

Representative Patrice M. Arent proposes the following substitute bill:

SICK LEAVE AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Patrice M. Arent

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions related to certain employment benefits.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires certain employers to allow an employee to use ~~H→ [at least 10 days] ←H~~

accrued sick

leave to care for an immediate family member under certain conditions;

- ▶ prohibits an employer from taking adverse action against an employee for using sick leave in accordance with this bill;

allows an employee to file a written complaint with the Division of Antidiscrimination and Labor for an alleged violation of this bill;

grants the division enforcement and rulemaking authority to implement the provisions of this bill; and

- ▶ provides that this bill does not extend the maximum period of leave available to an employee under specified federal law.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 None

27 **Utah Code Sections Affected:**

28 ENACTS:

29 [34-28a-101](#), Utah Code Annotated 1953

30 [34-28a-102](#), Utah Code Annotated 1953

31 [34-28a-201](#), Utah Code Annotated 1953

32 [34-28a-202](#), Utah Code Annotated 1953

33 [34-28a-203](#), Utah Code Annotated 1953

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35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section [34-28a-101](#) is enacted to read:

37 **CHAPTER 28a. MISCELLANEOUS EMPLOYMENT BENEFITS**

38 **34-28a-101. Title.**

39 This chapter is known as "Miscellaneous Employment Benefits."

40 Section 2. Section [34-28a-102](#) is enacted to read:

41 **34-28a-102. Definitions.**

42 As used in this chapter:

43 (1) "Adverse action" means the same as that term is defined in Section [34-48-102](#).

44 (2) "Division" means the Division of Antidiscrimination and Labor created in

45 Subsection [34A-1-202\(1\)\(d\)](#).

46 (3) (a) "Eligible employer" means an employer, as defined in Section [34A-2-103](#), that

46a → ; ←

47 → (i) ← offers sick leave to the employer's employees under a written sick leave policy

47a → [] ; and

47b (ii) has more than 15 employees who work in the state. ←

48 (b) "Eligible employer" does not include an employer as described in:

49 (i) the Railroad Unemployment Insurance Act, 45 U.S.C., Sec. 351 et seq.;

50 (ii) the Federal Employers' Liability Act, 45 U.S.C. Sec. 51 et seq.; or

51 (iii) other federal law comparable to the law in Subsection (3)(b)(i) or (ii).

52 (4) (a) "Employee" means the same as that term is defined in Section [34A-2-104](#).

53 (b) "Employee" does not include an employee:

54 (i) of an employer subject to the provisions of the Railroad Labor Act, Subchapter II,

55 45 U.S.C. Sec. 151 et seq.; or

56 (ii) as described in:

57 (A) the Railroad Unemployment Insurance Act, 45 U.S.C., Sec. 351 et seq.;

58 (B) the Federal Employers' Liability Act, 45 U.S.C. Sec. 51 et seq.; or

59 (C) other federal law comparable to the law in Subsection (4)(b)(ii)(A) or (B).

60 (5) "Immediate family member" means an employee's spouse, domestic partner, child,
 61 foster child, step-child, grandchild, parent, step-parent, mother-in-law, father-in-law, sibling,
 62 grandparent, or any individual for whom the employee is a legal guardian.

63 (6) "Paid time-off policy" means a policy that combines vacation time, sick time, and
 64 personal time into a single supply of days for an employee to use when the employee takes paid
 65 time off from work.

66 (7) (a) "Sick leave" means an employee benefit, provided under a written sick leave
 67 policy, that entitles the employee to time away from work due to the employee's illness, injury,
 68 or medical need, whether paid or unpaid.

69 (b) "Sick leave" does not include a paid time-off policy, long-term disability benefits,
 70 short-term disability benefits, workers' compensation benefits, insurance benefits, or other
 71 comparable benefits.

72 Section 3. Section **34-28a-201** is enacted to read:

73 **34-28a-201. Use of sick leave for care of immediate family members.**

74 (1) (a) An eligible employer ~~H~~→ ~~[shall allow an]~~ **whose sick leave policy allows an**
 74a **employee to accrue:**

74b (i) **10 or more days of sick leave shall allow the** ~~←H~~ employee to use at least 10 days of
 74c accrued
 75 sick leave to care for an immediate family member due to the illness, injury, or medical need of
 76 the immediate family member ~~H~~→ [;] ; and

76a (ii) **fewer than 10 days of sick leave shall allow the employee to use each accrued sick**
 76b **day to care for an immediate family member due to the illness, injury, or medical need of the**
 76c **immediate family member.** ~~←H~~

77 (b) Sick leave taken by an employee under Subsection (1)(a) shall:

78 (i) be earned under the terms and conditions of the eligible employer's written sick
 79 leave policy; and

80 (ii) be taken in accordance with the terms and conditions of the eligible employer's
 81 written sick leave policy.

82 (2) An eligible employer may not take adverse action against an employee for using
 83 sick leave in accordance with this section.

84 (3) An employee claiming to be aggrieved by an action of an eligible employer
 85 in violation of Subsection (2) may file a written complaint with the division within 180 days
 86 after the day on which the alleged violation occurs.

87 Section 4. Section **34-28a-202** is enacted to read:

88 **34-28a-202. Investigations -- Complaints -- Sanctions -- Rulemaking.**

89 (1) The division shall investigate an alleged violation of this chapter.

90 (2) (a) An individual claiming to be aggrieved by an action of an employer in violation
91 of this chapter may file with the division a request for agency action.

92 (b) Upon receipt of a request for agency action under Subsection (2)(a), the division:

93 (i) shall conduct an adjudicative proceeding in accordance with Title 63G, Chapter 4,
94 Administrative Procedures Act; and

95 (ii) may attempt to reach a settlement between the parties through a settlement
96 conference.

97 (3) (a) If the division determines that a violation has occurred, the division may order
98 that the employer:

99 (i) cease and desist the action;

100 (ii) pay a fine to the division of up to \$500 for a violation; or

101 (iii) comply with a combination of Subsections (3)(a)(i) and (ii).

102 (b) Money received under this section shall be deposited as a dedicated credit to the
103 division to pay for the costs of administering this chapter.

104 (4) The division may make rules, in accordance with Title 63G, Chapter 3, Utah
105 Administrative Rulemaking Act, necessary to implement and administer the provisions of this
106 chapter.

107 Section 5. Section **34-28a-203** is enacted to read:

108 **34-28a-203. Limitations.**

109 (1) This chapter does not extend the maximum period of leave to which an employee is
110 entitled under the Family and Medical Leave Act of 1993, 29 U.S.C. Sec. 2601 et seq.,
111 regardless of whether the employee received sick leave compensation during that leave.

112 (2) Nothing in this chapter shall be construed to invalidate, diminish, or otherwise
113 interfere with:

114 (a) a collective bargaining agreement; or

115 (b) a party's power to collectively bargain for a collective bargaining agreement.