

Senator Todd D. Weiler proposes the following substitute bill:

PAID LEAVE MODIFICATIONS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd D. Weiler

House Sponsor: _____

LONG TITLE

General Description:

This bill requires certain state employers to offer paid parental leave.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires certain state employers to provide certain employees paid parental leave

upon:

- the birth of the employee's child;
- the adoption of a minor child; or
- the appointment of legal guardianship of a minor child ~~§~~ **or incapacitated**

adult ~~←§~~ ;

- ▶ requires the Department of Human Resource Management to adopt rules to administer parental leave; and
- ▶ allows the Department of Government Operations to transfer certain money for the costs of parental leave.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- ▶ to the Department of Government Operations -- Finance Mandated Paid Parental Leave -- Paid Parental Leave, as ongoing appropriation:



26 • from the General Fund, \$1,752,200.

27 **Other Special Clauses:**

28 This bill provides a special effective date.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **63A-17-511**, as renumbered and amended by Laws of Utah 2021, Chapter 344

32 **63J-1-206**, as last amended by Laws of Utah 2021, Chapters 22 and 344



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

35 Section 1. Section **63A-17-511** is amended to read:

36 **63A-17-511. Parental leave -- Postpartum recovery leave.**

37 (1) As used in this section:

38 (a) "Parental leave" means leave hours a state employer provides to a parental leave
39 eligible employee.

40 ~~[(a) "Eligible]~~ (b) "Parental leave eligible employee" means an employee who:

41 (i) is in a position that receives retirement benefits under Title 49, Utah State

42 Retirement and Insurance Benefit Act;

43 (ii) accrues paid leave benefits that can be used in the current and future calendar years;

44 (iii) is not reemployed as defined in Section **49-11-1202**; and

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

46 (iv) (A) is a birth parent as defined in Section **78B-6-103**;

47 (B) legally adopts a minor child, unless the individual is the spouse of the pre-existing
48 parent;

49 (C) is the intended parent of a child born under a validated gestational agreement in
50 accordance with Title 78B, Chapter 15, Part 8, Gestational Agreement; or

51 (D) is appointed the legal guardian of a minor child ~~§~~→ or incapacitated adult ←~~§~~ .

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

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

55 (i) dismiss the employee;

56 (ii) reduce the employee's compensation;

88 parental leave for:

89 (A) the birth of the parental leave eligible employee's child;

90 (B) the adoption of a minor child; or

91 (C) the appointment of legal guardianship of a minor child ~~§~~ → or incapacitated

91a adult ←~~§~~ ; and

92 (ii) allow a postpartum recovery leave eligible employee to use up to three work weeks
93 of paid postpartum recovery leave for recovery from childbirth.

94 (b) A state employer shall allow [~~an eligible~~] a qualified employee who is part-time or
95 who works in excess of a 40-hour work week or its equivalent to use the amount of parental
96 leave or postpartum recovery leave available to the [~~eligible~~] qualified employee under this
97 section on a pro rata basis as adopted by rule by the division under Subsection [~~(11)~~] (12).

98 (3) (a) Parental leave described in Subsection (2)(a)(i):

99 (i) may not be used before the day on which:

100 (A) the parental leave eligible employee's child is born;

101 (B) the parental leave eligible employee adopts a minor child; or

102 (C) the parental leave eligible employee is appointed legal guardian of a minor child ~~§~~ → or

102a incapacitated adult ←~~§~~ ;

103 (ii) may not be used more than six months after the date described in Subsection

104 (3)(a)(i);

105 (iii) may not be used intermittently, unless:

106 (A) by mutual written agreement between the state employer and the parental leave
107 eligible employee; or

108 (B) a health care provider certifies that intermittent leave is medically necessary due to
109 a serious health condition of the child;

110 (iv) runs concurrently with any leave authorized under the Family and Medical Leave
111 Act of 1993, 29 U.S.C. Sec. 2601 et seq.; and

112 (v) runs consecutively to postpartum recovery leave.

113 (b) The amount of parental leave authorized under Subsection (2)(a)(i) does not

114 increase if a parental leave eligible employee:

115 (i) has more than one child born from the same pregnancy;

116 (ii) adopts more than one minor child; or

117 (iii) is appointed legal guardian of more than one minor child ~~§~~ → or incapacitated

117a adult ←~~§~~ .

118 (c) A parental leave eligible employee may not use more than three work weeks of paid

119 parental leave within a single 12-month period, regardless of whether during that 12-month
 120 period the parental leave eligible employee:

121 (i) becomes the parent of more than one child;

122 (ii) adopts more than one minor child; or

123 (iii) is appointed legal guardian of more than one minor child ~~§~~ → or incapacitated
 123a adult ←~~§~~ .

124 ~~[(3)]~~ (4) (a) Postpartum recovery leave described in Subsection (2)(a)(ii):

125 (i) shall be used starting on the day on which the postpartum recovery leave eligible
 126 employee gives birth, unless a health care provider certifies that an earlier start date is
 127 medically necessary;

128 (ii) shall be used in a single continuous period; ~~[and]~~

129 (iii) runs concurrently with any leave authorized under the Family and Medical Leave
 130 Act of 1993, 29 U.S.C. Sec. 2601 et seq.; and

131 (iv) runs consecutively to parental leave.

132 (b) The amount of postpartum recovery leave authorized under Subsection (2)(a)(ii)
 133 does not increase if ~~[an]~~ a postpartum recovery leave eligible employee has more than one child
 134 born from the same pregnancy.

135 ~~[(4)]~~ (5) (a) Except as provided in Subsection ~~[(4)]~~ (5)(b), ~~[an-eligible]~~ a qualified
 136 employee shall give the state employer notice at least 30 days before the day on which the
 137 ~~[eligible]~~ qualified employee plans to:

138 (i) begin using parental leave or postpartum recovery leave under this section; and

139 (ii) stop using postpartum recovery leave under this section.

140 (b) If circumstances beyond the ~~[eligible]~~ qualified employee's control prevent the
 141 ~~[eligible]~~ qualified employee from giving notice in accordance with Subsection ~~[(4)]~~ (5)(a), the
 142 ~~[eligible]~~ qualified employee shall give each notice described in Subsection ~~[(4)]~~ (5)(a) as soon
 143 as reasonably practicable.

144 ~~[(5)-A]~~ (6) Except as provided in Subsections (3)(a)(iv) and (4)(a)(iii), a state
 145 employer may not charge parental leave or postpartum recovery leave under this section against
 146 sick, annual, compensatory, excess, or other leave a qualified employee is entitled to.

147 ~~[(6)]~~ (7) A state employer may not compensate ~~[an-eligible]~~ a qualified employee for
 148 any unused parental leave or postpartum recovery leave upon termination of employment.

149 ~~[(7)]~~ (8) (a) Following the expiration of ~~[an-eligible]~~ a qualified employee's parental