

SENATE BILL NO. 2198
with House Amendments
SENATE BILL NO. 2198

Introduced by

Senators Dever, K. Roers

1 A BILL for an Act to amend and reenact sections 54-52.4-02, 54-52.4-04, and 54-52.4-05 of the
2 North Dakota Century Code, relating to state employee family medical leave.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

6 **54-52.4-02. Family leave.**

7 1. An employer shall grant an employee's request for a family leave of absence for any of
8 the following reasons:

9 a. To care for the employee's child by birth, if the leave concludes within twelve
10 months of the child's birth.

11 b. To care for a child placed with the employee, by a child-placing agency licensed
12 under chapter 50-12, for adoption or as a precondition to adoption under section
13 14-15-12, but not both, or for foster care, if the leave concludes within twelve
14 months of the child's placement.

15 c. To care for the employee's child, spouse, or parent if the child, spouse, or parent
16 has a serious health condition.

17 d. Because of the employee's serious health condition that makes the employee
18 unable to perform the functions of the employee's job.

19 e. Because of the death of the employee's child, if the leave concludes within six
20 months of the child's death.

21 f. To care for the employee's child, regardless of age, spouse, or parent who is a
22 covered service member or veteran with a serious injury or illness under the
23 definition of serious injury or illness for a military service member or veteran as
24 adopted by the United States department of labor.

- 1 2. Except as otherwise provided under this section, for any combination of reasons
2 specified in subsection 1, an employee may take family leave in any twelve-month
3 period for not more than twelve workweeks. The twelve weeks of family leave may be
4 taken intermittently for leave under subdivision a or b of subsection 1 if approved by
5 the employer. The twelve weeks of family leave may be taken intermittently for leave
6 under subdivision c or d of subsection 1 if the leave is medically necessary. The twelve
7 weeks of family leave taken under subdivision e of subsection 1 may be taken
8 intermittently if approved by the employer. If an employee normally works a part-time
9 schedule or variable hours, the amount of leave to which an employee is entitled must
10 be determined on a pro rata or proportional basis by comparing the new schedule with
11 the employee's normal schedule.
- 12 3. Notwithstanding the twelve workweek limitation under subsections 2 and 4, leave
13 under subdivision f of subsection 1 is limited to a combined twenty-six workweeks of
14 leave in any twelve-month period and is limited to once per service member or veteran
15 per serious injury or illness. An employee using leave under this subsection only may
16 use paid leave for up to twelve workweeks. The remaining balance from the combined
17 twenty-six workweeks under this subsection must be unpaid.
- 18 4. In any case in which a husband and wife entitled to family leave under this chapter are
19 employed by the same employer, the aggregate period of family leave to which both
20 are entitled may be limited by the employer to twelve workweeks during any
21 twelve-month period.
- 22 4.5. An employee reasonably shall consider the needs of the employer in scheduling family
23 leave under this section or in using leave under section 54-52.4-03.
- 24 5.6. The family leave required by this chapter is not required to be granted with pay unless
25 otherwise specified by agreement between the employer and employee, by collective
26 bargaining agreement, or by employer policy.
- 27 6.7. The family leave required by this chapter supplements any leave otherwise available
28 to an employee.

29 **SECTION 2. AMENDMENT.** Section 54-52.4-04 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **54-52.4-04. Notice to employer.**

- 2 1. If an employee intends to take family leave for the reasons specified in subdivision a
3 or b of subsection 1 of section 54-52.4-02, the employee, in a reasonable and
4 practicable manner, shall give the employer advance notice of the expected birth or
5 placement.
- 6 2. If an employee intends to take family leave for the reasons specified in subdivision c
7 or d, or f of subsection 1 of section 54-52.4-02, the employee shall:
- 8 a. Make a reasonable effort to schedule the planned care or treatment so the leave
9 does not unduly disrupt the employer's operations, subject to the approval of the
10 health care provider to the child, spouse, parent, or employee; and
- 11 b. Give the employer advance notice of the planned care or treatment in a
12 reasonable and practicable manner.
- 13 3. If an employee intends to take family leave for the reason specified in subdivision e of
14 subsection 1 of section 54-52.4-02, the employee shall make a reasonable effort to
15 schedule the leave so the leave does not unduly disrupt the employer's operations
16 and, as appropriate, give the employer advance notice of the leave in a reasonable
17 and practicable manner.

18 **SECTION 3. AMENDMENT.** Section 54-52.4-05 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **54-52.4-05. Certification for leave to care for child, spouse, parent, or employee's**
21 **serious health condition.**

- 22 1. If an employee requests family leave for the reasons described in subdivision c or d,
23 or f of subsection 1 of section 54-52.4-02 or leave under section 54-52.4-03, the
24 employer may require the employee to provide certification, as described in
25 subsection 2, from the provider of health care to the child, spouse, parent, or
26 employee.
- 27 2. An employer may not require certification of more than:
- 28 a. That the child, spouse, parent, or employee has a serious health condition.
- 29 b. The date the serious health condition commenced and its probable duration.
- 30 c. Within the knowledge of the health care provider, the medical facts regarding the
31 serious health condition.