

**SENATE BILL NO. 2198**

Introduced by

Senators Dever, K. Roers

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 medical leave.

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

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

6 **54-52.4-02. Family leave.**

7 1. An employer shall grant an employee's request for a family leave of absence for any of  
8 the following reasons:

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

11 b. To care for a child placed with the employee, by a child-placing agency licensed  
12 under chapter 50-12, for adoption or as a precondition to adoption under section  
13 14-15-12, but not both, or for foster care, if the leave concludes within twelve  
14 months of the child's placement.

15 c. To care for the employee's child, spouse, or parent if the child, spouse, or parent  
16 has a serious health condition.

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

19 e. Because of the death of the employee's child, if the leave concludes within six  
20 months of the child's death.

21 f. To care for the employee's child, regardless of age, spouse, or parent who is a  
22 covered service member or veteran with a serious ~~health condition~~injury or illness  
23 under the definition of serious injury or illness for a military service member or  
24 veteran as adopted by the United States department of labor.

1       2. Except as otherwise provided under this section, for any combination of reasons  
2       specified in subsection 1, an employee may take family leave in any twelve-month  
3       period for not more than twelve workweeks. The twelve weeks of family leave may be  
4       taken intermittently for leave under subdivision a or b of subsection 1 if approved by  
5       the employer. The twelve weeks of family leave may be taken intermittently for leave  
6       under subdivision c or d of subsection 1 if the leave is medically necessary. The twelve  
7       weeks of family leave taken under subdivision e of subsection 1 may be taken  
8       intermittently if approved by the employer. If an employee normally works a part-time  
9       schedule or variable hours, the amount of leave to which an employee is entitled must  
10      be determined on a pro rata or proportional basis by comparing the new schedule with  
11      the employee's normal schedule.

12      3. Notwithstanding the twelve workweek limitation under subsections 2 and 4, leave  
13      under subdivision f of subsection 1 is limited to a combined twenty-six workweeks of  
14      leave in any twelve-month period and is limited to once per service member or veteran  
15      per serious injury or illness.

16      4. In any case in which a husband and wife entitled to family leave under this chapter are  
17      employed by the same employer, the aggregate period of family leave to which both  
18      are entitled may be limited by the employer to twelve workweeks during any  
19      twelve-month period.

20      4.5. An employee reasonably shall consider the needs of the employer in scheduling family  
21      leave under this section or in using leave under section 54-52.4-03.

22      5.6. The family leave required by this chapter is not required to be granted with pay unless  
23      otherwise specified by agreement between the employer and employee, by collective  
24      bargaining agreement, or by employer policy.

25      6.7. The family leave required by this chapter supplements any leave otherwise available  
26      to an employee.

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

29      **54-52.4-04. Notice to employer.**

30      1. If an employee intends to take family leave for the reasons specified in subdivision a  
31      or b of subsection 1 of section 54-52.4-02, the employee, in a reasonable and

1           practicable manner, shall give the employer advance notice of the expected birth or  
2           placement.

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

5           a. Make a reasonable effort to schedule the planned care or treatment so the leave  
6           does not unduly disrupt the employer's operations, subject to the approval of the  
7           health care provider to the child, spouse, parent, or employee; and

8           b. Give the employer advance notice of the planned care or treatment in a  
9           reasonable and practicable manner.

10          3. If an employee intends to take family leave for the reason specified in subdivision e of  
11          subsection 1 of section 54-52.4-02, the employee shall make a reasonable effort to  
12          schedule the leave so the leave does not unduly disrupt the employer's operations  
13          and, as appropriate, give the employer advance notice of the leave in a reasonable  
14          and practicable manner.

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

17          **54-52.4-05. Certification for leave to care for child, spouse, parent, or employee's**  
18          **serious health condition.**

19          1. If an employee requests family leave for the reasons described in subdivision c or d,  
20          or f of subsection 1 of section 54-52.4-02 or leave under section 54-52.4-03, the  
21          employer may require the employee to provide certification, as described in  
22          subsection 2, from the provider of health care to the child, spouse, parent, or  
23          employee.

24          2. An employer may not require certification of more than:

25          a. That the child, spouse, parent, or employee has a serious health condition.

26          b. The date the serious health condition commenced and its probable duration.

27          c. Within the knowledge of the health care provider, the medical facts regarding the  
28          serious health condition.