

HOUSE BILL NO. 329

INTRODUCED BY L. SMITH, E. KERR-CARPENTER, G. FRAZER, P. GREEN, C. SPRUNGER, J. ETCHART,
M. ROMANO

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING STATE EMPLOYEES TO USE PAID SICK LEAVE FOR CHILD-RELATED EVENTS; ALLOWING THE USE OF PAID SICK LEAVE FOR MISCARRIAGE, STILLBIRTH, AND FOSTER AND KINSHIP PLACEMENT; AND AMENDING SECTIONS 2-18-601 AND 2-18-606, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-18-601, MCA, is amended to read:

"2-18-601. (Temporary) Definitions. For the purpose of this part, the following definitions apply:

(1) (a) "Accident" means an unexpected traumatic incident or unusual strain that is identifiable by time and place of occurrence and caused by a specific event on a single day or during a single work shift.

(b) The term does not include an employee's suicide.

(2) (a) "Agency" means any legally constituted department, board, or commission of state, county, or city government or any political subdivision of the state.

(b) The term does not mean the state compensation insurance fund.

(3) "Break in service" means a period of time in excess of 5 working days when the person is not employed and that severs continuous employment.

(4) "Common association" means an association of employees established pursuant to 2-18-1310 for the purposes of employer and employee participation in the plan.

(5) "Continuous employment" means working within the same jurisdiction without a break in service of more than 5 working days or without a continuous absence without pay of more than 15 working days.

(6) "Contracting employer" means an employer who, pursuant to 2-18-1310, has contracted with the department of administration to participate in the plan.

1 (7) "Employee" means any person employed by an agency except elected state, county, and city
2 officials, schoolteachers, members of the instructional or scientific staff of a community college, persons
3 contracted as independent contractors or hired under personal services contracts, and student interns.

4 (8) "Full-time employee" means an employee who normally works 40 hours a week.

5 (9) "Holiday" means a scheduled day off with pay to observe a legal holiday, as specified in 1-1-
6 216 or 20-1-305, except Sundays.

7 (10) "Member" means an employee who belongs to a voluntary employees' beneficiary association
8 established under 2-18-1310.

9 (11) "Part-time employee" means an employee who normally works less than 40 hours a week.

10 (12) "Permanent employee" means a permanent employee as defined in 2-18-101.

11 (13) "Plan" means the employee welfare benefit plan established under Internal Revenue Code
12 section 501(c)(9) pursuant to 2-18-1304.

13 (14) "Seasonal employee" means a seasonal employee as defined in 2-18-101.

14 (15) "Short-term worker" means:

15 (a) for the executive and judicial branches, a short-term worker as defined in 2-18-101; or

16 (b) for the legislative branch, an individual who:

17 (i) may be hired by a legislative agency without using a competitive process for an hourly wage
18 established by the agency;

19 (ii) may not work for the agency for more than 6 months in a continuous 12-month period;

20 (iii) is not eligible for permanent status;

21 (iv) may not be hired into a permanent position by the agency without a competitive selection
22 process;

23 (v) is not eligible to earn the leave and holiday benefits provided in this part; and

24 (vi) may be discharged without cause.

25 (16) "Sick leave" means a leave of absence with pay for:

26 (a) a sickness suffered by an employee or a member of the employee's immediate family; or

27 (b) the time that an employee is unable to perform job duties because of:

28 (i) a physical or mental illness, injury, or disability;

1 (ii) maternity or pregnancy-related disability or treatment, including but not limited to prenatal care,
2 birth, miscarriage, or stillbirth experienced by the employee or the employee's spouse, or medical care for the
3 employee or the employee's child;

4 (iii) parental leave for a permanent employee as provided in 2-18-606;

5 (iv) quarantine resulting from exposure to a contagious disease;

6 (v) examination or treatment by a licensed health care provider;

7 (vi) short-term attendance, in an agency's discretion, to care for a relative or household member
8 not covered by subsection (16)(a) until other care can reasonably be obtained;

9 (vii) necessary care for a spouse, child, or parent with a serious health condition, as defined in the
10 Family and Medical Leave Act of 1993; or

11 (viii) death or funeral attendance of an immediate family member or, at an agency's discretion,
12 another person.

13 (17) "Student intern" means a student intern as defined in 2-18-101.

14 (18) "Temporary employee" means a temporary employee as defined in 2-18-101.

15 (19) "Transfer" means a change of employment from one agency to another agency in the same
16 jurisdiction without a break in service.

17 (20) "Vacation leave" means a leave of absence with pay for the purpose of rest, relaxation, or
18 personal business at the request of the employee and with the concurrence of the employer. (Terminates June
19 30, 2023--sec. 10, Ch. 167, L. 2019.)

20 **2-18-601. (Effective July 1, 2023) Definitions.** For the purpose of this part, the following definitions
21 apply:

22 (1) (a) "Agency" means any legally constituted department, board, or commission of state, county,
23 or city government or any political subdivision of the state.

24 (b) The term does not mean the state compensation insurance fund.

25 (2) "Break in service" means a period of time in excess of 5 working days when the person is not
26 employed and that severs continuous employment.

27 (3) "Common association" means an association of employees established pursuant to 2-18-1310
28 for the purposes of employer and employee participation in the plan.

1 (4) "Continuous employment" means working within the same jurisdiction without a break in
2 service of more than 5 working days or without a continuous absence without pay of more than 15 working
3 days.

4 (5) "Contracting employer" means an employer who, pursuant to 2-18-1310, has contracted with
5 the department of administration to participate in the plan.

6 (6) "Employee" means any person employed by an agency except elected state, county, and city
7 officials, schoolteachers, members of the instructional or scientific staff of a community college, persons
8 contracted as independent contractors or hired under personal services contracts, and student interns.

9 (7) "Full-time employee" means an employee who normally works 40 hours a week.

10 (8) "Holiday" means a scheduled day off with pay to observe a legal holiday, as specified in 1-1-
11 216 or 20-1-305, except Sundays.

12 (9) "Member" means an employee who belongs to a voluntary employees' beneficiary association
13 established under 2-18-1310.

14 (10) "Part-time employee" means an employee who normally works less than 40 hours a week.

15 (11) "Permanent employee" means a permanent employee as defined in 2-18-101.

16 (12) "Plan" means the employee welfare benefit plan established under Internal Revenue Code
17 section 501(c)(9) pursuant to 2-18-1304.

18 (13) "Seasonal employee" means a seasonal employee as defined in 2-18-101.

19 (14) "Short-term worker" means:

20 (a) for the executive and judicial branches, a short-term worker as defined in 2-18-101; or

21 (b) for the legislative branch, an individual who:

22 (i) may be hired by a legislative agency without using a competitive process for an hourly wage
23 established by the agency;

24 (ii) may not work for the agency for more than 6 months in a continuous 12-month period;

25 (iii) is not eligible for permanent status;

26 (iv) may not be hired into a permanent position by the agency without a competitive selection
27 process;

28 (v) is not eligible to earn the leave and holiday benefits provided in this part; and

- 1 (vi) may be discharged without cause.
- 2 (15) "Sick leave" means a leave of absence with pay for:
- 3 (a) a sickness suffered by an employee or a member of the employee's immediate family; or
- 4 (b) the time that an employee is unable to perform job duties because of:
- 5 (i) a physical or mental illness, injury, or disability;
- 6 (ii) maternity or pregnancy-related disability or treatment, including but not limited to prenatal care,
- 7 birth, or miscarriage, or stillbirth experienced by the employee or the employee's spouse, or medical care for
- 8 the employee or the employee's child;
- 9 (iii) parental leave for a permanent employee as provided in 2-18-606;
- 10 (iv) quarantine resulting from exposure to a contagious disease;
- 11 (v) examination or treatment by a licensed health care provider;
- 12 (vi) short-term attendance, in an agency's discretion, to care for a relative or household member
- 13 not covered by subsection (15)(a) until other care can reasonably be obtained;
- 14 (vii) necessary care for a spouse, child, or parent with a serious health condition, as defined in the
- 15 Family and Medical Leave Act of 1993; or
- 16 (viii) death or funeral attendance of an immediate family member or, at an agency's discretion,
- 17 another person.
- 18 (16) "Student intern" means a student intern as defined in 2-18-101.
- 19 (17) "Temporary employee" means a temporary employee as defined in 2-18-101.
- 20 (18) "Transfer" means a change of employment from one agency to another agency in the same
- 21 jurisdiction without a break in service.
- 22 (19) "Vacation leave" means a leave of absence with pay for the purpose of rest, relaxation, or
- 23 personal business at the request of the employee and with the concurrence of the employer."

Section 2. Section 2-18-606, MCA, is amended to read:

"2-18-606. Parental leave for state employees. (1) The department of administration shall develop a parental leave policy for permanent state employees. The policy must permit an employee to take a reasonable leave of absence and permit the employee to use sick leave immediately following the birth or placement of a

1 child for a period not to exceed 15 working days if:

2 (a) the employee is adopting a child;

3 (b) a child is placed with the employee for foster or kinship care; or

4 ~~(b)(c)~~ the employee is a birth father.

5 (2) As used in this section, "placement" means placement for adoption as defined in 33-22-130 or
6 as used throughout Title 41, chapter 3.

7 (3) A state agency that is not subject to the provisions of the Family and Medical Leave Act of
8 1993, 29 U.S.C. 2601 through 2654, may extend the provisions of that act to the employees of the agency."

9 - END -