

Dear Chairman Louser and members of the House IBL Committee,

Thank you for the thoughtful conversation on [SB 2198](#). I appreciate the opportunity to provide additional details as follow up to Monday's hearing. **SB 2198 specifically addresses the inclusion of military caregiver leave** as required under the federal Family Medical Leave Act (FMLA). The remainder of FMLA is already included under N.D.C.C. 54.-52.4-02. Compliance with FMLA federal requirements exist regardless and the amendments proposed in SB 2198 are simply to make state law consistent to avoid confusion.

Language Clarification

The committee discussed potentially adding language to clarify military caregiver leave. If this is the committee's desire, might I just suggest the following:

- Pg. 1, line 22 – strike “health condition” and add “**injury or illness as defined by the US Department of Labor's definition of serious injury or illness for a military service member or veteran.**”
- Pg 2., line 11 – add “**a combined**” so the line reads “under subdivision f of subsection 1 is limited to **a combined** twenty-six workweeks of leave in any”
 - o This would address that under FMLA, an eligible employee is entitled to a combined total of 26 workweeks of military caregiver leave and leave for any other FMLA-qualifying reason in this single 12-month period, provided that the employee may not take more than 12 workweeks of leave for any other FMLA-qualifying reason during this period.

FMLA and Military Caregiver Leave Background

The [Family Medical Leave Act](#) (FMLA) entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.

Eligible employees are entitled to:

- Twelve workweeks of leave in a 12-month period for:
 - o the birth of a child and to care for the newborn child within one year of birth;
 - o the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
 - o to care for the employee's spouse, child, or parent who has a serious health condition;
 - o a serious health condition that makes the employee unable to perform the essential functions of his or her job;
 - o any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on “covered active duty;” or
- Twenty-six work weeks of leave during a single 12-month period to care for a covered servicemember with a serious injury or illness if the eligible employee is the servicemember's spouse, son, daughter, parent, or next of kin (military caregiver leave).

To be eligible for Family Medical Leave Act (FMLA), an employee must:

- Have worked for your employer for at least 12 months
- And have at least 1250 hours of service with your employer in the 12 months before you take leave

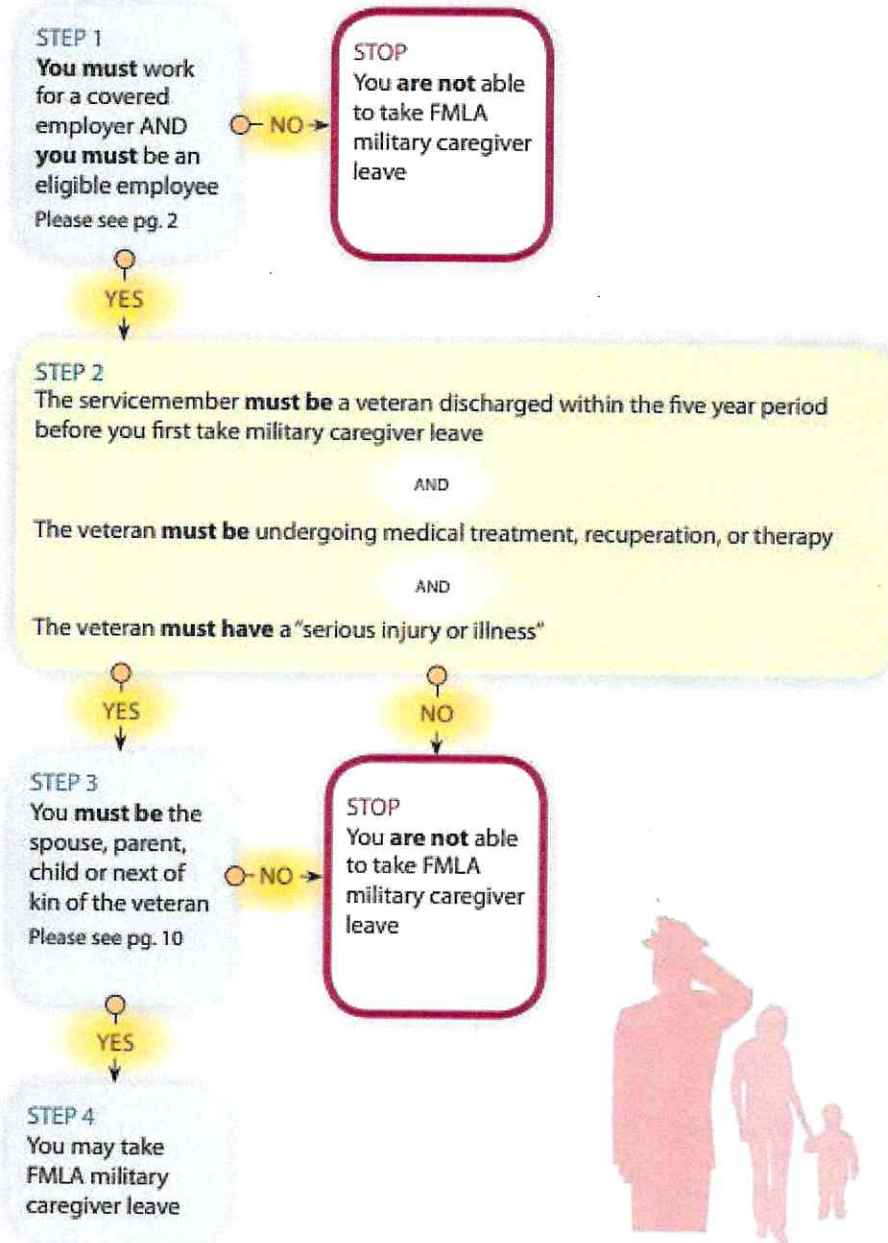
[Code of Federal Regulations addressing 825.127](#) - leave to care for a covered servicemember with a serious injury or illness (military caregiver leave)

[Department of Labor FMLA Military Guide](#)

- Pg 14: addresses definitions of ***who is a covered service member*** and ***what is a serious injury or illness of a veteran.***
- Pg 15: addresses ***single 12-month period*** and ***multiple instances of military caregiver leave***

Military Caregiver Leave

Military Caregiver Leave Taken for a Veteran



If you have additional questions or would like me to be present for committee work on this bill, please let me know.

Thank you,

Molly Herrington

Interim Chief People Officer