
A BILL FOR AN ACT

RELATING TO FAMILY LEAVE.

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

1 SECTION 1. The legislature finds that approximately sixty-
2 three thousand children under age eighteen live in homes where
3 householders are grandparents or other relatives. Approximately
4 forty-seven thousand of these children live with grandparents.
5 The legislature also finds that there is a growing number of
6 grandparents raising grandchildren and who are primary
7 caretakers of their grandchildren. While Hawaii's family leave
8 law allows employees to take family leave upon the birth of the
9 employee's child, the employee's adoption of a child, or to care
10 for the employee's child, spouse, reciprocal beneficiary,
11 sibling, or a parent with a serious condition, family leave does
12 not extend to care for employees' grandchildren.

13 The purpose of this Act is to extend family leave in the
14 State to include care for grandchildren.

15 SECTION 2. Chapter 398, Hawaii Revised Statutes, is
16 amended by adding two new sections to part I to be appropriately
17 designated and to read as follows:



1 "§398-A Family leave requirement; grandparents. (a) An
2 employee who is a grandparent shall be entitled to a total of
3 one week of family leave during any calendar year to care for
4 the employee's grandchild with a serious health condition.

5 (b) During each calendar year, the leave may be taken
6 intermittently.

7 (c) Leave shall not be cumulative.

8 (d) If unpaid leave under this chapter conflicts with the
9 unreduced compensation requirement for exempt employees under
10 the federal Fair Labor Standards Act, an employer may require
11 the employee covered by this section to make up the leave within
12 the same pay period.

13 (e) Nothing in this chapter shall entitle an employee
14 covered by this section to more than a total of one week of
15 leave in any twelve-month period.

16 §398-B Unpaid leave permitted; relationship to paid leave;
17 sick leave; grandparents. (a) Pursuant to section 398-A, an
18 employee who is a grandparent shall be entitled to one week of
19 family leave. The family leave shall consist of unpaid leave,
20 paid leave, or a combination of paid and unpaid leave. If an
21 employer provides paid family leave for fewer than one week, the



1 additional period of leave added to attain the one-week total
2 may be unpaid.

3 (b) Except as otherwise provided in subsection (c), an
4 employee may elect to substitute any of the employee's accrued
5 paid leaves, including but not limited to vacation, personal, or
6 family leave for any part of the one-week period in subsection
7 (a).

8 (c) An employer who provides sick leave for employees
9 shall permit an employee to use the employee's accrued and
10 available sick leave for purposes of this chapter; provided that
11 an employee covered by this section shall not use more than
12 seven days per year for this purpose, unless an express
13 provision of a valid collective bargaining agreement authorizes
14 the use of more than seven days of sick leave for family leave
15 purposes of this section. Nothing in this section shall require
16 an employer to diminish an employee's accrued and available sick
17 leave below the amount required pursuant to section 392-41;
18 provided that any sick leave in excess of the minimum statutory
19 equivalent for temporary disability benefits as determined by
20 the department may be used for purposes of this chapter."



1 SECTION 3. Section 398-5, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "§398-5 Notice. In any case in which the necessity for
4 family leave for purposes of birth or adoption of a child or
5 providing care to a child, spouse, reciprocal beneficiary,
6 sibling, grandchild, or parent is foreseeable, the employee
7 shall provide the employer with prior notice of the expected
8 birth or adoption or serious health condition in a manner that
9 is reasonable and practicable. Requests for family leave shall
10 include evidence that the employee has submitted the request and
11 provided required data in accordance with section 398-9.5."

12 SECTION 4. Section 398-6, Hawaii Revised Statutes, is
13 amended by amending subsection (c) to read as follows:

14 "(c) When leave is to care for a child, spouse, reciprocal
15 beneficiary, sibling, grandchild, or parent who has a serious
16 health condition, certification shall be issued by the health
17 care provider of the individual requiring care. Certification
18 shall be considered sufficient if it provides information as
19 required by the director."

20 SECTION 5. Section 398-10, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 "(a) [~~Section~~] Sections 398-3 and 398-A shall set [a]
2 minimum [~~standard~~] standards that [~~is~~] are not intended to
3 replace family leave policies that exist as of the effective
4 date of this Act and that provide for equal or greater
5 employment benefits than those benefits afforded under this
6 chapter."

7 SECTION 6. In codifying the new sections added by section
8 2 of this Act, the revisor of statutes shall substitute
9 appropriate section numbers for the letters used in designating
10 the new sections in this Act.

11 SECTION 7. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 8. This Act shall take effect upon its approval.



Report Title:

Family Leave; Grandchildren; Child Care

Description:

Provides grandparents with one week of family leave to care for a grandchild with a serious health condition. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

