

PARENTAL LEAVE AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Clare Collard

Senate Sponsor: _____

LONG TITLE

General Description:

This bill requires certain executive branch employers to offer and administer parental leave.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires executive branch agencies and departments to provide an eligible employee parental leave upon the birth or adoption of the employee's child; and
- ▶ requires the Department of Human Resource Management to adopt rules to administer parental leave.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

67-19-14.7 (Effective 07/01/21), as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

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



28 Section 1. Section **67-19-14.7 (Effective 07/01/21)** is amended to read:

29 **67-19-14.7 (Effective 07/01/21). Parental leave.**

30 (1) As used in this section:

31 (a) "Eligible employee" means an employee who:

32 (i) has been employed:

33 (A) at least 12 consecutive months for the state; and

34 (B) for at least 1,250 hours of work, excluding paid time off, with the state during the
35 previous 12-month period; and

36 (ii) is a qualified employee.

37 (b) "Executive employer" means an executive branch:

38 (i) department;

39 (ii) agency;

40 (iii) board;

41 (iv) commission;

42 (v) division; or

43 (vi) office.

44 (c) "Parental leave" means leave hours an executive employer provides to an eligible
45 employee to be used upon the birth or adoption of the employee's child.

46 (d) (i) "Qualified employee" means an employee who is:

47 (A) in a position that is receiving retirement benefits under Title 49, Utah State
48 Retirement and Insurance Benefit Act; and

49 (B) accruing paid leave benefits that can be used in the current and future calendar
50 years.

51 (ii) "Qualified employee" does not include an employee who is reemployed, as that
52 term is defined in Section [49-11-1202](#).

53 ~~[(i) is in a position that receives retirement benefits under Title 49, Utah State~~
54 ~~Retirement and Insurance Benefit Act;]~~

55 ~~[(ii) accrues paid leave benefits that can be used in the current and future calendar~~
56 ~~years;]~~

57 ~~[(iii) is not reemployed as defined in Section [49-11-1202](#); and]~~

58 ~~[(iv) gives birth to a child.]~~

59 ~~[(b) "Postpartum recovery leave" means leave hours a state employer provides to an~~
60 ~~eligible employee to recover from childbirth.]~~

61 ~~[(c) "Retaliatory action" means to do any of the following to an employee:]~~

62 ~~[(i) dismiss the employee;]~~

63 ~~[(ii) reduce the employee's compensation;]~~

64 ~~[(iii) fail to increase the employee's compensation by an amount that the employee is~~
65 ~~otherwise entitled to or was promised;]~~

66 ~~[(iv) fail to promote the employee if the employee would have otherwise been~~
67 ~~promoted; or]~~

68 ~~[(v) threaten to take an action described in Subsections (1)(c)(i) through (iv).]~~

69 ~~[(d) (i) "State employer" means:]~~

70 ~~[(A) a state executive branch agency, including the State Tax Commission, the~~
71 ~~National Guard, and the Board of Pardons and Parole;]~~

72 ~~[(B) the legislative branch of the state; or]~~

73 ~~[(C) the judicial branch of the state.]~~

74 ~~[(ii) "State employer" does not include:]~~

75 ~~[(A) an institute of higher education;]~~

76 ~~[(B) the Utah Board of Higher Education;]~~

77 ~~[(C) the State Board of Education;]~~

78 ~~[(D) an independent entity as defined in Section [63E-1-102](#)];]~~

79 ~~[(E) the Attorney General's Office;]~~

80 ~~[(F) the State Auditor's Office; or]~~

81 ~~[(G) the State Treasurer's Office.]~~

82 (2) (a) Except as provided in Subsection (3), ~~[a state]~~ an executive employer shall
83 allow an eligible employee to use ~~[up to 120 hours of paid postpartum recovery leave based on~~
84 ~~a 40-hour work week for recovery from childbirth.];~~

85 (i) up to 120 hours of paid parental leave based on a 40-hour work week for the birth or
86 adoption of the eligible employee's child; and

87 (ii) up to an additional 120 hours of paid parental leave based on a 40-hour work week
88 for postpartum recovery, if the eligible employee gave birth to the eligible employee's child.

89 (b) ~~[A state]~~ An executive employer shall allow an eligible employee who is part-time

90 [~~or who works in excess of a 40-hour work week or its equivalent~~] to use the amount of
91 [~~postpartum recovery~~] parental leave available to the eligible employee [~~under this section~~] on
92 a pro rata basis as adopted by rule by the department under Subsection [~~(11)~~] (12).

93 (c) (i) An eligible employee may not take parental leave under this section
94 intermittently, unless the eligible employee's child for whom the eligible employee uses the
95 parental leave is hospitalized for more than five days during the eligible employee's parental
96 leave time.

97 (ii) An employee may only take intermittent parental leave under Subsection (2)(c)(i)
98 during the 12 months following the day on which the employee begins taking parental leave
99 under this section.

100 (3) (a) [~~Postpartum recovery~~] Parental leave described in Subsection (2) [~~:(i) shall be~~
101 ~~used starting on the day on which the eligible employee gives birth, unless a health care~~
102 ~~provider certifies that an earlier start date is medically necessary; (ii) shall be used in a single~~
103 ~~continuous period; and (iii)] runs concurrently with any leave authorized under the Family and
104 Medical Leave Act of 1993, 29 U.S.C. Sec. 2601 et seq.~~

105 (b) The amount of [~~postpartum recovery~~] parental leave authorized under Subsection
106 (2) does not increase if an eligible employee [~~has more than one child born from the same~~
107 ~~pregnancy.];~~

108 (i) has multiple children born from the same pregnancy; or

109 (ii) adopts multiple children through an adoption process that intends to adopt or
110 results in the adoption of more than one child in the same placement decision.

111 (4) (a) Except as provided in Subsection (4)(b), an eligible employee shall give the
112 [~~state~~] executive employer notice at least 30 days before the day on which the eligible
113 employee plans to:

114 (i) begin using [~~postpartum recovery~~] parental leave under this section; and

115 (ii) stop using [~~postpartum recovery~~] parental leave under this section.

116 (b) If circumstances beyond the eligible employee's control prevent the eligible
117 employee from giving notice in accordance with Subsection (4)(a), the eligible employee shall
118 give each notice described in Subsection (4)(a) as soon as reasonably practicable.

119 (5) [~~A state~~] An executive employer may not charge [~~postpartum recovery~~] parental
120 leave under this section against sick, annual, compensatory, or other leave.

121 (6) A state employer may not compensate an eligible employee for any unused
122 ~~[postpartum recovery]~~ parental leave upon termination of employment.

123 (7) (a) An eligible employee's decision to use parental leave under this section may not
124 adversely affect the eligible employee's employment with the executive employer.

125 ~~[(7)(a)]~~ (b) Following the expiration of an eligible employee's ~~[postpartum recovery]~~
126 parental leave under this section, the ~~[state]~~ executive employer shall ensure that the eligible
127 employee may return to:

128 (i) the position that the eligible employee held before ~~[using postpartum recovery~~
129 ~~leave]~~ the eligible employee used the parental leave; or

130 (ii) a position within the ~~[state]~~ executive employer that is equivalent in seniority,
131 status, benefits, and pay to the position that the eligible employee held before using
132 ~~[postpartum recovery]~~ the eligible employee used the parental leave.

133 ~~[(b)]~~ (c) If during the time an eligible employee uses ~~[postpartum recovery]~~ parental
134 leave under this section the ~~[state]~~ executive employer experiences a reduction in force and, as
135 part of the reduction in force, the eligible employee would have been separated had the eligible
136 employee not been using the ~~[postpartum recovery]~~ parental leave, the ~~[state]~~ executive
137 employer may separate the eligible employee in accordance with any applicable process or
138 procedure as if the eligible employee were not using the ~~[postpartum recovery]~~ parental leave.

139 (8) During the time an eligible employee uses ~~[postpartum recovery]~~ parental leave
140 under this section, the eligible employee shall continue to receive all employment related
141 benefits and payments at the same level that the eligible employee received immediately before
142 beginning the ~~[postpartum leave, provided that the eligible employee pays any required~~
143 ~~employee contributions.]~~ parental leave, including:

144 (a) medical benefits;

145 (b) retirement related service credit and employer paid retirement contributions; and

146 (c) paid time off.

147 ~~[A state]~~ An executive employer may not:

148 (a) interfere with or otherwise restrain an eligible employee from using ~~[postpartum~~
149 ~~recovery]~~ parental leave in accordance with this section; or

150 (b) take ~~[retaliatory]~~ any adverse employment action against an eligible employee,
151 including discharging, fining, suspending, expelling, or disciplining the eligible employee for

152 using ~~[postpartum recovery]~~ parental leave in accordance with this section.

153 (10) For the time period during which an eligible employee uses parental leave under
154 this section, the eligible employee may not provide services for compensation on a full-time
155 basis outside the scope of the eligible employee's employment with the executive employer.

156 ~~[(H)]~~ (11) ~~[A state]~~ Each executive employer shall provide each employee written
157 information regarding an eligible employee's right to use ~~[postpartum recovery]~~ parental leave
158 under this section.

159 ~~[(H)]~~ (12) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
160 Act, the department shall, ~~[by July 1, 2021]~~ on or before July 1, 2022, make rules for the use
161 and administration of ~~[postpartum recovery]~~ parental leave under this section, including a
162 schedule that provides paid ~~[or postpartum recovery]~~ parental leave for an eligible employee
163 who is part-time ~~[or who works in excess of a 40-hour work week]~~ on a pro rata basis.

164 Section 2. **Effective date.**

165 This bill takes effect on July 1, 2021.