

PAID LEAVE MODIFICATIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Gricius

Senate Sponsor: Wayne A. Harper

LONG TITLE

Committee Note:

The Government Operations Interim Committee recommended this bill.

Legislative Vote: 12 voting for 0 voting against 4 absent

General Description:

This bill addresses paid leave for certain state employees.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that a state employee may use parental leave in order to bond with a child or an incapacitated adult with whom the employee is assuming a parental role;
- ▶ makes parental leave available to a state employee who fosters a child;
- ▶ provides that a state employee may use postpartum recovery leave to recover from a childbirth that occurs at 20 weeks or greater gestation;
- ▶ authorizes the director of the Division of Human Resource Management to waive or modify the requirement that a state employee use postpartum recovery leave in a single continuous period; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **63A-17-511**, as last amended by Laws of Utah 2022, Chapter 425



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

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

35 **63A-17-511. Parental leave -- Postpartum recovery leave.**

36 (1) As used in this section:

37 (a) "Child" means an individual who is younger than 18 years old.

38 (b) "Parental leave" means leave hours a state employer provides to a parental leave
39 eligible employee to bond with a child or, in the case of a guardianship appointment, an
40 incapacitated adult.

41 ~~[(b)]~~ (c) "Parental leave eligible employee" means an employee who, on the date an
42 event described in Subsections (2)(a)(i)(A) through (D) occurs:

43 (i) is an employee of a state employer;

44 (ii) is in a position that receives retirement benefits under Title 49, Utah State
45 Retirement and Insurance Benefit Act;

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

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

49 ~~[(iv)]~~ (v) ~~[(A) is a birth parent as defined in Section 78B-6-103]~~ is assuming a parental
50 role with respect to the child or the incapacitated adult for which parental leave is requested;

51 and

52 ~~[(B)]~~ (vi) (A) ~~[legally adopts a minor child, unless the individual is the spouse of the~~
53 ~~pre-existing parent]~~ is the child's biological parent;

54 ~~[(C)]~~ (B) ~~[is the intended parent of a child born under a validated gestational agreement~~
55 ~~in accordance with Title 78B, Chapter 15, Part 8, Gestational Agreement]~~ is the spouse of the
56 person who gave birth to the child; [or]

57 ~~[(D)]~~ (C) ~~[is appointed the legal guardian of a minor child or incapacitated adult.]~~ is the
58 adoptive parent of the child, unless the employee is the spouse of the pre-existing parent;

59 (D) is the intended parent of the child and the child is born under a validated
 60 gestational agreement in accordance with Title 78B, Chapter 15, Part 8, Gestational
 61 Agreement;

62 (E) is appointed the legal guardian of the child or the incapacitated adult; or

63 (F) is the foster parent of the child.

64 ~~[(e)]~~ (d) "Postpartum recovery leave" means leave hours a state employer provides to a
 65 postpartum recovery leave eligible employee to recover from childbirth that occurs at 20 weeks
 66 or greater gestation.

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

68 (i) dismiss the employee;

69 (ii) reduce the employee's compensation;

70 (iii) fail to increase the employee's compensation by an amount that the employee is
 71 otherwise entitled to or was promised;

72 (iv) fail to promote the employee if the employee would have otherwise been
 73 promoted; or

74 (v) threaten to take an action described in Subsections ~~[(1)(d)(i)]~~ (1)(e)(i) through (iv).

75 ~~[(e)]~~ (f) "Postpartum recovery leave eligible employee" means an employee who:

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

77 Retirement and Insurance Benefit Act;

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

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

80 (iv) gives birth to a child.

81 ~~[(f)]~~ (g) (i) "State employer" means:

82 (A) a state executive branch agency, including the State Tax Commission, the National
 83 Guard, and the Board of Pardons and Parole;

84 (B) the legislative branch of the state; or

85 (C) the judicial branch of the state.

86 (ii) "State employer" does not include:

87 (A) an institute of higher education;

88 (B) the Utah Board of Higher Education;

89 (C) the State Board of Education;

90 (D) an independent entity as defined in Section 63E-1-102;

91 (E) the Attorney General's Office;

92 (F) the State Auditor's Office; or

93 (G) the State Treasurer's Office.

94 ~~(g)~~ (h) "Qualified employee" means:

95 (i) a parental leave eligible employee; or

96 (ii) a postpartum leave eligible employee.

97 (2) (a) Except as provided in Subsections (4) and (5), a state employer shall:

98 (i) allow a parental leave eligible employee to use up to three work weeks of paid

99 parental leave for:

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

101 (B) the adoption of a ~~minor~~ child; ~~or~~

102 (C) the appointment of legal guardianship of a ~~minor~~ child or incapacitated adult;

103 ~~and~~ or

104 (D) the placement of a foster child in the parental leave eligible employee's care; and

105 (ii) allow a postpartum recovery leave eligible employee to use up to three work weeks

106 of paid postpartum recovery leave for recovery from childbirth.

107 (b) A state employer shall allow a qualified employee who is part-time or who works in

108 excess of a 40-hour work week or its equivalent to use the amount of parental leave or

109 postpartum recovery leave available to the qualified employee under this section on a pro rata

110 basis as adopted by rule by the division under Subsection (12).

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

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

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

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

115 (C) the parental leave eligible employee is appointed legal guardian of a ~~minor~~ child

116 or incapacitated adult; or

117 (D) a foster child is placed in the parental leave eligible employee's care.

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

119 (3)(a)(i);

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

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

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

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

127 (v) runs consecutively to postpartum recovery leave.

128 (b) The amount of parental leave authorized under Subsection (2)(a)(i) does not
129 increase if a parental leave eligible employee:

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

131 (ii) adopts more than one ~~minor~~ child; ~~or~~

132 (iii) has more than one foster child placed in the parental leave eligible employee's
133 care; or

134 ~~(iii)~~ (iv) is appointed legal guardian of more than one ~~minor~~ child or incapacitated
135 adult.

136 (c) A parental leave eligible employee may not use more than three work weeks of paid
137 parental leave within a single 12-month period, regardless of whether during that 12-month
138 period the parental leave eligible employee:

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

140 (ii) adopts more than one ~~minor~~ child; ~~or~~

141 (iii) has more than one foster child placed in the parental leave eligible employee's
142 care; or

143 ~~(iii)~~ (iv) is appointed legal guardian of more than one ~~minor~~ child or incapacitated
144 adult.

145 (4) (a) Postpartum recovery leave described in Subsection (2)(a)(ii):

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

149 (ii) shall be used in a single continuous period, unless otherwise authorized in writing
150 by the director of the division;

151 (iii) runs concurrently with any leave authorized under the Family and Medical Leave

152 Act of 1993, 29 U.S.C. Sec. 2601 et seq.; and

153 (iv) runs consecutively to parental leave.

154 (b) The amount of postpartum recovery leave authorized under Subsection (2)(a)(ii)
155 does not increase if a postpartum recovery leave eligible employee has more than one child
156 born from the same pregnancy.

157 (5) (a) Except as provided in Subsection (5)(b), a qualified employee shall give the
158 state employer notice at least 30 days before the day on which the qualified employee plans to:

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

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

161 (b) If circumstances beyond the qualified employee's control prevent the qualified
162 employee from giving notice in accordance with Subsection (5)(a), the qualified employee shall
163 give each notice described in Subsection (5)(a) as soon as reasonably practicable.

164 (6) Except as provided in Subsections (3)(a)(iv) and (4)(a)(iii), a state employer may
165 not charge parental leave or postpartum recovery leave under this section against sick, annual,
166 compensatory, excess, or other leave a qualified employee is entitled to.

167 (7) A state employer may not compensate a qualified employee for any unused parental
168 leave or postpartum recovery leave upon termination of employment.

169 (8) (a) Following the expiration of a qualified employee's parental leave or postpartum
170 recovery leave under this section, the state employer shall ensure that the qualified employee
171 may return to:

172 (i) the position that the qualified employee held before using parental leave or
173 postpartum recovery leave; or

174 (ii) a position within the state employer that is equivalent in seniority, status, benefits,
175 and pay to the position that the qualified employee held before using parental leave or
176 postpartum recovery leave.

177 (b) If during the time a qualified employee uses parental leave or postpartum recovery
178 leave under this section the state employer experiences a reduction in force and, as part of the
179 reduction in force, the qualified employee would have been separated had the qualified
180 employee not been using the parental leave or postpartum recovery leave, the state employer
181 may separate the qualified employee in accordance with any applicable process or procedure as
182 if the qualified employee were not using the parental leave or postpartum recovery leave.

183 (9) During the time a qualified employee uses parental leave or postpartum recovery
184 leave under this section, the qualified employee shall continue to receive all employment
185 related benefits and payments at the same level that the qualified employee received
186 immediately before beginning the parental leave or postpartum leave, provided that the
187 qualified employee pays any required employee contributions.

188 (10) A state employer may not:

189 (a) interfere with or otherwise restrain a qualified employee from using parental leave
190 or postpartum recovery leave in accordance with this section; or

191 (b) take retaliatory action against a qualified employee for using parental leave or
192 postpartum recovery leave in accordance with this section.

193 (11) A state employer shall provide each employee written information regarding a
194 qualified employee's right to use parental leave or postpartum recovery leave under this section.

195 (12) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
196 the division shall, on or before July 1, 2022, make rules for the use and administration of
197 parental leave and postpartum recovery leave under this section, including a schedule that
198 provides paid parental leave or postpartum recovery leave for a qualified employee who is
199 part-time or who works in excess of a 40-hour work week on a pro rata basis.

200 Section 2. **Effective date.**

201 This bill takes effect on May 1, 2024.