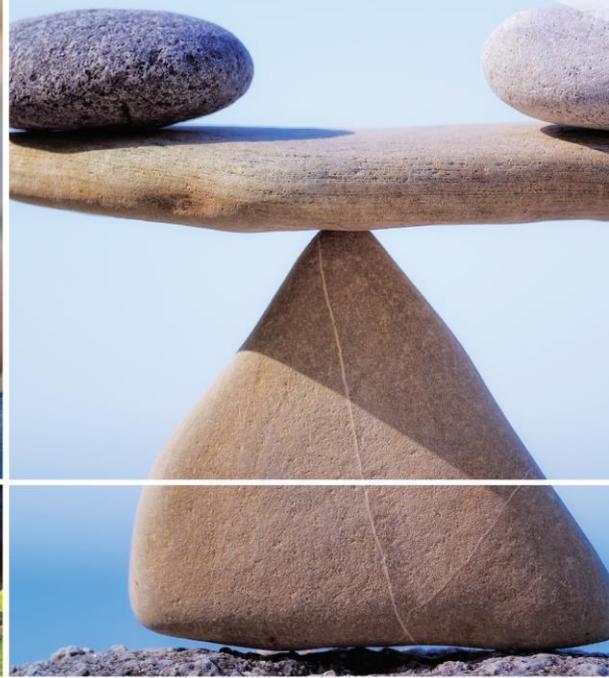




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LAW SOCIETY  
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# AlbertaJusticiaProject

**Maternity and Parental Leave**

Preparing for a Lawyer's Pregnancy or Parental Leave

Guide for Law Firms

# PREPARING FOR A LAWYER’S PREGNANCY OR PARENTAL LEAVE GUIDE FOR LAW FIRMS

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## Introduction

**This guide was developed by the Law Society of Alberta, in collaboration with the firms participating in the Alberta Justicia Project. The guide is intended as a tool to assist firms to prepare for lawyers' pregnancy or parental leaves. The guide does not provide legal advice and is not meant to be the ultimate or ideal policy. Firms have no obligation to adopt all or any part of the sample policy options.**

The guide is applicable to firms of all sizes. However, some sections may be more relevant to the smaller firm context while others will be more relevant to the larger firm environment. The guide has been drafted for those involved in firm management and human resources, including supervising lawyers and group leaders.

Where possible, checklists, sample documents, references, websites and contact information have been included. The guide also includes a checklist for lawyers' legal assistants.

The guide is divided into the following sections, each dealing with different aspects to consider when a lawyer wishes to take a pregnancy or parental leave:

1. The firm's legal obligations and lawyers' rights;
2. The firm's policies on pregnancy and parental leave for lawyers;
3. The firm's policy on flexible work arrangements;
4. Firm resources and policies;
5. External resources;
6. Firm checklist for a lawyer's leave; and
7. Checklist for legal assistants.

## The Firm's Legal Obligations and Lawyer's Rights

When a lawyer approaches you to request a pregnancy and/or parental leave, you should be aware of the firm's legal obligations and of the lawyer's minimum legal rights. The following outlines general legal obligations and rights in the employment context that relate to pregnancy and parental leave. **This is not a legal opinion and the information provided in this section is only up-to-date as of the time of writing.** Firm managers are encouraged to keep apprised of legal developments in the area of pregnancy and parental leave entitlements.

### Human Rights Obligations

Law firms and legal organizations have legal obligations under provincial and/or federal human rights legislation and case law, and lawyers are bound by rules that promote human rights under the Law Society's *Code of Conduct*.<sup>1</sup> The following provides a general overview of these obligations under the *Alberta Human Rights Act*<sup>2</sup> and the *Code of Conduct*.

### ***Alberta Human Rights Act (AHRA) and Code of Conduct***

The *AHRA* applies to everyone in Alberta with respect to publications and notices, goods, services, accommodations, and facilities, tenancy, employment, and trade union membership,<sup>3</sup> unless the *Canadian Human Rights Act* applies.<sup>4</sup> All employment relations, including those governed by a collective agreement, are subject to the *AHRA*. Law firms in Alberta are, therefore, subject to the *AHRA*, and it applies to all employees of the law firm, including associates, salaried lawyers, in-house counsel, and articling students. Whether an equity partner could be considered an employee under the *AHRA* depends on the particular arrangements of the firm and whether there is a sufficient degree of control as set out by the Supreme Court of Canada in *McCormick v. Fasken Martineau DuMoulin LLP*.<sup>5</sup>

Human rights legislation expressly prohibits discrimination based on sex and the Supreme Court of Canada has clearly established that discrimination because a woman is, or may become, pregnant is discrimination on the ground of sex and is illegal.<sup>6</sup> Discrimination in employment on the grounds of gender, marital status, family status, and sexual orientation is also prohibited under the *AHRA*.<sup>7</sup>

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<sup>1</sup> The Law Society of Alberta, *Code of Conduct*, Edmonton: Law Society of Alberta, 2017

<sup>2</sup> RSA 2000, c A-25.5 [*AHRA*].

<sup>3</sup> *Ibid*, ss 3, 4, 5, 6, 7, 8, and 9.

<sup>4</sup> RSC 1985, c H-6.

<sup>5</sup> 2014 SCC 39. The court held that the British Columbia *Human Rights Code* did not apply to an equity partner because there was no employment relationship present on the facts of the case. However, the court did not bar the possibility that an equity partner could be an employee for the purposes of the *Code*, suggesting that the determination involves an analysis of the degree of control and dependency present, particularly whether or not that individual has the ability to influence decisions that critically affect his or her working life.

<sup>6</sup> *Brooks v. Canada Safeway*, [1989] 1 SCR 1219 (SCC). See also section 44(2) of the *AHRA*, *supra* note 2, which states "Whenever this Act protects a person from being adversely dealt with on the basis of gender, the protection includes, without limitation, protection of a female from being adversely dealt with on the basis of pregnancy."

<sup>7</sup> *AHRA*, *supra* note 2, s 7(1).

Members of the Law Society of Alberta are also governed by the *Code of Conduct*. Rule 6.3 places a special responsibility on lawyers to adhere to the tenets of human rights law and, in particular, to "not discriminate against any person".<sup>8</sup> Therefore, lawyers must not discriminate on the basis of any protected ground.

### **Firms Have a Duty to Accommodate**

The *AHRA* and the *Code of Conduct* impose a duty to accommodate, to the point of undue hardship, differences that arise based on the enumerated grounds in the *Act*. "Short of undue hardship" is a standard that applies to the person or organization required to make the accommodation, and takes into consideration costs, outside sources of funding, and health and safety factors.

The following are examples of how employees might be accommodated during the pre-natal and post-natal periods, short of undue hardship:<sup>9</sup>

- Changing a pregnant employee's job duties if her pregnancy prevents her from performing parts of her job;
- Providing a flexible work schedule to accommodate the needs of an employee who is pregnant or breastfeeding. This may include time off for medical appointments, arranging for an employee to work from home, flexible hours, providing a quiet space for breastfeeding or allowing an employee to arrange her scheduled breaks to breastfeed her child;
- Making other reasonable changes in the workplace that have been recommended by the doctor of a pregnant or breastfeeding employee.

### **Employment Standards Code (ESC)<sup>10</sup>**

The *ESC* applies to all employees and employers in Alberta, except where expressly exempted.<sup>11</sup> Employed lawyers are exempt from s. 14(1)(a), and Part 2, Divisions 3 & 4 of the *ESC*.<sup>12</sup> Subject to these exemptions, the *ESC* applies to associates and other employed lawyers.<sup>13</sup> A firm that has income partners should review the terms of each partner's

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<sup>8</sup> Rule 6.3, *Code of Conduct*, *ibid*, states: "A lawyers has a special responsibility to respect the requirements of human rights laws in force in Canada, its provinces and territories and, specifically, to honour the obligations enumerated in human rights laws."

<sup>9</sup> Alberta Human Rights Commission Interpretive Bulletin: "Rights and responsibilities related to pregnancy, childbirth and adoption" (September, 2010), [http://www.albertahumanrights.ab.ca/Bull\\_pregnancy.pdf](http://www.albertahumanrights.ab.ca/Bull_pregnancy.pdf), at 6.

<sup>10</sup> RSA 2000, c E-9 [ESC].

<sup>11</sup> *Ibid*, s 2(1).

<sup>12</sup> Section 14(1)(a) relates to the keeping of employment records for regulation and overtime hours of work, and Part 2, Divisions 3 & 4 relate to hours of work, overtime, and overtime pay.

<sup>13</sup> "With respect to partners, it should be considered that while the definition of employee is more narrow than under human rights provisions, section 1(1) of the *AHRA* may render that more limited definition in the *ESC* inoperative" (The Joint Committee for Gender & Equality in the Legal Profession, "Guidelines for Drafting and Implementing Maternity and Parental Leave Policies," Law Society of Alberta (amended 2010), [http://www.lawsociety.ab.ca/files/equity/Guidelines\\_for\\_Drafting\\_and\\_Implementing\\_Leave\\_Policies\\_2010\\_Maternity\\_Parental.pdf](http://www.lawsociety.ab.ca/files/equity/Guidelines_for_Drafting_and_Implementing_Leave_Policies_2010_Maternity_Parental.pdf), at 8).

relationship with the firm to determine whether those income partners are “employees” under the *ESC*.<sup>14</sup>

The *ESC* sets out the minimum threshold for employment standards. Employers and employees are expressly prohibited from contracting out of the standards of the *ESC*.<sup>15</sup>

Part 2, Division 7 of the *ESC* governs maternity and parental leaves. The purpose of the legislation is to protect an employee’s position while on leave. An employer is statutorily obligated to grant qualifying employees an unpaid maternity and/or parental leave if one is requested. The employer is not obligated to provide paid leaves under the *ESC*.

### **Maternity Leave**

A pregnant employee who has been employed by her employer for at least 52 consecutive weeks is automatically entitled to maternity leave under the *ESC*.<sup>16</sup> The employee is entitled to a maternity leave period of not more than 15 weeks, beginning any time during the 12 weeks immediately before her estimated due date.<sup>17</sup> An employee must take at least 6 weeks immediately following the birth of her child, unless the employer agrees to an earlier return to work and the employee provides a medical certificate indicating that resumption of work will not endanger her health.<sup>18</sup>

An employee who wishes to take maternity leave must give her employer at least 6 weeks’ written notice advising when she intends to start her maternity leave. The employer may request a medical certificate certifying that the employee is pregnant and estimating the delivery date.<sup>19</sup> The employee is entitled to begin her maternity leave on the date specified in her notice.<sup>20</sup> If the employee fails to provide her employer with the necessary notice, she is still entitled to maternity leave if, within 2 weeks after her last day of work, she provides her employer with a medical certificate indicating she is not able to work due to a medical condition arising from her pregnancy, and giving the estimated or actual date of delivery.<sup>21</sup>

Subject to the employer's duty to accommodate, if the employee's pregnancy interferes with her job performance during the 12 weeks immediately before her estimated due date, the employer can give the employee written notice requiring her to start maternity leave.<sup>22</sup>

### **Parental Leave**

An employee who has been employed by her or his employer for at least 52 weeks is entitled to take a parental leave.<sup>23</sup> A parental leave may be taken following either the birth or adoption of a

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<sup>14</sup> Section 1(1)(k) of the *ESC*, *supra* note 10, defines “employee” as “an individual employed to do work who receives or is entitled to wages and includes a former employee.”

<sup>15</sup> Section 4 of the *ESC*, *ibid*, provides that “[a]n agreement that this Act or a provision of it does not apply, or that the remedies provided by it are not to be available for an employee, is against public policy and void.”

<sup>16</sup> *Ibid*, s 45.

<sup>17</sup> *Ibid*, s 46(1).

<sup>18</sup> *Ibid*, s 46(2).

<sup>19</sup> *Ibid*, s 47(1).

<sup>20</sup> *Ibid*, s 47(2).

<sup>21</sup> *Ibid*, s 48.

<sup>22</sup> *Ibid*, s 49.

child.<sup>24</sup> The employee is entitled to a maximum of 37 consecutive weeks.<sup>25</sup> Parental leave can be shared between two parents, but the total combined leave cannot exceed 37 weeks.<sup>26</sup>

If an employee has taken a maternity leave, she must commence her parental leave immediately following the last day of her maternity leave.<sup>27</sup>

If the employee does not take maternity leave, the parental leave can begin at any time, but it must be completed within 52 weeks of the date the baby is born or the adopted child is placed with the parent.<sup>28</sup>

An employee must give the employer at least 6 weeks' written notice of the date she or he will start parental leave, unless the medical condition of the birth mother or child makes this impossible or the date of the child's placement with the adoptive parent was not foreseeable.<sup>29</sup> If the employee is not able to comply with the usual notice requirements, she or he must provide written notice at the earliest possible time of the date the employee will start or has started parental leave.<sup>30</sup> Notice of maternity leave is deemed notice of parental leave, unless the notice specifies that it is not notice of parental leave.<sup>31</sup> Employees who intend to share parental leave must advise their respective employers of this intention.<sup>32</sup>

An employee must give the employer at least 4 weeks' written notice of the date on which the employee intends to resume work, and, in any event, not later than 4 weeks before the end of the leave period.<sup>33</sup> An employee who does not wish to resume employment after maternity or parental leave must give the employer at least 4 weeks' written notice of her or his intention to terminate employment.<sup>34</sup>

No employer may terminate or lay off an employee who has started her maternity leave, or is entitled to or has started parental leave,<sup>35</sup> unless the employer suspends or discontinues its business.<sup>36</sup> When the employee resumes work, the employer must reinstate the employee in the position she or he occupied when the leave began, or provide the employee with alternative work of a comparable nature at not less than the same wages and benefits.<sup>37</sup>

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<sup>23</sup> *Ibid*, s 50(1).

<sup>24</sup> *Ibid*, s 50(1).

<sup>25</sup> *Ibid*, s 50.

<sup>26</sup> If the employer employs both parents, it is only required to provide parental leave to one employee at a time (*Ibid*, s 50(3)).

<sup>27</sup> *Ibid*, s 50(1)(a).

<sup>28</sup> *Ibid*, s 50(1)(b)(c).

<sup>29</sup> *Ibid*, s 51(1).

<sup>30</sup> *Ibid*, s 51(2).

<sup>31</sup> *Ibid*, s 51(4).

<sup>32</sup> *Ibid*, s 51(5).

<sup>33</sup> *Ibid*, s 53(1).

<sup>34</sup> *Ibid*, s 53(8).

<sup>35</sup> *Ibid*, s 52(1).

<sup>36</sup> *Ibid*, s 52(2).

<sup>37</sup> *Ibid*, s 53(7).

### ***Employment Insurance Act (EIA)***<sup>38</sup>

The *EIA* provides employment insurance benefits to eligible birth mothers and/or new parents, including pregnancy, parental and sickness benefits. Associates have a responsibility to inform the firm of their entitlement under the *EIA*. Such entitlement may impact supplemental income benefits provided by the firm.

The following is provided for the firm's information only. Further information about the *EIA* is available on-line at <http://www.servicecanada.gc.ca/eng/sc/ei/benefits/maternalparental.shtml>.

The *EIA* applies in Alberta and across Canada to employees who meet minimum hours of employment requirements. Therefore, associates will automatically be eligible for the following benefits under the *EIA*, provided they have worked the required number of hours in the qualifying period. Self-employed individuals can also register to access special employment insurance benefits,<sup>39</sup> so lawyers who are partners or sole practitioners must register to be eligible for the following benefits under the *EIA*.

The *EIA* provides three types of special benefits relevant to birth mothers and/or new parents: pregnancy, parental and illness benefits.

To be entitled to pregnancy, parental or illness benefits an employee must show that she or he has accumulated 600 insured hours in the last 52 weeks or since the last claim, unless she or he is registered for benefits as a self-employed individual.

Pregnancy benefits are available to birth mothers only. Parental benefits are available in addition to pregnancy benefits. Either or both parents of a newborn child or an adopted child may be eligible for parental benefits.

A birth mother may be eligible for illness benefits in addition to pregnancy and parental benefits.

Under ordinary circumstances, a claimant may be eligible to receive benefits for up to 65 weeks. Benefits are paid at a rate of 55% of a claimant's weekly earnings.<sup>40</sup> Maximum weekly earnings are set out in s. 14.<sup>41</sup>

### **Pregnancy Benefits**

Pregnancy benefits are payable to the birth mother or surrogate mother for a maximum of 15 weeks.

The mother can start collecting pregnancy benefits either up to 8 weeks before she is expected to give birth or at the week she gives birth.<sup>42</sup> Pregnancy benefits can be collected within 17 weeks of the actual or expected week of birth, whichever is later.<sup>43</sup>

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<sup>38</sup> SC 1996, c 23 [*EIA*].

<sup>39</sup> *Ibid*, Part VII.1.

<sup>40</sup> *Ibid*, s 14(1).

<sup>41</sup> *Ibid*, s 14(1.1)(a) states "the maximum weekly insurable earnings is \$750 if the claimant's benefit period begins during the years 1997 to 2000"; and s 14(1.1)(b) states "if the claimant's benefit period begins in a subsequent year, the maximum yearly insurable earnings divided by 52".

If the baby is hospitalized, the 17-week limit can be extended for every week the child is in the hospital up to 52 weeks following the week of the child's birth.<sup>44</sup>

## Parental Benefits

Parental benefits are payable to either the biological or the adoptive parents while they are caring for a newborn or an adopted child, up to a maximum of 35 weeks. Parental benefits can be claimed by one parent or shared between the two partners but will not exceed a combined maximum of 35 weeks.<sup>45</sup>

Parental benefits for biological parents and their partners are payable from the child's birth date, and for adoptive parents and their partners from the date the child is placed with them. Parental benefits are only available within the 52 weeks following the child's birth, or for adoptive parents, within the 52 weeks from the date the child is placed with the parent,<sup>46</sup> unless the child is hospitalized.<sup>47</sup>

## Illness Benefits

Under the *EIA* a pregnant woman may be entitled to receive up to 15 weeks of illness benefits in addition to pregnancy and parental benefits if she is unable to work due to "illness, injury or quarantine".

## Income Supplement Benefits

The employer can supplement or "top-up" the employee's employment insurance benefits, without a reduction of the employee's benefits under the *EIA*. The employer's supplement is not deemed to be earnings, provided the following two conditions are met:

- the combined employment insurance benefits plus the income supplement cannot exceed the employee's normal weekly earnings; and
- the income supplement does not reduce the employee's accumulated sick leave, vacation leave, severance pay or any other accumulated credits.<sup>48</sup>

For online information about pregnancy and parental leave entitlements under the *ESC*, see:

<http://humanservices.alberta.ca/working-in-alberta/1473.html>

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<sup>42</sup> *Ibid*, s 22(2)(a).

<sup>43</sup> *Ibid*, s 22(2)(b).

<sup>44</sup> *Ibid*, ss 22(6)(7).

<sup>45</sup> *Ibid*, s 23(4.1).

<sup>46</sup> *Ibid*, s 23(2). Section.

<sup>47</sup> *Ibid*, s 23(3) provides that if the new-born child or the adopted child is hospitalized, the 52 week benefit period can be extended to no more than 104 weeks.

<sup>48</sup> *Employment Insurance Regulations*, SOR/96-332, s 38.

For on-line information about employment insurance benefits for pregnancy and parental leaves, see:

<http://www.servicecanada.gc.ca/eng/sc/ei/benefits/maternityparental.shtml>

For a list of Service Canada Centres in Alberta, see:

<http://www.servicecanada.gc.ca/cgi-bin/sc-srch.cgi?app=lst&pv=ab&ln=eng>

For the Alberta Human Rights Commission's Interpretive Bulletin on "Rights and responsibilities related to pregnancy, childbirth and adoption", see:

[http://www.albertahumanrights.ab.ca/publications/bulletins\\_sheets\\_booklets/bulletins/pregnancy.asp](http://www.albertahumanrights.ab.ca/publications/bulletins_sheets_booklets/bulletins/pregnancy.asp)

## The Firm’s Policies on Pregnancy and Parental Leave for Lawyers

In addition to the legal obligations outlined in the previous section, the firm has adopted the following policies on pregnancy and parental leave for lawyers. In order to inform the lawyers of their rights under the policy, **[insert title such as Practice Group Leaders]** should be familiar with the policies and processes to request a leave.

The following table outlines the general benefits under the ESA and the firm’s policies. Please refer to the policies for the complete outline of benefits and entitlements.

| Leave                                 | Eligibility  | Entitlement under ESC             | Entitlement under firm policy          | Entitlement of income under firm policy           | Group benefits                                 |
|---------------------------------------|--|-----------------------------------|--|---|--|
| <b>Pregnancy leave for associates</b> | Associate birth mother – <i>Insert eligibility criteria</i>      | 15 weeks                          | <i>Insert entitlement under policy</i> | <i>Insert income entitlement under the policy</i> | <i>Insert benefits such as medical, dental</i> |
| <b>Parental leave for associates</b>  | Associate - <i>Insert eligibility criteria</i>                   | 37 weeks if taken pregnancy leave | <i>Insert entitlement under policy</i> | <i>Insert income entitlement under the policy</i> | <i>Insert benefits such as medical, dental</i> |
| <b>Pregnancy leave for partners</b>   | Equity partner birth mother – <i>Insert eligibility criteria</i> | N/A                               | <i>Insert entitlement under policy</i> | <i>Insert income entitlement under the policy</i> | <i>Insert benefits such as medical, dental</i> |
| <b>Parental leave for partners</b>    | Equity partner - <i>Insert eligibility criteria</i>              | N/A                               | <i>Insert entitlement under policy</i> | <i>Insert income entitlement under the policy</i> | <i>Insert benefits such as medical, dental</i> |

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**[Insert firm policy]**

## The Firm's Policy on Flexible Work Arrangements

In addition to the rights outlined in the pregnancy and parental leave policies, the *ESC* and the *EIA*, the law firm has adopted a flexible work arrangement policy. The policy is set out below. Lawyers returning from leave may be interested in working flexible hours, either in a full-time or part-time capacity. In order to inform lawyers of their rights **[insert title such as Practice Group Leader]** should be familiar with the policy, their role under the policy and the process to consider a flexible work arrangement request. The process to request a flexible work arrangement is as follows:

**[Insert process and role of those with a responsibility to consider requests]**

**[Insert firm policy]**

## The Firm's Resources and Policies

A **[insert title such as Practice Group Leader]** who is responsible for handling requests for pregnancy and parental leaves should also be aware of the firm's resources that relate to pregnancy and parental leaves. The following provides a checklist of resources that the **[insert title such as Practice Group Leader]** should be familiar with and may wish to communicate to the lawyer who is requesting the leave:

**[Insert firm programs and a brief description of available programs.]**

- New Parent Tool Kit:** If the firm has developed a new parent tool kit, it should provide a copy of the tool kit, or access to the tool kit, to the lawyer who will be a new parent. A template of the New Parent Tool Kit is available at **[insert link]** to assist law firms in developing their new parent tool kit.
- Personal coaching by external provider:** One on one external coaching sessions with **[insert name of service provider]** focusing on transition issues such as parenting, lifestyle, new relationship dynamics, caregiver issues, managing stress and developing support systems. The firm pays for **[insert number of sessions]**. The content of sessions is confidential. To participate, please contact: **[insert contact information]**
- Coaching by colleagues:** Coaching by colleagues on topics such as the path to partnership, transitioning one's practice, and reintegration issues upon return. **[insert contact information]**
- Lunch and learn sessions:** Lunch and learn sessions for new parents, offered **[insert day and time]**, with guest speakers on topics such as **[insert topics]**. **[insert contact information]**
- Emergency child care:** **[Insert name of service provider]** provides emergency childcare services for associates and partners at the firm to meet parents' needs. **[insert contact information]**
- Information and workshops:** **[Include name of service provider]** designs customized workshops on topics related to parenthood and working as a lawyer.
- Childcare resources**
- The firm's new parent mentoring program**
- The firm's new parent networking program**

## External Resources

The following external resources may be of assistance to the firm when advising lawyers or planning for lawyers' absences from the firm.

| Resource   | Description   | Contact   |
|--|---|---|
| <b>Employment Standards Code (ESC)</b>                     | Description of benefit entitlements under the ESC   | <a href="http://humanservices.alberta.ca/working-in-alberta/1473.html">http://humanservices.alberta.ca/working-in-alberta/1473.html</a>   |
| <b>Employment Insurance Act</b>                            | Employment insurance benefits under the EIA for pregnancy and parental leaves   | <a href="http://www.servicecanada.gc.ca/eng/sc/ei/benefits/maternityparental.shtml">http://www.servicecanada.gc.ca/eng/sc/ei/benefits/maternityparental.shtml</a>                       |
| <b>Service Canada Centres in Ontario</b>                   | Location of Service Canada Centres for applications under the EIA   | <a href="http://www.servicecanada.gc.ca/cgi-bin/sc-srch.cgi?app=lst&amp;pv=ab&amp;ln=eng">http://www.servicecanada.gc.ca/cgi-bin/sc-srch.cgi?app=lst&amp;pv=ab&amp;ln=eng</a>           |
| <b>Alberta Human Rights Commission</b>                     | Resources produced by the Alberta Human Rights Commission   | <a href="https://www.albertahumanrights.ab.ca/Pages/default.aspx">https://www.albertahumanrights.ab.ca/Pages/default.aspx</a>   |
| <b>Finding childcare services and financial assistance</b> | Government of Alberta, Human Services online guide: <i>Finding Quality Child Care</i> - Information about selecting the proper childcare services, the Alberta Child Care Accreditation program, and how to find childcare services in Alberta. | <a href="http://www.humanservices.alberta.ca/family-community/child-care-find-child-care.html">http://www.humanservices.alberta.ca/family-community/child-care-find-child-care.html</a> |
|  | Government of Alberta, Human Services Child Care Subsidy - A subsidy offered to low- and middle-income families using an approved child care option.  | <a href="http://humanservices.alberta.ca/financial-support/15104.html">http://humanservices.alberta.ca/financial-support/15104.html</a>   |

| Resource | Description  | Contact  |
|----------|--|--|
|          | <p>Other child care subsidy options include the Kin Child Care Funding Program, Extended Hours Child Care Subsidy, and the Stay-at-Home Parents Support.</p>   | <p><a href="http://humanservices.alberta.ca/financial-support/15679.html">http://humanservices.alberta.ca/financial-support/15679.html</a></p> |
|          | <p>Government of Alberta, Human Services Parenting - A comprehensive on-line resource centre for parents. It provides links to information about a wide range of topics, including childcare, education, health and wellbeing and parenting.</p> | <p><a href="http://humanservices.alberta.ca/family-community/14873.html">http://humanservices.alberta.ca/family-community/14873.html</a></p>   |
|          | <p><i>Healthy Parents - Healthy Children</i> - A practical guide to pregnancy and being a parent from Alberta Health Services.</p>   | <p><a href="http://www.healthyparentshealthychildren.ca/">http://www.healthyparentshealthychildren.ca/</a></p>                                 |

## Firm Checklist for a Lawyer’s Leave

The following is a checklist of the actions that should be considered by the firm when a lawyer informs the firm that she or he will soon be a new parent. The managing partner or practice group lead should consider how the firm will continue to maintain high quality legal services to clients while the lawyer is on leave. Ideally, the temporary absence of the lawyer from the firm would be seamless. The following checklist may vary based on the size of the firm. In a medium or large firm where a practice group or team approach is used for handling client files, the departure of one or more lawyer may have very minor implications for the clients, as the work could likely be easily reassigned to colleagues. For smaller firms where lawyers often have specialized practices, it might be more complex to ensure a seamless handling of client files.

### Prior to Leave

| Responsibility                                | Action  | Timeline                    |
|---|---|-----------------------------|
| <b>Firm management</b>                        | <b>Adjust firm budget to account for leave(s). The following should be considered:</b> <ul style="list-style-type: none"> <li>• Cost of income supplement or income for lawyers during leave (take into account approximate number of lawyers taking a leave, length, cost of income provided by the firm and benefits).</li> <li>• Overhead cost.</li> <li>• Cost of replacement, if required, during leave.</li> <li>• Cost of reduction in billings for the firm.</li> </ul> | Annual                      |
| <b>Practice group lead or Human Resources</b> | <b>Provide the lawyer with the New Parent Took Kit and explanations about rights and responsibilities</b>   | As soon as notified of news |

| Responsibility             | Action  | Timeline  |
|----------------------------|---|---|
| Human resources or manager | <p><b>Meet with lawyer to discuss administrative matters such as notifications, income and benefits. The following should be discussed:</b></p> <ul style="list-style-type: none"> <li>• Firm benefits and explanation of privileges for new family members.</li> <li>• Provide lawyer with Notification of Pregnancy and Parental Leave Form and ask that it be filled out and returned within <b>[insert timeline]</b> <b>See TAB 6A for sample forms.</b> The notification should include a declaration to continue participation in pension plan and other <b>[list benefits plans]</b>, if lawyer so wishes.</li> <li>• Discuss medical leave and benefits entitlement and process if lawyer needs to stop working earlier than anticipated.</li> <li>• If needed, require a certificate from a medical practitioner stating the child's due date, or a proof of adoption.</li> <li>• Discuss vacation and other benefit entitlements.</li> <li>• Provide information to the lawyer, if applicable, about applying for Employment Insurance benefits and process to inform payroll of amount of benefits.</li> </ul> | As soon as possible or within timeline established by the <i>ESC</i> and policy |
| Human resources or manager | <b>Make arrangements with lawyer regarding notification to the Law Society of Alberta about change of status, if applicable</b>   | Any time prior to the leave   |

| Responsibility   | Action   | Timeline                            |
|--|--|-------------------------------------|
| <b>Manager or practice group leader</b>                          | <p><b>Establish a plan with the lawyer to reallocate the files/work load during the leave</b></p> <ul style="list-style-type: none"> <li>• Review active file list – identify files to be completed and transferred.</li> <li>• Identify dates for appearances, time limitations or limitation periods for each file.</li> <li>• Assess whether to allocate the work to lawyers within the firm, to lawyers outside the firm or to find a locum to replace the lawyer during the leave.</li> <li>• If the firm decides to hire a locum to replace the lawyer during the leave, contact a Practice Advisor at the Law Society of Alberta.</li> <li>• Work with the lawyer to assign files to colleagues and agree on matters such as timelines to transfer files and to return files upon return to practice.</li> <li>• Review the transfer memo from the departing lawyer to the new lawyers or to the file, which includes, a summary of the file, important dates, important tasks, important issues, important facts, limitation periods.</li> <li>• Consult with lawyers receiving the files to ensure that they are properly handled.</li> </ul> | <p>1 to 2 months prior to leave</p> |
| <b>Lawyer taking leave, manager and/or practice group leader</b> | <p><b>Inform finance department of leave and client reallocation, including the following:</b></p> <ul style="list-style-type: none"> <li>• Provide client list to financial department and instruction on ongoing carriage of files, conflict flags and mail references.</li> <li>• Provide list of outstanding work in progress and accounts receivable balances.</li> <li>• Provide list of outstanding trust balances.</li> <li>• Provide instructions on outstanding work in progress, accounts receivable and trust balances and which lawyer will take over responsibility where balances remain.</li> </ul>  | <p>As soon as possible</p>          |

| Responsibility                          | Action   | Timeline                     |
|---|--|------------------------------|
|   | <ul style="list-style-type: none"> <li>• Submit outstanding expense reports.</li> </ul>  |                              |
| <b>Manager or Practice Team Leader</b>  | <p><b>Inform clients of leave and introduce clients to transitional lawyer:</b></p> <p>There are a number of issues that should be addressed when informing clients and other business contacts about the impending leave, including the following:</p> <ul style="list-style-type: none"> <li>• Outline the expected length of leave.</li> <li>• Identify the client's alternative firm contact for the period of the leave.</li> <li>• Supply the client with new phone/fax numbers and email addresses of new firm contact during the leave.</li> <li>• Let the client know that the communication lines are open and who she or he should call you if there are problems.</li> </ul> | 1 to 2 months prior to leave |
| <b>Manager or practice group leader</b> | <p><b>If lawyer is a mentor, assign new mentor to lawyer's mentees</b></p>   | As soon as possible          |
| <b>Manager or practice group leader</b> | <p><b>Discuss with the lawyer all non-billable assignments, such as work on committees and pro bono work and how they will be handled</b></p>  | 1 to 2 months prior to leave |
| <b>Manager or practice group leader</b> | <p><b>Ask the lawyer about his or her intentions and expectations regarding firm involvement while on leave</b></p> <p>Activities that the lawyer wishes to receive notices of might include:</p> <ul style="list-style-type: none"> <li>• Professional development opportunities</li> <li>• Law firm bulletins</li> <li>• Social events</li> <li>• Client development activities</li> <li>• Business development activities</li> <li>• Women's events</li> <li>• Committee meetings</li> </ul>  | 1 to 2 months prior to leave |

| Responsibility                          | Action   | Timeline                     |
|---|--|------------------------------|
|   | <ul style="list-style-type: none"> <li>• Group meetings</li> <li>• Partnership meetings</li> <li>• Other: _____</li> </ul> <p>Also ask about preferred method of communication during leave</p> <ul style="list-style-type: none"> <li>• Telephone: [insert number]</li> <li>• Cell phone: [insert number]</li> <li>• Email: [insert address]</li> </ul>   |                              |
| <b>Manager or practice group leader</b> | <b>Clarify with the lawyer any concerns or details about the compensation process, the performance review and timeline for partnership consideration</b>   | 1 to 2 months prior to leave |
| <b>Manager or practice group leader</b> | <b>Confirm with the lawyer whether she or he will need firm support during the leave.</b> <p>The following may be required:</p> <ul style="list-style-type: none"> <li>• Office supplies, such as stationery and other paper, if required</li> <li>• Office equipment, such as fax machine and photocopier, if required</li> <li>• Blackberry or cellphone</li> <li>• Remote access to firm system</li> <li>• Laptop</li> <li>• Access to an assistant</li> <li>• Colleague support</li> <li>• Other: _____</li> </ul> | 1 to 2 months prior to leave |
| <b>Manager or practice group leader</b> | <b>Provide the lawyer with a mentor</b>  | 1 to 2 months prior to leave |
| <b>Information services</b>             | <b>Organize files/e-mails in document management system and grant access to receiving lawyer</b>   | Within 2 weeks               |

| Responsibility | Action   | Timeline            |
|----------------|--|---------------------|
|                | <ul style="list-style-type: none"><li data-bbox="492 306 1029 338">• Request for transfer of electronic files.</li><li data-bbox="492 373 878 405">• Transfer of electronic files.</li><li data-bbox="492 441 1081 472">• Remove from voicemail and email groups.</li><li data-bbox="492 508 1273 653">• Set voicemail absence greeting and out of office e-mail response. Voicemail absence greeting and out of office e-mail should indicate length of leave and who to contact in the lawyer's absence.</li></ul> | following departure |

## During Leave

| Responsibility                          | Action  | Timeline                      |
|---|---|-------------------------------|
| <b>Manager or practice group leader</b> | Meet with the lawyer to develop plan for reintegration.   | 1 or 2 months prior to return |
| <b>Manager or practice group leader</b> | Agree on anticipated work load and transition issues upon return.   | 1 or 2 months prior to return |
| <b>Manager or practice group leader</b> | Discuss anticipated opportunities within the firm for involvement in new matters.   | 1 or 2 months prior to return |
| <b>Manager or practice group leader</b> | Communicate with clients regarding return to work.  | 1 or 2 months prior to return |
| <b>Manager or practice group leader</b> | Agree on matters related to firm support to ensure seamless client service and to aid with the transition back from leave, such as technology aids. | 1 or 2 months prior to return |

## Return from Leave

| Responsibility                   | Action  | Timeline                                   |
|----------------------------------|---|--|
| Human resources or manager       | <p><b>Meet with lawyer to discuss administrative matters such as income and benefits. The following should be considered:</b></p> <ul style="list-style-type: none"> <li>• Benefits and discussion of privileges for new family members</li> <li>• Required paper work to reinstate participation in pension plan and other <b>[list benefits plans]</b>, if applicable</li> </ul>  | Upon return                                |
| Manager or practice group leader | <p><b>Discuss with returning lawyer the support or assistance that may be required upon return from the leave.</b></p> <p>This may include: availability of rooms to breastfeed, flexibility of work schedule, opportunities to work from home. Discuss scheduling of group meetings to ensure that lawyer easily reintegrates the practice. For example, scheduling meetings at 7 a.m. may be a hardship for the returning lawyer.</p> <ul style="list-style-type: none"> <li>• Conclude arrangements if required.</li> </ul>  | 1 month prior to return or upon return     |
| Human resources or manager       | <p><b>Make arrangements with lawyer regarding notification to the Law Society of Alberta about change of status, if applicable.</b></p>   | Prior to return or immediately upon return |
| Manager or practice group leader | <p><b>Establish a plan with the lawyer for the return of files and to allocate new files/work load following the leave:</b></p> <ul style="list-style-type: none"> <li>• Review active file list that had been prepared prior to departure – identify files that remain incomplete and may be transferred back to the lawyer.</li> <li>• Note upcoming dates for appearances, time limitations or limitation periods for each file.</li> <li>• Discuss workload and transfer of new files.</li> <li>• If the firm has hired a locum to replace the lawyer during the leave, meet with the locum to discuss status and transfer of files.</li> </ul> | 1 month prior to the return                |

| Responsibility   | Action   | Timeline                               |
|--|--|--|
| <b>Manager or practice group leader</b>                          | <b>If lawyer was a mentor, consult with lawyer about having new mentees</b>  | As soon as possible                    |
| <b>Lawyer taking leave, manager and/or practice group leader</b> | <b>Inform finance department of return and client reallocation, including the following:</b> <ul style="list-style-type: none"> <li>• Provide list of client transfers to financial department and instruction on ongoing carriage of files, conflict flags and mail references.</li> <li>• Provide list of outstanding work in progress and accounts receivable balances.</li> <li>• Provide list of outstanding trust balances.</li> </ul> | As soon as possible upon return        |
| <b>Manager or Practice Team Leader</b>                           | <b>Inform clients of return. Discuss with client his or her wishes about lawyer with responsibility regarding the file.</b>  | 1 month prior to return                |
| <b>Manager or practice group leader</b>                          | <b>Reassign non-billable hour responsibilities, such as committee work or pro bono work to the lawyer.</b>   | Upon return                            |
| <b>Manager or Practice Team Leader</b>                           | <b>Confirm with the lawyer whether she or he still requires firm support at home, such as:</b> <ul style="list-style-type: none"> <li>• Office supplies, such as stationery and other paper, if required</li> <li>• Office equipment, such as fax machine and photocopier, if required</li> <li>• Blackberry or cellphone</li> <li>• Remote access to firm system</li> <li>• Laptop</li> <li>• Other: _____</li> </ul>                       | 1 month prior to return or upon return |

| Responsibility              | Action   | Timeline    |
|-----------------------------|--|-------------|
| <b>Information services</b> | <b>Organize files/e-mails in document management system and grant access to returning lawyer</b> <ul style="list-style-type: none"><li data-bbox="493 401 1029 428">• Request for transfer of electronic files.</li><li data-bbox="493 468 878 495">• Transfer of electronic files.</li><li data-bbox="493 535 1029 562">• Place on voicemail and email groups .</li><li data-bbox="493 602 1240 667">• Cancel voicemail absence greeting and out of office e-mail response.</li></ul> | Upon return |

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Sample 1

**NOTIFICATION OF PREGNANCY AND PARENTAL LEAVE**

**NOTE: The following must be submitted at least [insert timeline applicable to firm] months prior to the leave start date.**

**Name:** \_\_\_\_\_

**A. The following notice applies to (please check the appropriate box):**

- Pregnancy Leave only (applicable to birth mothers only)
- Parental Leave only
- Pregnancy Leave and Parental Leave

**B. Please complete the following dates:**

Expected Due Date (for birth parents): \_\_\_\_\_

Expected Date the Child is placed (for adopting parents):  
\_\_\_\_\_

**C. Please complete the expected dates of your leave:**

|  | Start Date | End Date | # of weeks |
|--|------------|----------|------------|
| Pregnancy Leave (maximum of 15 weeks or [insert timeline from policy]) |            |          |            |
| Parental Leave (maximum 37 weeks [or insert timeline from policy])     |            |          |            |
| Vacation   |            |          |            |

**Please attach the following:**

Doctor's certification of pregnancy and due date.

(This document is required by Human Resources at least 2 weeks prior to the commencement of your leave.)

Declaration of Participation in Pension Plan.

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Declaration of Participation in Pension Plan and Benefits Plans**

**NAME:** \_\_\_\_\_

\_\_\_\_\_  
Please check the appropriate boxes below to indicate whether you will or will not participate in the firm's pension plans during your pregnancy leave and/or parental leave.

**Pension Plan**

**Pregnancy Leave:**

|                               | Continue                 | Discontinue              |
|-------------------------------|--------------------------|--------------------------|
| Participation in Pension Plan | <input type="checkbox"/> | <input type="checkbox"/> |

**Parental Leave:**

|                               | Continue                 | Discontinue              |
|-------------------------------|--------------------------|--------------------------|
| Participation in Pension Plan | <input type="checkbox"/> | <input type="checkbox"/> |

**[Insert other plans]**

**Pregnancy Leave:**

|                               | Continue                 | Discontinue              |
|-------------------------------|--------------------------|--------------------------|
| Participation in Pension Plan | <input type="checkbox"/> | <input type="checkbox"/> |

**Parental Leave:**

|                               | Continue                 | Discontinue              |
|-------------------------------|--------------------------|--------------------------|
| Participation in Pension Plan | <input type="checkbox"/> | <input type="checkbox"/> |

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Sample 2

**Memorandum**

**To:** [Insert name of person responsible in Human Resources]  
**From:** [Insert name of person requesting the leave]  
**Re:** **Pregnancy/Parental Leave**

This will confirm my plans for [insert either pregnancy leave, parental leave or both]:

My last day in the office will be \_\_\_\_\_.

I have taken \_\_\_\_\_ vacation day(s) to date. Listed below are the dates on which I will be taking my leave.

**[Notice about any remaining vacation that, under the firm's policy, must be taken prior to the start of the leave, as unused vacation and that cannot be carried forward into the following year].**

\_\_\_\_\_ Remaining vacation day(s)

\_\_\_\_\_ Pregnancy leave [insert number of weeks]

\_\_\_\_\_ Parental leave [insert number of weeks]

My expected date of return to the office is \_\_\_\_\_.

\_\_\_\_\_  
Name and signature

## Checklist for Legal Assistants

The following is a checklist of the actions that should be considered by the departing lawyer's legal assistant. The following checklist may vary based on the size of the firm and the nature of the lawyer's practice.

| Department                | Action  | Completed |
|---------------------------|---|-----------|
| <b>Finance department</b> | Assist with reallocation or closing of files.   |           |
|                           | Assist with reallocation or disbursing of all balances remaining in Trust. Provide instructions to finance department.                            |           |
|                           | Prepare client directions for transfer of files.  |           |
|                           | Ensure a copy of all client directions, instructions for ongoing files, conflict flags and mail references is provided to the records department. |           |
|                           | Ensure billing assistant is provided with contact information for billing and receivable follow up.   |           |
|                           | Complete any outstanding docket entries for lawyer.   |           |
|                           | Submit outstanding expense reports.   |           |
| <b>Technology</b>         | Organize files/e-mails in document management system so lawyer may grant access to receiving lawyer.  |           |
|                           | Assist with request for transfer of electronic files.   |           |
| <b>Human Resources</b>    | Assist with the submission of outstanding benefit claims.   |           |
|                           | Provide updated home address information.   |           |

