

BEREAVEMENT LEAVE AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: _____

LONG TITLE

General Description:

This bill requires state and local governments to provide bereavement leave for employees who experience a miscarriage or stillbirth.

Highlighted Provisions:

This bill:

- ▶ requires the human resources bodies of state, county, and municipal governments to implement rules that will provide bereavement leave for employees who suffer the loss of a child as a result of a miscarriage or stillbirth; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-3-1103, as enacted by Laws of Utah 1977, Chapter 48

17-33-5, as last amended by Laws of Utah 2009, Chapter 128

63A-17-106, as renumbered and amended by Laws of Utah 2021, Chapter 344

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



28 Section 1. Section 10-3-1103 is amended to read:

29 **10-3-1103. Sickness, disability, and death benefits -- Bereavement leave.**

30 (1) The governing body of each municipality may maintain as to all elective or
31 appointive officers and employees, including heads of departments, a system for the payment
32 of health, dental, hospital, medical, disability and death benefits to be financed and
33 administered in a manner and payable upon the terms and conditions as the governing body of
34 the municipality may by ordinance or resolution prescribe.

35 (2) The governing bodies of the municipalities may create and administer personnel
36 benefit programs separately or jointly with other municipalities or other political subdivisions
37 of the State of Utah or associations thereof.

38 (3) The governing body of each municipality shall, by ordinance or resolution, provide
39 for three work days of paid bereavement leave for an employee:

40 (a) following the end of the employee's pregnancy by way of a miscarriage or stillbirth;
41 or

42 (b) following the end of another individual's pregnancy by way of a miscarriage or
43 stillbirth, if:

44 (i) the employee is the individual's spouse or partner; or

45 (ii) (A) the employee is the individual's former spouse or partner; and

46 (B) the employee would have been a biological parent of a child born as a result of the
47 pregnancy.

48 Section 2. Section 17-33-5 is amended to read:

49 **17-33-5. Office of personnel management -- Director -- Appointment and**
50 **responsibilities -- Personnel rules.**

51 (1) (a) (i) Each county executive shall:

52 (A) create an office of personnel management, administered by a director of personnel
53 management; and

54 (B) ensure that the director is a person with proven experience in personnel
55 management.

56 (ii) Except as provided in Subsection (1)(b), the position of director of personnel
57 management shall be:

58 (A) a merit position; and

- 59 (B) filled as provided in Subsection (1)(a)(iii).
- 60 (iii) Except as provided in Subsection (1)(b), the career service council shall:
- 61 (A) advertise and recruit for the director position in the same manner as for merit
- 62 positions;
- 63 (B) select three names from a register; and
- 64 (C) submit those names as recommendations to the county legislative body.
- 65 (iv) Except as provided in Subsection (1)(b), the county legislative body shall select a
- 66 person to serve as director of the office of personnel management from the names submitted to
- 67 it by the career service council.
- 68 (b) (i) Effective for appointments made after May 1, 2006, and as an alternative to the
- 69 procedure under Subsections (1)(a)(ii), (iii), and (iv) and at the county executive's discretion,
- 70 the county executive may appoint a director of personnel management with the advice and
- 71 consent of the county legislative body.
- 72 (ii) The position of each director of personnel management appointed under this
- 73 Subsection (1)(b) shall be a merit exempt position.
- 74 (iii) A director of personnel management appointed under this Subsection (1)(b) may
- 75 be terminated by the county executive with the consent of the county legislative body.
- 76 (2) The director of personnel management shall:
- 77 (a) encourage and exercise leadership in the development of expertise in personnel
- 78 administration within the several departments, offices, and agencies in the county service and
- 79 make available the facilities of the office of personnel management to this end;
- 80 (b) advise the county legislative and executive bodies on the use of human resources;
- 81 (c) develop and implement programs for the improvement of employee effectiveness,
- 82 such as training, safety, health, counseling, and welfare;
- 83 (d) investigate periodically the operation and effect of this law and of the policies made
- 84 under it and report findings and recommendations to the county legislative body;
- 85 (e) establish and maintain records of all employees in the county service, setting forth
- 86 as to each employee class, title, pay or status, and other relevant data;
- 87 (f) make an annual report to the county legislative body and county executive regarding
- 88 the work of the department; and
- 89 (g) apply and carry out this law and the policies under it and perform any other lawful

90 acts that are necessary to carry out the provisions of this law.

91 (3) (a) (i) The director shall recommend personnel rules for the county.

92 (ii) The county legislative body may:

93 (A) recommend personnel rules for the county; and

94 (B) approve, amend, or reject personnel rules before they are adopted.

95 (b) The rules shall provide for:

96 (i) recruiting efforts to be planned and carried out in a manner that assures open
97 competition, with special emphasis to be placed on recruiting efforts to attract minorities,
98 women, persons with a disability as defined by and covered under the Americans with
99 Disabilities Act of 1990, 42 U.S.C. 12102, or other groups that are substantially
100 underrepresented in the county work force to help assure they will be among the candidates
101 from whom appointments are made;

102 (ii) the establishment of job related minimum requirements wherever practical, that all
103 successful candidates shall be required to meet in order to be eligible for consideration for
104 appointment or promotion;

105 (iii) selection procedures that include consideration of the relative merit of each
106 applicant for employment, a job related method of determining the eligibility or ineligibility of
107 each applicant, and a valid, reliable, and objective system of ranking eligible applicants
108 according to their qualifications and merit;

109 (iv) certification procedures that insure equitable consideration of an appropriate
110 number of the most qualified eligible applicants based on the ranking system;

111 (v) appointments to positions in the career service by selection from the most qualified
112 eligible applicants certified on eligible lists established in accordance with Subsections
113 (3)(b)(iii) and (iv);

114 (vi) noncompetitive appointments in the occasional instance where there is evidence
115 that open or limited competition is not practical, such as for unskilled positions that have no
116 minimum job requirements;

117 (vii) limitation of competitions at the discretion of the director for appropriate positions
118 to facilitate employment of qualified applicants with a substantial physical or mental
119 impairment, or other groups protected by Title VII of the Civil Rights Act;

120 (viii) permanent appointment for entry to the career service that shall be contingent

121 upon satisfactory performance by the employee during a period of six months, with the
122 probationary period extendable for a period not to exceed six months for good cause, but with
123 the condition that the probationary employee may appeal directly to the council any undue
124 prolongation of the period designed to thwart merit principles;

125 (ix) temporary, provisional, or other noncareer service appointments, which may not be
126 used as a way of defeating the purpose of the career service and may not exceed 270 days;

127 (x) lists of eligible applicants normally to be used, if available, for filling temporary
128 positions, and short term emergency appointments to be made without regard to the other
129 provisions of law to provide for maintenance of essential services in an emergency situation
130 where normal procedures are not practical, these emergency appointments not to exceed 270
131 days;

132 (xi) promotion and career ladder advancement of employees to higher level positions
133 and assurance that all persons promoted are qualified for the position;

134 (xii) recognition of the equivalency of other merit processes by waiving, at the
135 discretion of the director, the open competitive examination for placement in the career service
136 positions of those who were originally selected through a competitive examination process in
137 another governmental entity, the individual in those cases, to serve a probationary period;

138 (xiii) preparation, maintenance, and revision of a position classification plan for all
139 positions in the career service, based upon similarity of duties performed and responsibilities
140 assumed, so that the same qualifications may reasonably be required for, and the same schedule
141 of pay may be equitably applied to, all positions in the same class, the compensation plan, in
142 order to maintain a high quality public work force, to take into account the responsibility and
143 difficulty of the work, the comparative pay and benefits needed to compete in the labor market
144 and to stay in proper alignment with other similar governmental units, and other factors;

145 (xiv) keeping records of performance on all employees in the career service and
146 requiring consideration of performance records in determining salary increases, any benefits for
147 meritorious service, promotions, the order of layoffs and reinstatements, demotions, discharges,
148 and transfers;

149 (xv) establishment of a plan governing layoffs resulting from lack of funds or work,
150 abolition of positions, or material changes in duties or organization, and governing
151 reemployment of persons so laid off, taking into account with regard to layoffs and

152 reemployment the relative ability, seniority, and merit of each employee;

153 (xvi) establishment of a plan for resolving employee grievances and complaints with
154 final and binding decisions;

155 (xvii) establishment of disciplinary measures such as suspension, demotion in rank or
156 grade, or discharge, measures to provide for presentation of charges, hearing rights, and appeals
157 for all permanent employees in the career service to the career service council;

158 (xviii) establishment of a procedure for employee development and improvement of
159 poor performance;

160 (xix) establishment of hours of work, holidays, and attendance requirements in various
161 classes of positions in the career service;

162 (xx) establishment and publicizing of fringe benefits such as insurance, retirement, and
163 leave programs; and

164 (xxi) any other requirements not inconsistent with this law that are proper for its
165 enforcement.

166 (4) Rules adopted pursuant to Subsection (3)(b)(xx) shall provide for three work days
167 of paid bereavement leave for an employee:

168 (a) following the end of the employee's pregnancy by way of a miscarriage or stillbirth;

169 or

170 (b) following the end of another individual's pregnancy by way of a miscarriage or
171 stillbirth, if:

172 (i) the employee is the individual's spouse or partner; or

173 (ii) (A) the employee is the individual's former spouse or partner; and

174 (B) the employee would have been a biological parent of a child born as a result of the
175 pregnancy.

176 Section 3. Section **63A-17-106** is amended to read:

177 **63A-17-106. Responsibilities of the director.**

178 (1) The director shall have full responsibility and accountability for the administration
179 of the statewide human resource management system.

180 (2) Except as provided in Section **63A-17-201**, an agency may not perform human
181 resource functions without the consent of the director.

182 (3) Statewide human resource management rules adopted by the division in accordance

183 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall take precedence if there
184 is a conflict with agency rules, policies, or practices.

185 (4) The division may operate as an internal service fund agency in accordance with
186 Section 63J-1-410 for the human resource functions the division provides.

187 (5) The director shall:

188 (a) develop, implement, and administer a statewide program of human resource
189 management that will:

190 (i) aid in the efficient execution of public policy;

191 (ii) foster careers in public service for qualified employees; and

192 (iii) render assistance to state agencies in performing their missions;

193 (b) design and administer the state pay plan;

194 (c) design and administer the state classification system and procedures for determining
195 schedule assignments;

196 (d) design and administer the state recruitment and selection system;

197 (e) administer agency human resource practices and ensure compliance with federal
198 law, state law, and state human resource rules, including equal employment opportunity;

199 (f) consult with agencies on decisions concerning employee corrective action and
200 discipline;

201 (g) maintain central personnel records;

202 (h) perform those functions necessary to implement this chapter unless otherwise
203 assigned or prohibited;

204 (i) perform duties assigned by the governor, executive director, or statute;

205 (j) ~~[adopt]~~ make rules for human resource management ~~[according to the procedures~~
206 ~~of], in accordance with~~ Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

207 (k) establish and maintain a management information system that will furnish the
208 governor, the Legislature, and agencies with current information on authorized positions,
209 payroll, and related matters concerning state human resources;

210 (l) conduct research and planning activities to:

211 (i) determine and prepare for future state human resource needs;

212 (ii) develop methods for improving public human resource management; and

213 (iii) propose needed policy changes to the governor;

214 (m) study the character, causes, and extent of discrimination in state employment and
215 develop plans for its elimination through programs consistent with federal and state laws
216 governing equal employment opportunity in employment;

217 (n) when requested by charter schools or counties, municipalities, and other political
218 subdivisions of the state, provide technical service, training recommendations, or advice on
219 human resource management at a charge determined by the director;

220 (o) establish compensation policies and procedures for early voluntary retirement;

221 (p) confer with the heads of other agencies about human resource policies and
222 procedures;

223 (q) submit an annual report to the executive director, the governor, and the Legislature;
224 and

225 (r) assist with the development of a vacant position report required under Subsection
226 [63J-1-201\(2\)\(b\)\(vi\)](#).

227 (6) (a) After consultation with the executive director, the governor, and the heads of
228 other agencies, the director shall establish and coordinate statewide training programs,
229 including and subject to available funding, the development of manager and supervisor
230 training.

231 (b) The programs developed under this Subsection (6) shall have application to more
232 than one agency.

233 (c) The division may not establish training programs that train employees to perform
234 highly specialized or technical jobs and tasks.

235 (d) The division shall ensure that any training program described in this Subsection (6)
236 complies with Title 63G, Chapter 22, State Training and Certification Requirements.

237 (7) (a) (i) The division may collect fees for training as authorized by this Subsection
238 (7).

239 (ii) Training funded from General Fund appropriations shall be treated as a separate
240 program within the department budget.

241 (iii) All money received from fees under this section will be accounted for by the
242 department as a separate user driven training program.

243 (iv) The user training program includes the costs of developing, procuring, and
244 presenting training and development programs, and other associated costs for these programs.

245 (b) (i) Funds remaining at the end of the fiscal year in the user training program are
246 nonlapsing.

247 (ii) Each year, as part of the appropriations process, the Legislature shall review the
248 amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require
249 the department to lapse a portion of the funds.

250 (8) Rules described in Subsection (5)(j) shall provide for three work days of paid
251 bereavement leave for an employee:

252 (a) following the end of the employee's pregnancy by way of a miscarriage or stillbirth;

253 or

254 (b) following the end of another individual's pregnancy by way of a miscarriage or
255 stillbirth, if:

256 (i) the employee is the individual's spouse or partner; or

257 (ii) (A) the employee is the individual's former spouse or partner; and

258 (B) the employee would have been a biological parent of a child born as a result of the
259 pregnancy.