

**Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019**

HOUSE BILL NO. 1470
(Representatives Mock, P. Anderson, Hatlestad, Keiser, D. Ruby, Strinden)
(Senators Bekkedahl, Davison, Kreun, Oban, Vedaa)

AN ACT to amend and reenact sections 54-52.4-02, 54-52.4-03, and 54-52.4-04 of the North Dakota Century Code, relating to family leave for state employees; and to provide for a legislative management study of state employee leave policies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-52.4-02 of the North Dakota Century Code is amended and reenacted as follows:

54-52.4-02. Family leave.

1. An employer shall grant an employee's request for a family leave of absence for any of the following reasons:
 - a. To care for the employee's child by birth, if the leave concludes within twelve months of the child's birth.
 - b. To care for a child placed with the employee, by a child-placing agency licensed under chapter 50-12, for adoption or as a precondition to adoption under section 14-15-12, but not both, or for foster care, if the leave concludes within twelve months of the child's placement.
 - c. To care for the employee's child, spouse, or parent if the child, spouse, or parent has a serious health condition.
 - d. Because of the employee's serious health condition that makes the employee unable to perform the functions of the employee's job.
 - e. Because of the death of the employee's child, if the leave concludes within six months of the child's death.
2. ~~For~~Except as otherwise provided under this section, for any combination of reasons specified in subsection 1, an employee may take family leave in any twelve-month period for not more than twelve workweeks. The twelve weeks of family leave may be taken intermittently for leave under subdivisions~~subdivision~~subdivision a or b of subsection 1 if approved by the employer. The twelve weeks of family leave may be taken intermittently for leave under ~~subdivisions~~subdivision c or d of subsection 1 if the leave is medically necessary. The twelve weeks of family leave taken under subdivision e of subsection 1 may be taken intermittently if approved by the employer. If an employee normally works a part-time schedule or variable hours, the amount of leave to which an employee is entitled must be determined on a pro rata or proportional basis by comparing the new schedule with the employee's normal schedule.
3. In any case in which a husband and wife entitled to family leave under this chapter are employed by the same employer, the aggregate period of family leave to which both are entitled may be limited by the employer to twelve workweeks during any twelve-month period.
4. An employee ~~shall~~ reasonably shall consider the needs of the employer in scheduling family leave under this section or in using leave under section 54-52.4-03.

5. The family leave required by this chapter is not required to be granted with pay unless otherwise specified by agreement between the employer and employee, by collective bargaining agreement, or by employer policy.
6. The family leave required by this chapter supplements any leave otherwise available to an employee.

SECTION 2. AMENDMENT. Section 54-52.4-03 of the North Dakota Century Code is amended and reenacted as follows:

54-52.4-03. Use of other available leave for bereavement of child or care of parent, spouse, or child.

An employer that provides leave for its employees for illnesses or other medical or health reasons shall grant an employee's request to use that leave ~~to care for the employee's child, spouse, or parent if the child, spouse, or parent has a serious health condition~~ for the purposes authorized under subsection 1 of section 54-52.4-02. ~~An~~ Except as otherwise provided under this section, an employee may take no more than four hundred eighty hours of leave under this section in any twelve-month period. Any leave for bereavement is limited to one hundred sixty hours and must be taken within six months following the death of the child. The employer shall compensate the employee for leave used by the employee under this section on the same basis as the employee would be compensated if the leave had been taken due to the employee's own illness or other medical or health reason.

SECTION 3. AMENDMENT. Section 54-52.4-04 of the North Dakota Century Code is amended and reenacted as follows:

54-52.4-04. Notice to employer.

1. If an employee intends to ~~request~~ take family leave for the reasons specified in subdivision a or b of subsection 1 of section 54-52.4-02, the employee, in a reasonable and practicable manner, shall give the employer advance notice of the expected birth or placement.
2. If an employee intends to take family leave for the reasons specified in subdivision c or d of subsection 1 of section 54-52.4-02, the employee shall:
 - a. Make a reasonable effort to schedule the planned care or treatment so ~~that it~~ the leave does not unduly disrupt the employer's operations, subject to the approval of the health care provider to the child, spouse, parent, or employee; and
 - b. Give the employer advance notice of the planned care or treatment in a reasonable and practicable manner.
3. If an employee intends to take family leave for the reason specified in subdivision e of subsection 1 of section 54-52.4-02, the employee shall make a reasonable effort to schedule the leave so the leave does not unduly disrupt the employer's operations and, as appropriate, give the employer advance notice of the leave in a reasonable and practicable manner.

SECTION 4. LEGISLATIVE MANAGEMENT STUDY - STATE EMPLOYEE LEAVE POLICIES.

During the 2019-20 interim, the legislative management shall consider studying the leave policies for state employees. The study shall include the efficacy and desirability of transitioning annual leave and sick leave into a combined paid time off system. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-seventh legislative assembly.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1470.

House Vote: Yeas 85 Nays 6 Absent 3

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2019.

Approved at _____ M. on _____, 2019.

Governor

Filed in this office this _____ day of _____, 2019,

at _____ o'clock _____ M.

Secretary of State