

HOUSE BILL NO. 1301

Introduced by

Representatives Mock, Haak, Holman, Oversen, Sanford

Senators Bekkedahl, Holmberg, Krebsbach

1 A BILL for an Act to amend and reenact sections 54-52.4-02, 54-52.4-03, 54-52.4-04, and
2 54-52.4-05 of the North Dakota Century Code, relating to state employee family sick leave and
3 family 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. As used in this section, the term "family member" means the employee's child,
9 spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or
10 stepparent.

11 2. An employer shall grant an employee's request for a family leave of absence for any of
12 the following reasons:

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

15 b. To care for a child placed with the employee, by a child-placing agency licensed
16 under chapter 50-12, for adoption or as a precondition to adoption under section
17 14-15-12, but not both, or for foster care, if the leave concludes within twelve
18 months of the child's placement.

19 c. To care for ~~the employee's child, spouse, or parent if the child, spouse, or parent~~
20 ~~has a serious health condition~~ a family member.

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

23 2-3. For any combination of reasons specified in subsection 4~~2~~, an employee may take
24 family leave in any twelve-month period for not more than twelve workweeks. The

1 twelve weeks of family leave may be taken intermittently for leave under
2 subdivisions a or b of subsection 42 if approved by the employer. The twelve weeks of
3 family leave may be taken intermittently for leave under subdivisions c or d of
4 subsection 42 if the leave is medically necessary. If an employee normally works a
5 part-time schedule or variable hours, the amount of leave to which an employee is
6 entitled must be determined on a pro rata or proportional basis by comparing the new
7 schedule with the employee's normal schedule.

8 ~~3.4.~~ In any case in which a husband and wife entitled to family leave under this chapter are
9 employed by the same employer, the aggregate period of family leave to which both
10 are entitled may be limited by the employer to twelve workweeks during any
11 twelve-month period.

12 ~~4.5.~~ An employee shall reasonably consider the needs of the employer in scheduling family
13 leave under this section or in using leave under section 54-52.4-03.

14 ~~5.6.~~ The family leave required by this chapter is not required to be granted with pay unless
15 otherwise specified by agreement between the employer and employee, by collective
16 bargaining agreement, or by employer policy.

17 ~~6.7.~~ The family leave required by this chapter supplements any leave otherwise available
18 to an employee.

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

21 **54-52.4-03. Use of other available leave for care of ~~parent, spouse, or child~~family**
22 **member.**

23 1. As used in this section, the term "family member" means the employee's child,
24 spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or
25 stepparent.

26 2. An employer that provides leave for its employees for illnesses or other medical or
27 health reasons shall grant an employee's request to use that leave to care for the-
28 employee's child, spouse, or parent family member if the child, spouse, or
29 parent family member has a serious health condition.

30 3. An employee may take eighty hours of leave under this section in any twelve-month
31 period and, upon approval of the employee's supervisor and pursuant to rules adopted

1 by the director of the office of management and budget, the employee may take, in
2 any twelve-month period, up to an additional ten percent of the employee's accrued
3 sick leave to care for the ~~employee's child, spouse, or parent~~family member if the
4 ~~child, spouse, or parent~~family member has a serious health condition.

5 4. The employer shall compensate the employee for leave used by the employee under
6 this section on the same basis as the employee would be compensated if the leave
7 had been taken due to the employee's own illness.

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

10 **54-52.4-04. Notice to employer.**

- 11 1. If an employee intends to request family leave for the reasons specified in
12 subdivision a or b of subsection 42 of section 54-52.4-02, the employee, in a
13 reasonable and practicable manner, shall give the employer advance notice of the
14 expected birth or placement.
- 15 2. If an employee intends to take family leave for the reasons specified in subdivision c or
16 d of subsection 42 of section 54-52.4-02, the employee shall:
- 17 a. Make a reasonable effort to schedule the planned care or treatment so that it
18 does not unduly disrupt the employer's operations, subject to the approval of the
19 health care provider to the ~~child, spouse, parent, or employee~~family member; and
- 20 b. Give the employer advance notice of the planned care or treatment in a
21 reasonable and practicable manner.

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

24 **54-52.4-05. Certification for leave to care for ~~child, spouse, parent, or~~**
25 **~~employee's~~family member's serious health condition.**

- 26 1. If an employee requests family leave for the reasons described in subdivision c or d of
27 subsection 42 of section 54-52.4-02 or leave under section 54-52.4-03, the employer
28 may require the employee to provide certification, as described in subsection 2, from
29 the provider of health care to the ~~child, spouse, parent, or employee~~family member.
- 30 2. An employer may not require certification of more than:

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- 1 a. That the ~~child, spouse, parent, or employee~~family member has a serious health
- 2 condition.
- 3 b. The date the serious health condition commenced and its probable duration.
- 4 c. Within the knowledge of the health care provider, the medical facts regarding the
- 5 serious health condition.