



Title: Judicial Branch Bereavement Leave Policy

Policy Number: JB-HR-26-003

Authority: 29 Del. C. § 5125; Rule 8.5 of the Judicial Branch Personnel Rules

Effective Date: January 1, 2026

Supersedes: N/A

Signature: *Hugh P. Lafferty*

1. Purpose

The purpose of this policy is to recognize the importance of supporting the Judicial Branch workforce by providing economic stability for employees suffering a pregnancy loss. Leave provided under this policy complies with [Section 5125 of Title 29](#) of the Delaware Code.

2. Scope

This policy applies to full-time and permanent part-time Judicial Branch employees who accrue leave. Casual seasonal employees, employed under [Section 5903\(17\)a of Title 29](#) of the Delaware Code, are ineligible for bereavement leave. This policy does not apply to Judicial Officers who are part of the Revised Judicial Pension Plan.

3. Definitions and Acronyms

- **Eligible Employee** means any full-time or permanent part-time Judicial Branch employee who accrues leave and who would have been the legal parent had the pregnancy loss not occurred.
- **Employer** means, individually or collectively, the Administrative Office of the Courts (AOC), a Court, or a nonjudicial agency.
- **Family and Medical Leave Act (FMLA)** is a federal law that entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage, if applicable, under the same terms and conditions as if the employee had not taken leave.
- **HIPPA** refers to the federal Health Insurance Portability and Accountability Act (HIPPA) of 1996.
- **Human Resources (HR)** refers to each employee's human resources department.

- **Miscarriage** means a loss of a pregnancy suffered prior to 20 weeks of gestation. [29 Del. C. § 5125](#).
- **Nonjudicial Agency** refers to those statutorily-created bodies that receive administrative support from the AOC but over which the Judicial Branch has no substantive supervisory authority. Nonjudicial agencies include the Office of the Child Advocate; the Office of the Public Guardian; the Maternal and Child Death Review Commission; and the Delaware Nursing Home Residents Quality Assurance Commission.
- **Other loss** means a loss of a pregnancy involving a diagnosis that negatively impacted the pregnancy; this includes termination regardless of whether the termination was medically necessary. [29 Del. C. § 5125](#).
- **Parent** means an individual who would have been a legal parent had the pregnancy loss not occurred.
- **Pregnancy loss** refers collectively to a pregnancy that ends because of a miscarriage, stillbirth, or other loss.
- **Stillbirth** means a loss of a pregnancy suffered from 20 weeks gestation or more. [29 Del. C. § 5125](#).
- **Workday** means 7.5 hours based on the eligible employee's standard work schedule of 37.5 hours or a prorated number of hours for permanent part-time eligible employees.

4. Policy

- a) The Judicial Branch provides up to five (5) workdays of paid bereavement leave to eligible employees who have suffered a pregnancy loss.
- b) Bereavement leave is available to eligible employees immediately upon their employment.
- c) For this policy, a workday is defined as 7.5 hours based on the eligible employee's standard work schedule of 37.5 hours or a prorated number of hours for permanent part-time eligible employees
- d) Bereavement leave cannot be taken in increments of less than one hour and should generally be taken consecutively.
- e) Eligible employees may take bereavement leave at any time within 12 months of the pregnancy loss.
 - Note: An eligible employee's entitlement to bereavement leave expires at the end of the 12-month period beginning on the date of the pregnancy loss.
- f) Bereavement leave under this policy runs concurrently with leave under the Family and Medical Leave Act (FMLA), as applicable.
- g) If two (2) Judicial Branch employees are eligible for bereavement leave for the same pregnancy loss, each eligible employee is entitled to up to five (5)

workdays of bereavement leave. The employees do not need to take the leave at the same time.

- h) An eligible employee may not use accrued sick leave, annual leave, or other leave in lieu of bereavement leave for a pregnancy loss.
- i) Bereavement leave cannot be combined with compassionate leave for the same pregnancy loss as the leaves are provided for different reasons. For information regarding the use of compassionate leave, please refer to [Rule 8.4 of the Judicial Branch Personnel Rules](#) and [29 Del. C. § 5125](#) of the Delaware Code.
- j) Bereavement leave does not accrue.
- k) Bereavement leave cannot be donated to the Donated Leave Bank or be donated to another state employee.
- l) Unused bereavement leave will not be paid out at the time of separation of employment from the Judicial Branch.
- m) An employer may take disciplinary action, up to and including termination, against an employee who uses bereavement leave for purposes other than those set forth in this policy.

5. Procedures

- a) An eligible employee may request bereavement leave in an amount of no less than one hour and up to five (5) workdays per pregnancy loss. The workday is 7.5 hours or a pro-rated amount for permanent part-time eligible employees.
- b) Eligible employees must request leave in accordance with the employer's internal leave request procedures.
- c) After consultation with the applicable supervisor or Court Administrator, HR may request medical documentation if the applicant has documented attendance issues. In the absence of documented attendance issues, no medical documentation will be required for bereavement leave. Any medical documentation received by HR will be maintained in a separate, confidential HIPPA file and will not be released without the employee's authorization.
- d) Written approval of bereavement leave will not contain any information concerning the purpose of the leave or reference to the pregnancy loss.
- e) An HR representative may track bereavement leave in PHRST using Action Code PLA and Reason Code OTH, since PHRST has not yet established a specific Action/Reason Code for bereavement leave.

6. Exclusions

An employee may not use bereavement leave to cover an absence resulting from an administered disciplinary suspension.

7. Dissemination and Training

Upon issuance of this policy, notice will be provided to all Judicial Branch employees. The policy will also be available on the Judicial Branch Intranet.

Each employer will provide this policy to new employees as part of their onboarding or orientation. New employees will then have thirty (30) days to acknowledge their review of the policy.

8. Data Reporting

None

9. Associated Policies, Regulations, and Resources

- [Employee Assistance Program \(EAP\) Information](#)
- [Disability Insurance Program Rules & Regulations](#)
- [Group Health Insurance Plan Eligibility and Enrollment Rules](#)
- Family and Medical Leave Act (FMLA)
- Americans with Disabilities Act (ADA)
- [Pregnant Workers Fairness Act Information](#)

10. Associated Forms

None

11. Notes

This policy is not intended to create any individual right or cause of action not already existing and recognized under State or Federal law. If there is a conflict between this policy and any law or regulation, the law or regulation, as applicable, governs.