

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

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**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 at least 10 days 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



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  
47 offers sick leave to the employer's employees under a written sick leave policy.

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 shall allow an employee to use at least 10 days of 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.

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.