

FAMILY LEAVE AMENDMENTS

2019 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 certain 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-1-116, 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-1-116** is enacted to read:

30 **53B-1-116. 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 UTech Board of Trustees established in Section [53B-2a-103](#).

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

37 **67-19-14.7. Parental leave -- Definitions -- Administration.**

38 (1) As used in this section:

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

40 (i) has been employed:

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

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

44 (ii) is a qualified employee.

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

46 (i) an executive branch:

47 (A) department;

48 (B) agency;

49 (C) board;

50 (D) commission;

51 (E) division; or

52 (F) office; or

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

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

55 (C) the UTech Board of Trustees established in Section [53B-2a-103](#).

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

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

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

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

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

63 (ii) "Qualified employee" does not include an employee who is reemployed, as that
64 term is defined in Section 49-11-102.

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

69 (i) for the mother in the case of a birth or for the primary care giver in the case of an
70 adoption, 240 hours; or

71 (ii) for the father in the case of a birth or for the secondary care giver in the case of an
72 adoption, 80 hours.

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

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

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

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

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

89 (f) An executive or higher education employer may not charge parental leave under this

90 section against sick, annual, compensatory, or other leave.

91 (3) (a) Except as provided in Subsection (3)(b), an eligible employee shall give the
92 executive or higher education employer notice at least 30 days before the day on which the
93 eligible employee plans to:

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

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

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

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

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

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

109 (i) the position that the eligible employee held before the eligible employee used the
110 parental leave; or

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

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

120 (6) During the time an eligible employee uses parental leave under this section, the

121 eligible employee shall continue to receive all employment related benefits and payments at the
122 same level that the eligible employee received immediately before beginning the parental leave,
123 including:

124 (a) medical benefits;

125 (b) retirement related service credit and employer paid retirement contributions; and

126 (c) paid time off.

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

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

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

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

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

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

140 (b) for an employer described in Subsection (1)(b)(ii), the State Board of Regents.