

Effective 7/1/2021

**Part 5
Hours and Leave**

63A-17-501 Definitions.

As used in this part:

- (1) "Continuing medical and life insurance benefits" means the state provided policy of medical insurance and the state provided portion of a policy of life insurance, each offered at the same:
 - (a) benefit level and the same proportion of state/member participation in the total premium costs as an active member as defined in Section 49-11-102; and
 - (b) coverage level for a member, two person, or family policy as provided to the member at the time of retirement.
- (2) "Converted sick leave" means leave that has been converted from unused sick leave in accordance with Section 63A-17-506 which may be used by an employee in the same manner as:
 - (a) annual leave;
 - (b) sick leave; or
 - (c) unused accumulated sick leave after the employee's retirement for the purchase of continuing medical and life insurance benefits under Sections 63A-17-507, 63A-17-508, and 63A-17-804.

Enacted by Chapter 344, 2021 General Session

63A-17-502 Overtime policies for state employees.

- (1) As used in this section:
 - (a) "Accrued overtime hours" means:
 - (i) for nonexempt employees, overtime hours earned during a fiscal year that, at the end of the fiscal year, have not been paid and have not been taken as time off by the nonexempt state employee who accrued them; and
 - (ii) for exempt employees, overtime hours earned during an overtime year.
 - (b) "Appointed official" means:
 - (i) each department executive director and deputy director, each division director, and each member of a board or commission; and
 - (ii) any other person employed by a department who is appointed by, or whose appointment is required by law to be approved by, the governor and who:
 - (A) is paid a salary by the state; and
 - (B) who exercises managerial, policy-making, or advisory responsibility.
 - (c) "Department" means the Department of Government Operations, the Department of Corrections, the Department of Financial Institutions, the Department of Alcoholic Beverage Services, the Insurance Department, the Public Service Commission, the Labor Commission, the Department of Agriculture and Food, the Department of Human Services, the Department of Natural Resources, the Department of Transportation, the Department of Commerce, the Department of Workforce Services, the State Tax Commission, the Department of Cultural and Community Engagement, the Department of Health, the National Guard, the Department of Environmental Quality, the Department of Public Safety, the Commission on Criminal and Juvenile Justice, all merit employees except attorneys in the Office of the Attorney General, merit employees in the Office of the State Treasurer, merit employees in the Office of the

State Auditor, Department of Veterans and Military Affairs, and the Board of Pardons and Parole.

- (d) "Elected official" means any person who is an employee of the state because the person was elected by the registered voters of Utah to a position in state government.
 - (e) "Exempt employee" means a state employee who is exempt as defined by the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.
 - (f) "FLSA" means the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.
 - (g) "FLSA agreement" means the agreement authorized by the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq., by which a nonexempt employee elects the form of compensation the nonexempt employee will receive for overtime.
 - (h) "Nonexempt employee" means a state employee who is nonexempt as defined by the division applying FLSA requirements.
 - (i) "Overtime" means actual time worked in excess of the employee's defined work period.
 - (j) "Overtime year" means the year determined by a department under Subsection (4)(b) at the end of which an exempt employee's accrued overtime lapses.
 - (k) "State employee" means every person employed by a department who is not:
 - (i) an appointed official;
 - (ii) an elected official; or
 - (iii) a member of a board or commission who is paid only for per diem or travel expenses.
 - (l) "Uniform annual date" means the date when an exempt employee's accrued overtime lapses.
 - (m) "Work period" means:
 - (i) for all nonexempt employees, except law enforcement and hospital employees, a consecutive seven day 24 hour work period of 40 hours;
 - (ii) for all exempt employees, a 14 day, 80 hour payroll cycle; and
 - (iii) for nonexempt law enforcement and hospital employees, the period established by each department by rule for those employees according to the requirements of the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.
- (2) Each department shall compensate each state employee who works overtime by complying with the requirements of this section.
- (3)
- (a) Each department shall negotiate and obtain a signed FLSA agreement from each nonexempt employee.
 - (b) In the FLSA agreement, the nonexempt employee shall elect either to be compensated for overtime by:
 - (i) taking time off work at the rate of one and one-half hour off for each overtime hour worked; or
 - (ii) being paid for the overtime worked at the rate of one and one-half times the rate per hour that the state employee receives for nonovertime work.
 - (c) Any nonexempt employee who elects to take time off under this Subsection (3) shall be paid for any overtime worked in excess of the cap established by the division.
 - (d) Before working any overtime, each nonexempt employee shall obtain authorization to work overtime from the employee's immediate supervisor.
 - (e) Each department shall:
 - (i) for employees who elect to be compensated with time off for overtime, allow overtime earned during a fiscal year to be accumulated; and
 - (ii) for employees who elect to be paid for overtime worked, pay them for overtime worked in the paycheck for the pay period in which the employee worked the overtime.

- (f) If a department pays a nonexempt employee for overtime, that department shall charge that payment to that department's budget.
 - (g) At the end of each fiscal year, the Division of Finance shall total all the accrued overtime hours for nonexempt employees and charge that total against the appropriate fund or subfund.
- (4)
- (a)
 - (i) Except as provided in Subsection (4)(a)(ii), each department shall compensate exempt employees who work overtime by granting them time off at the rate of one hour off for each hour of overtime worked.
 - (ii) The director of the division may grant limited exceptions to this requirement, where work circumstances dictate, by authorizing a department to pay employees for overtime worked at the rate per hour that the employee receives for nonovertime work, if that department has funds available.
 - (b)
 - (i) Each department shall:
 - (A) establish in its written human resource policies a uniform annual date for each division that is at the end of any pay period; and
 - (B) communicate the uniform annual date to its employees.
 - (ii) If any department fails to establish a uniform annual date as required by this Subsection (4), the director of the division, in conjunction with the director of the Division of Finance, shall establish the date for that department.
 - (c)
 - (i) Any overtime earned under this Subsection (4) is not an entitlement, is not a benefit, and is not a vested right.
 - (ii) A court may not construe the overtime for exempt employees authorized by this Subsection (4) as an entitlement, a benefit, or as a vested right.
 - (d) At the end of the overtime year, upon transfer to another department at any time, and upon termination, retirement, or other situations where the employee will not return to work before the end of the overtime year:
 - (i) any of an exempt employee's overtime that is more than the maximum established by division rule lapses; and
 - (ii) unless authorized by the director of the division under Subsection (4)(a)(ii), a department may not compensate the exempt employee for that lapsed overtime by paying the employee for the overtime or by granting the employee time off for the lapsed overtime.
 - (e) Before working any overtime, each exempt employee shall obtain authorization to work overtime from the exempt employee's immediate supervisor.
 - (f) If a department pays an exempt employee for overtime under authorization from the director of the division, that department shall charge that payment to that department's budget in the pay period earned.
- (5) The division shall:
- (a) ensure that the provisions of the FLSA and this section are implemented throughout state government;
 - (b) determine, for each state employee, whether that employee is exempt, nonexempt, law enforcement, or has some other status under the FLSA;
 - (c) in coordination with modifications to the systems operated by the Division of Finance, make rules:
 - (i) establishing procedures for recording overtime worked that comply with FLSA requirements;

- (ii) establishing requirements governing overtime worked while traveling and procedures for recording that overtime that comply with FLSA requirements;
 - (iii) establishing requirements governing overtime worked if the employee is "on call" and procedures for recording that overtime that comply with FLSA requirements;
 - (iv) establishing requirements governing overtime worked while an employee is being trained and procedures for recording that overtime that comply with FLSA requirements;
 - (v) subject to the FLSA, establishing the maximum number of hours that a nonexempt employee may accrue before a department is required to pay the employee for the overtime worked;
 - (vi) subject to the FLSA, establishing the maximum number of overtime hours for an exempt employee that do not lapse; and
 - (vii) establishing procedures for adjudicating appeals of any FLSA determinations made by the division as required by this section;
- (d) monitor departments for compliance with the FLSA; and
- (e) recommend to the Legislature and the governor any statutory changes necessary because of federal government action.
- (6)
- (a) In coordination with the procedures for recording overtime worked established in rule by the division, the Division of Finance shall modify its payroll and human resource systems to accommodate those procedures.
 - (b) Notwithstanding the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, Section 63A-17-602, and Section 67-19a-301, any employee who is aggrieved by the FLSA designation made by the division as required by this section may appeal that determination to the director of the division by following the procedures and requirements established in division rule.
 - (c) Upon receipt of an appeal under this section, the director shall notify the executive director of the employee's department that the appeal has been filed.
 - (d) If the employee is aggrieved by the decision of the director, the employee shall appeal that determination to the Department of Labor, Wage and Hour Division, according to the procedures and requirements of federal law.

Amended by Chapter 447, 2022 General Session

63A-17-503 Accumulated annual leave -- Conversion to deferred compensation plan.

- (1) The division shall implement a program whereby an employee may, upon termination of employment or retirement, elect to convert any unused annual leave into any of the employee's designated deferred compensation accounts that:
 - (a) are sponsored by the Utah State Retirement Board; and
 - (b) are qualified under Section 401(k) or Section 457 of the Internal Revenue Code.
- (2) Any annual leave converted under Subsection (1) shall be converted into the employee's deferred compensation account at the employee's pay rate at the time of termination or retirement.
- (3) No employee may convert hours of accrued annual leave to the extent that any hours so converted would exceed the maximum amount authorized by the Internal Revenue Code for each calendar year.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-504 Accumulated annual leave -- Annual conversion to deferred compensation plan.

- (1) If the Legislature in an annual appropriations act with accompanying intent language specifically authorizes and fully funds the estimated costs of this use, the division shall implement a program that allows an employee, in the approved calendar year, to elect to convert up to 20 hours of annual leave, in whole hour increments not to exceed \$250 in value, into any of the employee's designated deferred compensation accounts that:
 - (a) are sponsored by the Utah State Retirement Board; and
 - (b) are qualified under Section 401(k) or Section 457 of the Internal Revenue Code.
- (2) Any annual leave converted under Subsection (1) shall be:
 - (a) converted into the employee's deferred compensation account at the employee's pay rate at the time of conversion; and
 - (b) calculated in the last pay period of the leave year as determined by the Division of Finance.
- (3) An employee may not convert hours of accrued annual leave to the extent that any hours converted would:
 - (a) exceed the maximum amount authorized by the Internal Revenue Code for the calendar year; or
 - (b) cause the employee's balance of accumulated annual leave to drop below the maximum accrual limit provided by rule.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-505 Sick leave -- Definitions -- Unused sick days retirement programs -- Rulemaking.

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director shall make rules:
 - (a) for the procedures to implement the provisions of this section through Section 63A-17-508; and
 - (b) to establish the maximum number of hours of converted sick leave an employee may accrue.
- (2) The Division of Finance shall develop and maintain a system of accounting for employee sick leave and converted sick leave as necessary to implement the provisions of this section through Section 63A-17-508.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-506 Converted sick leave.

Converted sick leave hours that are not used prior to an employee's retirement date shall be used under the:

- (1) Unused Sick Leave Retirement Option Program I under Section 63A-17-507 if earned prior to January 1, 2006, unless the transfer is made under Subsection 63A-17-508(1)(c); or
- (2) Unused Sick Leave Retirement Option Program II under Section 63A-17-508 if earned on or after January 1, 2006.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-507 Unused Sick Leave Retirement Option Program I -- Creation -- Payout upon eligibility for allowance -- Continuing medical and life insurance benefits after retirement.

- (1)
 - (a) There is created the "Unused Sick Leave Retirement Option Program I."

- (b) An agency may offer the Unused Sick Leave Retirement Option Program I to an employee who is eligible to receive a retirement allowance in accordance with Title 49, Utah State Retirement and Insurance Benefit Act.
- (2) The Unused Sick Leave Retirement Option Program I provides that upon becoming eligible to receive a retirement allowance an employee who was employed by the state prior to January 1, 2006:
 - (a) receives a contribution under Subsection (3) for 25% of the employee's unused accumulated sick leave accrued prior to January 1, 2006, at the employee's rate of pay at the time of retirement; and
 - (b) may purchase additional continuing medical and life insurance benefits in accordance with Subsection (4).
- (3)
 - (a) Subject to federal requirements and limitations, the contribution under Subsection (2)(a) shall be transferred directly to the employee's defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which is sponsored by the Utah State Retirement Board.
 - (b) If the amount calculated under Subsection (2)(a) exceeds the federal contribution limitations, the employee's unused accumulated sick leave hours representing the excess shall be used for the purchase of continuing medical and life insurance benefits under Subsection (4).
- (4)
 - (a) An employee may purchase continuing medical and life insurance benefits, at the rate of one month's coverage per policy for eight hours of unused sick leave remaining after the contribution of unused sick leave under Subsection (2)(a).
 - (b) The medical coverage level for member, two person, or family coverage that is provided to the member at the time of retirement is the maximum coverage level available to the member under this program.
 - (c) The purchase of continuing medical and life insurance benefits at the rate provided under Subsection (4)(a) may be used by the employee to extend coverage:
 - (i) until the employee reaches the age of eligibility for Medicare; or
 - (ii) if the employee has reached the age of eligibility for Medicare, continuing medical benefits for the employee's spouse may be purchased until the employee's spouse reaches the age of eligibility for Medicare.
 - (d) An employee and the employee's spouse who are or who later become eligible for Medicare may purchase Medicare supplemental insurance at the rate of one month's coverage for eight hours of the employee's unused sick leave per person.
- (5)
 - (a) The continuing medical and life insurance benefits purchased by an employee under Subsection (4):
 - (i) may not be suspended or deferred for future use; and
 - (ii) continues in effect until exhausted.
 - (b) An employer participating in the Program I benefits under this section may not provide medical or life insurance benefits to a person who is:
 - (i) reemployed after retirement; and
 - (ii) receiving benefits under this section.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-508 Unused Sick Leave Retirement Program II -- Creation -- Remuneration upon eligibility for allowance -- Medical expense account after retirement.

- (1)
 - (a) There is created the "Unused Sick Leave Retirement Program II."
 - (b) An agency shall offer the Unused Sick Leave Retirement Option Program II to an employee who is eligible to receive a retirement allowance in accordance with Title 49, Utah State Retirement and Insurance Benefit Act.
 - (c) An employee who is participating in the Unused Sick Leave Retirement Program I under Section 63A-17-507 may make a one-time and irrevocable election to transfer all unused sick leave hours which shall include all converted sick leave hours under Section 63A-17-506 for use under the Unused Sick Leave Retirement Program II under this section.
- (2)
 - (a) The Unused Sick Leave Retirement Program II provides that upon becoming eligible to receive a retirement allowance an employee employed by the state between January 1, 2006, and January 3, 2014, shall receive remuneration for the employee's unused accumulated sick leave and converted sick leave accrued between January 1, 2006, and January 3, 2014, in accordance with this section as follows:
 - (i) subject to federal requirements and limitations, a contribution at the employee's rate of pay at the time of retirement for 25% of the employee's unused accumulated sick leave and converted sick leave shall be transferred directly to the employee's defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which is sponsored by the Utah State Retirement Board; and
 - (ii) participation in a benefit plan that provides for reimbursement for medical expenses using money deposited at the employee's rate of pay at the time of retirement from remaining unused accumulated sick leave and converted sick leave balances.
 - (b) If the amount calculated under Subsection (2)(a)(i) exceeds the federal contribution limitations, the amount representing the excess shall be deposited under Subsection (2)(a)(ii).
 - (c) An employee's rate of pay at the time of retirement for purposes of Subsection (2)(a)(ii) may not be less than the average rate of pay of state employees who retired in the same retirement system under Title 49, Utah State Retirement and Insurance Benefit Act, during the previous calendar year.
- (3) The Utah State Retirement Office shall develop and maintain a program to provide a benefit plan that provides for reimbursement for medical expenses under Subsection (2)(a)(ii) with money deposited under Subsection (2)(a)(ii).

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-509 Organ donor leave.

- (1) An employee who serves as a bone marrow donor shall be granted a paid leave of absence of up to seven days that are necessary for the donation and recovery from the donation.
- (2) An employee who serves as a donor of a human organ shall be granted a paid leave of absence of up to 30 days that are necessary for the donation and recovery from the donation.
- (3) In recognition of National Donate Life Month, 2015, created by Proclamation No. 9248, 80 F.R. 18511 (April 1, 2015), the department shall distribute an electronic message to each employee during the month of April publicizing the leave offered under this section.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-510 Annual leave -- Definitions -- Previously accrued hours -- Recognition of liability.

- (1) As used in this section:

- (a)
 - (i) "Annual leave II" means leave hours an employing agency provides to an employee, beginning on the change date established in Subsection (2), as time off from work for personal use without affecting the employee's pay.
 - (ii) "Annual leave II" does not include:
 - (A) legal holidays under Section 63G-1-301;
 - (B) time off as compensation for actual time worked in excess of an employee's defined work period;
 - (C) sick leave;
 - (D) paid or unpaid administrative leave; or
 - (E) other paid or unpaid leave from work provided by state statute, administrative rule, or by federal law or regulation.
 - (b) "Change date" means the date established by the Division of Finance under Subsection (2) when annual leave II begins for a state agency.
- (2) In accordance with the Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Finance shall establish a date that is no later than January 2, 2016, when a state agency shall offer annual leave II in lieu of annual leave to an employee who is eligible to receive paid leave.
- (3) An employing agency shall allow an employee who has an unused balance of accrued annual leave before the change date, to use the annual leave under the same rules that applied to the leave on the change date.
- (4)
 - (a) At the time of employee accrual of annual leave II, an employing agency shall set aside the cost of each hour of annual leave II for each eligible employee in an amount determined in accordance with rules made by the Division of Finance.
 - (b) The rules made under Subsection (4)(a) shall consider:
 - (i) the employee hourly rate of pay;
 - (ii) applicable employer paid taxes that would be required if the employee was paid for the annual leave II instead of using it for time off;
 - (iii) other applicable employer paid benefits; and
 - (iv) adjustments due to employee hourly rate changes, including the effect on accrued annual leave II balances.
 - (c) The Division of Finance shall provide that the amount of costs set aside under Subsection (4) (a) and deposited into the fund increase by at least the projected increase in annual leave liability for that year, until the year-end trust fund balances are reached as required under Subsection 67-19f-201(3)(b).
- (5) The cost set aside under Subsection (4) shall be deposited by the Division of Finance into the State Employees' Annual Leave Trust Fund created in Section 67-19f-201.
- (6) For annual leave hours accrued before the change date, an employing agency shall continue to comply with the Division of Finance requirements for contributions to the termination pool.
- (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
 - (a) the division shall make rules for the accrual and use of annual leave II provided under this section; and
 - (b) the Division of Finance shall make rules for the set aside provisions under Subsections (4) and (5).

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-511 Parental leave -- Postpartum recovery leave.

(1) As used in this section:

- (a) "Parental leave" means leave hours a state employer provides to a parental leave eligible employee.
- (b) "Parental leave eligible employee" means an employee who:
 - (i) is in a position that receives retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act;
 - (ii) accrues paid leave benefits that can be used in the current and future calendar years;
 - (iii) is not reemployed as defined in Section 49-11-1202; and
 - (iv)
 - (A) is a birth parent as defined in Section 78B-6-103;
 - (B) legally adopts a minor child, unless the individual is the spouse of the pre-existing parent;
 - (C) is the intended parent of a child born under a validated gestational agreement in accordance with Title 78B, Chapter 15, Part 8, Gestational Agreement; or
 - (D) is appointed the legal guardian of a minor child or incapacitated adult.
- (c) "Postpartum recovery leave" means leave hours a state employer provides to a postpartum recovery leave eligible employee to recover from childbirth.
- (d) "Retaliatory action" means to do any of the following to an employee:
 - (i) dismiss the employee;
 - (ii) reduce the employee's compensation;
 - (iii) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;
 - (iv) fail to promote the employee if the employee would have otherwise been promoted; or
 - (v) threaten to take an action described in Subsections (1)(d)(i) through (iv).
- (e) "Postpartum recovery leave eligible employee" means an employee who:
 - (i) is in a position that receives retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act;
 - (ii) accrues paid leave benefits that can be used in the current and future calendar years;
 - (iii) is not reemployed as defined in Section 49-11-1202; and
 - (iv) gives birth to a child.
- (f)
 - (i) "State employer" means:
 - (A) a state executive branch agency, including the State Tax Commission, the National Guard, and the Board of Pardons and Parole;
 - (B) the legislative branch of the state; or
 - (C) the judicial branch of the state.
 - (ii) "State employer" does not include:
 - (A) an institute of higher education;
 - (B) the Utah Board of Higher Education;
 - (C) the State Board of Education;
 - (D) an independent entity as defined in Section 63E-1-102;
 - (E) the Attorney General's Office;
 - (F) the State Auditor's Office; or
 - (G) the State Treasurer's Office.
- (g) "Qualified employee" means:
 - (i) a parental leave eligible employee; or
 - (ii) a postpartum leave eligible employee.

(2)

- (a) Except as provided in Subsections (4) and (5), a state employer shall:
 - (i) allow a parental leave eligible employee to use up to three work weeks of paid parental leave for:
 - (A) the birth of the parental leave eligible employee's child;
 - (B) the adoption of a minor child; or
 - (C) the appointment of legal guardianship of a minor child or incapacitated adult; and
 - (ii) allow a postpartum recovery leave eligible employee to use up to three work weeks of paid postpartum recovery leave for recovery from childbirth.
 - (b) A state employer shall allow a qualified employee who is part-time or who works in excess of a 40-hour work week or its equivalent to use the amount of parental leave or postpartum recovery leave available to the qualified employee under this section on a pro rata basis as adopted by rule by the division under Subsection (12).
- (3)
- (a) Parental leave described in Subsection (2)(a)(i):
 - (i) may not be used before the day on which:
 - (A) the parental leave eligible employee's child is born;
 - (B) the parental leave eligible employee adopts a minor child; or
 - (C) the parental leave eligible employee is appointed legal guardian of a minor child or incapacitated adult;
 - (ii) may not be used more than six months after the date described in Subsection (3)(a)(i);
 - (iii) may not be used intermittently, unless:
 - (A) by mutual written agreement between the state employer and the parental leave eligible employee; or
 - (B) a health care provider certifies that intermittent leave is medically necessary due to a serious health condition of the child;
 - (iv) runs concurrently with any leave authorized under the Family and Medical Leave Act of 1993, 29 U.S.C. Sec. 2601 et seq.; and
 - (v) runs consecutively to postpartum recovery leave.
 - (b) The amount of parental leave authorized under Subsection (2)(a)(i) does not increase if a parental leave eligible employee:
 - (i) has more than one child born from the same pregnancy;
 - (ii) adopts more than one minor child; or
 - (iii) is appointed legal guardian of more than one minor child or incapacitated adult.
 - (c) A parental leave eligible employee may not use more than three work weeks of paid parental leave within a single 12-month period, regardless of whether during that 12-month period the parental leave eligible employee:
 - (i) becomes the parent of more than one child;
 - (ii) adopts more than one minor child; or
 - (iii) is appointed legal guardian of more than one minor child or incapacitated adult.
- (4)
- (a) Postpartum recovery leave described in Subsection (2)(a)(ii):
 - (i) shall be used starting on the day on which the postpartum recovery leave eligible employee gives birth, unless a health care provider certifies that an earlier start date is medically necessary;
 - (ii) shall be used in a single continuous period;
 - (iii) runs concurrently with any leave authorized under the Family and Medical Leave Act of 1993, 29 U.S.C. Sec. 2601 et seq.; and
 - (iv) runs consecutively to parental leave.

- (b) The amount of postpartum recovery leave authorized under Subsection (2)(a)(ii) does not increase if a postpartum recovery leave eligible employee has more than one child born from the same pregnancy.
- (5)
 - (a) Except as provided in Subsection (5)(b), a qualified employee shall give the state employer notice at least 30 days before the day on which the qualified employee plans to:
 - (i) begin using parental leave or postpartum recovery leave under this section; and
 - (ii) stop using postpartum recovery leave under this section.
 - (b) If circumstances beyond the qualified employee's control prevent the qualified employee from giving notice in accordance with Subsection (5)(a), the qualified employee shall give each notice described in Subsection (5)(a) as soon as reasonably practicable.
- (6) Except as provided in Subsections (3)(a)(iv) and (4)(a)(iii), a state employer may not charge parental leave or postpartum recovery leave under this section against sick, annual, compensatory, excess, or other leave a qualified employee is entitled to.
- (7) A state employer may not compensate a qualified employee for any unused parental leave or postpartum recovery leave upon termination of employment.
- (8)
 - (a) Following the expiration of a qualified employee's parental leave or postpartum recovery leave under this section, the state employer shall ensure that the qualified employee may return to:
 - (i) the position that the qualified employee held before using parental leave or postpartum recovery leave; or
 - (ii) a position within the state employer that is equivalent in seniority, status, benefits, and pay to the position that the qualified employee held before using parental leave or postpartum recovery leave.
 - (b) If during the time a qualified employee uses parental leave or postpartum recovery leave under this section the state employer experiences a reduction in force and, as part of the reduction in force, the qualified employee would have been separated had the qualified employee not been using the parental leave or postpartum recovery leave, the state employer may separate the qualified employee in accordance with any applicable process or procedure as if the qualified employee were not using the parental leave or postpartum recovery leave.
- (9) During the time a qualified employee uses parental leave or postpartum recovery leave under this section, the qualified employee shall continue to receive all employment related benefits and payments at the same level that the qualified employee received immediately before beginning the parental leave or postpartum leave, provided that the qualified employee pays any required employee contributions.
- (10) A state employer may not:
 - (a) interfere with or otherwise restrain a qualified employee from using parental leave or postpartum recovery leave in accordance with this section; or
 - (b) take retaliatory action against a qualified employee for using parental leave or postpartum recovery leave in accordance with this section.
- (11) A state employer shall provide each employee written information regarding a qualified employee's right to use parental leave or postpartum recovery leave under this section.
- (12) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall, on or before July 1, 2022, make rules for the use and administration of parental leave and postpartum recovery leave under this section, including a schedule that provides paid parental leave or postpartum recovery leave for a qualified employee who is part-time or who works in excess of a 40-hour work week on a pro rata basis.

Amended by Chapter 425, 2022 General Session

63A-17-512 Leave of absence with pay for employees with a disability who are covered under other civil service systems.

(1) As used in this section:

- (a) "Eligible officer" means a person who qualifies for a benefit under this section.
- (b)
 - (i) "Law enforcement officer" means a sworn and certified peace officer who is an employee of a law enforcement agency that is part of or administered by the state, and whose primary and principal duties consist of the prevention and detection of crime and the enforcement of criminal statutes of this state.
 - (ii) "Law enforcement officer" specifically includes the following:
 - (A) the commissioner of public safety and any member of the Department of Public Safety certified as a peace officer;
 - (B) all persons specified in Sections 23A-5-202 and 79-4-501;
 - (C) investigators for the Motor Vehicle Enforcement Division;
 - (D) special agents or investigators employed by the attorney general;
 - (E) employees of the Department of Natural Resources designated as peace officers by law;
 - (F) the executive director of the Department of Corrections and any correctional enforcement or investigative officer designated by the executive director and approved by the commissioner of public safety and certified by the division; and
 - (G) correctional enforcement, investigative, or adult probation and parole officers employed by the Department of Corrections serving on or before July 1, 1993.
- (c) "State correctional officer" means a correctional officer as defined in Section 53-13-104 who is employed by the Department of Corrections.

(2)

- (a) A law enforcement officer or state correctional officer who is injured in the course of employment shall be given a leave of absence with 100% of the officer's regular monthly salary and benefits during the period the employee has a temporary disability.
- (b) The benefit provided under Subsection (2)(a):
 - (i) shall be offset as provided under Subsection (4); and
 - (ii) may not exceed 100% of the officer's regular monthly salary and benefits, including all offsets required under Subsection (4).

(3)

- (a) A law enforcement officer or state correctional officer who has a total disability as defined in Section 49-21-102, shall be given a leave of absence with 100% of the officer's regular monthly salary and benefits until the officer is eligible for an unreduced retirement under Title 49, Utah State Retirement and Insurance Benefit Act, or reaches the retirement age of 62 years, whichever occurs first, if:
 - (i) the disability is a result of an injury sustained while in the lawful discharge of the officer's duties; and
 - (ii) the injury is the result of:
 - (A) a criminal act upon the officer; or
 - (B) an aircraft, vehicle, or vessel accident and the officer was not negligent in causing the accident.
- (b) The benefit provided under Subsection (3)(a):
 - (i) shall be offset as provided under Subsection (4); and

(ii) may not exceed 100% of the officer's regular monthly salary and benefits, including all offsets required under Subsection (4).

(4)

- (a) The agency shall reduce or require the reimbursement of the monthly benefit provided under this section by any amount received by, or payable to, the eligible officer for the same period of time during which the eligible officer is entitled to receive a monthly disability benefit under this section.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing policies and procedures for the reductions required under Subsection (4)(a).

Amended by Chapter 34, 2023 General Session