

FAMILY LEAVE AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Elizabeth Weight

Senate Sponsor: _____

LONG TITLE

General Description:

This bill requires certain executive branch and higher education employers to offer and administer parental leave.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires executive branch agencies and departments and higher education employers to provide an eligible employee paid parental leave upon the birth or adoption of the employee's child; and
- ▶ requires the Department of Human Resource Management and the State Board of Regents to adopt rules to administer parental leave.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53B-1-115, Utah Code Annotated 1953

67-19-14.7, Utah Code Annotated 1953



28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **53B-1-115** is enacted to read:

30 **53B-1-115. Parental leave -- Definitions -- Administration.**

31 The following shall comply with Section [67-19-14.7](#) regarding the availability and
32 administration of parental leave for employees:

- 33 (1) an institution of higher education described in Section [53B-2-101](#);
- 34 (2) the State Board of Regents established in Section [53B-1-103](#); and
- 35 (3) the Utah System of Technical Colleges Board of Trustees established in Section
36 [53B-2a-103](#).

37 Section 2. Section **67-19-14.7** is enacted to read:

38 **67-19-14.7. Parental leave -- Definitions -- Administration.**

39 (1) As used in this section:

40 (a) "Eligible employee" means an employee who:

41 (i) has been employed:

42 (A) at least 12 consecutive months for the state; and

43 (B) for at least 1,250 hours of work, excluding paid time off, with the state during the
44 previous 12-month period; and

45 (ii) is a qualified employee.

46 (b) "Executive or higher education employer" means:

47 (i) an executive branch:

48 (A) department;

49 (B) agency;

50 (C) board;

51 (D) commission;

52 (E) division; or

53 (F) office; or

54 (ii) (A) an institution of higher education described in Section [53B-2-101](#);

55 (B) the State Board of Regents established in Section [53B-1-103](#); or

56 (C) the Utah System of Technical Colleges Board of Trustees established in Section
57 [53B-2a-103](#).

58 (c) "Parental leave" means leave hours an executive or higher education employer

59 provides to an eligible employee to be used upon the birth or adoption of the employee's child.

60 (d) (i) "Qualified employee" means an employee who is:

61 (A) in a position that is receiving retirement benefits under Title 49, Utah State
62 Retirement and Insurance Benefit Act; and

63 (B) accruing paid leave benefits that can be used in the current and future calendar
64 years.

65 (ii) "Qualified employee" does not include an employee who is reemployed, as that
66 term is defined in Section [49-11-102](#).

67 (2) (a) Except as provided in Subsections (2)(b) and (c), an executive or higher
68 education employer shall allow an eligible employee to use up to 240 hours of paid parental
69 leave based on a 40-hour work week for the birth or adoption of the eligible employee's child.

70 (b) Parental leave described in Subsection (2)(a) runs concurrently with any leave
71 authorized under the Family and Medical Leave Act of 1993, 29 U.S.C. Sec. 2601 et seq.

72 (c) An executive or higher education employer shall allow an eligible employee who is
73 part-time to use the amount of parental leave available to the eligible employee on a pro rata
74 basis as adopted by rule by the department under Subsection (9).

75 (d) The amount of parental leave authorized under Subsection (2)(a) does not increase
76 if an eligible employee has multiple children born from the same pregnancy or adopts multiple
77 children through an adoption process that intends to adopt or results in the adoption of more
78 than one child in the same placement decision.

79 (e) (i) An eligible employee may not take parental leave under this section
80 intermittently, unless the eligible employee's child for whom the eligible employee uses the
81 parental leave is hospitalized for more than five days during the eligible employee's parental
82 leave time.

83 (ii) An employee may only take intermittent parental leave under Subsection (2)(e)(i)
84 during the 12 months following the day on which the employee begins taking parental leave
85 under this section.

86 (f) An executive or higher education employer may not charge parental leave under this
87 section against sick, annual, compensatory, or other leave.

88 (3) (a) Except as provided in Subsection (3)(b), an eligible employee shall give the
89 executive or higher education employer notice at least 30 days before the day on which the

90 eligible employee plans to:

91 (i) begin using parental leave under this section; and

92 (ii) stop using parental leave under this section.

93 (b) If circumstances beyond the eligible employee's control prevent the eligible
94 employee from giving notice in accordance with Subsection (3)(a), the eligible employee shall
95 give each notice described in Subsection (3)(a) as soon as reasonably practicable.

96 (4) For the time period during which an eligible employee uses parental leave under
97 this section, the eligible employee may not provide services for compensation on a full-time
98 basis outside the scope of the eligible employee's employment with the executive or higher
99 education employer.

100 (5) (a) An eligible employee's decision to use parental leave under this section may not
101 adversely affect the eligible employee's employment with the executive or higher education
102 employer.

103 (b) Following the expiration of an eligible employee's parental leave under this section,
104 the executive or higher education employer shall ensure that the eligible employee may return
105 to:

106 (i) the position that the eligible employee held before the eligible employee used the
107 parental leave; or

108 (ii) a position within the executive or higher education employer that is equivalent in
109 seniority, status, benefits, and pay to the position that the eligible employee held before the
110 eligible employee used the parental leave.

111 (c) If during the time an eligible employee uses parental leave under this section the
112 executive or higher education employer experiences a reduction in force and, as part of the
113 reduction in force, the eligible employee would have been separated had the eligible employee
114 not been using the parental leave, the executive or higher education employer may separate the
115 eligible employee in accordance with any applicable process or procedure as if the eligible
116 employee were not using the parental leave.

117 (6) During the time an eligible employee uses parental leave under this section, the
118 eligible employee shall continue to receive all employment related benefits and payments at the
119 same level that the eligible employee received immediately before beginning the parental leave,
120 including:

- 121 (a) medical benefits;
- 122 (b) retirement related service credit and employer paid retirement contributions; and
- 123 (c) paid time off.

124 (7) An executive or higher education employer may not:

125 (a) interfere with or otherwise restrain an eligible employee from using parental leave
126 in accordance with this section; or

127 (b) take any adverse employment action against an eligible employee, including
128 discharging, fining, suspending, expelling, or disciplining for using parental leave in
129 accordance with this section.

130 (8) Each executive or higher education employer shall provide each employee written
131 information regarding an eligible employee's right to parental leave under this section.

132 (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
133 following shall make rules for the use and administration of parental leave under this section,
134 including a schedule that provides paid parental leave for an eligible employee who is part-time
135 on a pro rata basis:

136 (a) for an employer described in Subsection (1)(b)(i), the department;

137 (b) for an employer described in Subsections (1)(b)(ii)(A) and (B), the State Board of
138 Regents; and

139 (c) for an employer described in Subsection (1)(b)(ii)(C), the Utah System of Technical
140 Colleges Board of Trustees.

Legislative Review Note
Office of Legislative Research and General Counsel