LMRC has reviewed the issue and unanimously agrees with the appropriateness of such legislation. The Committee recognizes that specific provisions with respect to the Federal Social Benefit for the parents of murdered or missing children are not available at this time. When the specifics of the federal benefit become available, if there is any significant deviation from what has been agreed upon, the LMRC feels that it should revisit its recommendation respecting this leave.

Thank you to the members of the LMRC for their timely consideration on this issue and to the staff in the Department of Family Services for providing assistance to the Committee on these matters.

Sincerely,



Kevin Rebeck  
Labour  
Caucus Chair



Michael Werier  
Chairperson



Peter Wightman  
Management  
Caucus Chair

Enclosure

cc: Members of the Manitoba Labour Management Review Committee

# **REPORT OF THE MANITOBA LABOUR MANAGEMENT REVIEW COMMITTEE**

## **Review of Proposed Legislation to Cover Unpaid Leave for Parents of Murdered, Missing or Gravely Ill Children**

**November 16, 2012**

### **MANDATE OF THE LABOUR MANAGEMENT REVIEW COMMITTEE**

The Manitoba Labour Management Review Committee (LMRC) was tasked with conducting a review of a proposal to provide for unpaid leave for employees who are the parents of murdered, missing and gravely ill children under *The Employment Standards Code*. Staff of the Department of Family Services and Labour provided background material for consideration by the LMRC. Staff was also available to provide further information and to answer the Committee's concerns.

### **RECOMMENDATIONS**

The LMRC recognizes the difficult time faced by parents whose child has been murdered, gone missing, or is critically ill. Following significant discussion of the issues, the LMRC achieved consensus with respect to the following recommendations for unpaid leave for parents of murdered, missing, and gravely ill children. The leave would allow employees to access recently announced federal benefits.

While agreeing with the need for such leave, particularly in terms of accessing federal benefits, a representative of management indicated that caution should be exercised in terms of which employees have access to the leave. With the addition of various new leaves to the legislation in recent years, employers are becoming concerned about the ability of smaller Manitoba businesses to accommodate the cumulative effect of these leaves.

It is recommended that the Government of Manitoba amend *The Employment Standards Code* (ESC) to provide for an unpaid leave for the parents of murdered or missing children and parents of critically ill children, as follows:

#### **1. Unpaid Leave for Parents of Gravely Ill Children**

It is recommended that the ESC provide for a period of unpaid leave of up to 37 weeks for employees who are parents of critically ill children. An employee who has been employed by the same employer for a least 30 days and who is a parent of a critically ill child should be entitled to the leave. This will allow parents to access the 35 weeks of Employment Insurance benefits available (with a 2 week waiting period).

Employees entitled to the leave should include

- a parent of the child,
- the spouse or common law partner of a parent of the child,
- a person with whom the child was placed for the purposes of adoption
- the guardian or foster parent of the child, and

- a person who has the care, custody or control of the child, and is considered to be like a close relative, whether or not they are related by blood or adoption.

For an employee to be eligible for leave, a physician must issue a certificate

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

A "Critically ill child" would be a child as defined under the federal Employment Insurance Act. An employee wishing to take a leave under this section should give the employer notice of at least one pay period, unless circumstances necessitate a shorter period. The notice of at least one pay period would also apply when the employee wishes to return to work.

## **2. Unpaid Leave Parents of Murdered or Missing Children**

It is recommended that an employee who is the parent of a murdered or missing child receive a period of 35 weeks of unpaid leave, consistent with the maximum period of the recently announced federal benefits. (The LMRC recognizes that this benefit will not have a 2 week waiting period as is the case with Employment Insurance benefits).

It is recommended that the definition of "parent" be the same as for the recommended leave for parents of critically ill children (see above). An employer may require the employee to provide documentation in support of the reasons for the leave.

An employee wishing to take a leave under this section would give the employer notice of at least one pay period, unless circumstances necessitate a shorter period. The notice of at least one pay period would also apply when the employee wishes to return to work.

Consistent with the requirements of the proposed federal benefits, a child would be a child under the age of 18 years. The leave would be available where the employee is the parent of a child who has died as a result of a crime or a child who has disappeared, and it is probable that the child died or disappeared as a result of a crime.

## **CONCLUSION**

The LMRC has reached consensus on a number of significant issues in recent years, and the desire was apparent from both caucuses to find common ground on this matter. The LMRC, recognizing the undue hardship of employees whose child has been murdered, missing or gravely sick, is pleased to have achieved consensus on recommendations to provide leave for these individuals under the Code.

The Committee recognizes that specific provisions with respect to the Federal Social Benefit for the parents of murdered or missing children are not available at this time. When the specifics of the federal benefit become available, if there is any significant deviation from what has been agreed upon, the LMRC feels that it should revisit its recommendation respecting this leave.

The Committee wishes to thank the Minister of Family Services and Labour for the opportunity to express its views to the Government on these important issues.