

SENATE BILL NO. 2077

Introduced by

Government and Veterans Affairs Committee

(At the request of the Office of Management and Budget)

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 leave entitlements, notices to
3 employers, and certifications for leave.

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

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

7 **54-52.4-02. Family leave.**

- 8 1. An employer shall grant an employee's request for a family leave of absence for
9 any of the following reasons:
- 10 a. To care for the employee's child by birth, if the leave ~~begins~~ concludes within
11 ~~sixteen weeks~~ twelve months of the child's birth.
 - 12 b. To care for a child placed with the employee, by a child-placing agency
13 licensed under chapter 50-12, for adoption or as a precondition to adoption
14 under section 14-15-12, but not both, or for foster care, if the leave ~~begins~~
15 concludes within ~~sixteen weeks~~ twelve months of the child's placement.
 - 16 c. To care for the employee's child, spouse, or parent if the child, spouse, or
17 parent has a serious health condition.
 - 18 d. Because of the employee's serious health condition that makes the employee
19 unable to perform the functions of the employee's job.
- 20 2. For any combination of reasons specified in subsection 1, an employee may take
21 family leave ~~to be determined by the employer on a pro-rata basis according to a~~
22 ~~formula based on the average number of hours per week that the employee is~~
23 ~~employed, whereby in any twelve-month period an employee who is employed for~~
24 ~~an average of twenty hours per week during the preceding twelve months may take~~

1 ~~not more than two months of family leave and an employee who is employed for an~~
2 ~~average of forty or more hours per week during the preceding twelve months may~~
3 ~~take for~~ not more than four months of family leave twelve work weeks. The twelve
4 weeks of family leave may be taken intermittently for leave under subdivisions a or
5 b of subsection 1 if approved by the employer. The twelve weeks of family leave
6 may be taken intermittently for leave under subdivisions c or d of subsection 1 if
7 the leave is medically necessary.

8 3. In any case in which a husband and wife entitled to family leave under this chapter
9 are employed by the same employer, the aggregate period of family leave to which
10 both are entitled may be limited by the employer to ~~four months~~ twelve work weeks
11 during any twelve-month period.

12 4. An employee shall reasonably consider the needs of the employer in scheduling
13 family leave under this section or in using leave under section 54-52.4-03.

14 5. The family leave required by this chapter is not required to be granted with pay
15 unless otherwise specified by agreement between the employer and employee, by
16 collective bargaining agreement, or by employer policy.

17 6. The family leave required by this chapter supplements any leave otherwise
18 available to an employee.

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

21 **54-52.4-04. Notice to employer.**

22 1. If an employee intends to request family leave for the reasons specified in
23 subdivision a or b of subsection 1 of section 54-52.4-02, the employee, in a
24 reasonable and practicable manner, shall give the employer advance notice of the
25 expected birth or placement.

26 2. If an employee intends to take family leave for the ~~reason~~ reasons specified in
27 subdivision c or d of subsection 1 of section 54-52.4-02, the employee shall:

28 a. Make a reasonable effort to schedule the planned care or treatment so that it
29 does not unduly disrupt the employer's operations, subject to the approval of
30 the health care provider to the child, spouse, ~~or parent,~~ or employee; and

- 1 b. Give the employer advance notice of the planned care or treatment in a
2 reasonable and practicable manner.

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

5 **54-52.4-05. Certification for leave to care for child, spouse, ~~or~~ parent, or**
6 **employee's serious health condition.**

- 7 1. If an employee requests family leave for ~~a reason~~ the reasons described in
8 subdivision c or d of subsection 1 of section 54-52.4-02 or leave under section
9 54-52.4-03, the employer may require the employee to provide certification, as
10 described in subsection 2, from the provider of health care to the child, spouse, ~~or~~
11 parent, or employee.
- 12 2. An employer may not require certification of more than:
- 13 a. That the child, spouse, ~~or~~ parent, or employee has a serious health condition.
14 b. The date the serious health condition commenced and its probable duration.
15 c. Within the knowledge of the health care provider, the medical facts regarding
16 the serious health condition.