

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

SENATE BILL NO. 2198
(Senators Dever, K. Roers)

AN ACT to amend and reenact sections 54-52.4-02, 54-52.4-04, and 54-52.4-05 of the North Dakota Century Code, relating to state employee family medical leave.

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.
 - f. To care for the employee's child, regardless of age, spouse, or parent who is a covered service member or veteran with a serious injury or illness under the definition of serious injury or illness for a military service member or veteran as adopted by the United States department of labor.
2. 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 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 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. Notwithstanding the twelve-workweek limitation under subsections 2 and 4, leave under subdivision f of subsection 1 is limited to a combined twenty-six workweeks of leave in any twelve-month period and is limited to once per service member or veteran per serious injury or illness.

4. 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.
- 4.5. An employee 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.
- 5.6. 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.
- 6.7. The family leave required by this chapter supplements any leave otherwise available to an employee.

SECTION 2. 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 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, or f 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 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 3. AMENDMENT. Section 54-52.4-05 of the North Dakota Century Code is amended and reenacted as follows:

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

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

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2198.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 90 Nays 2 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State