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# 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. Section 398-3, Hawaii Revised Statutes, is  
16 amended to read as follows:



1           "**§398-3 Family leave requirement.** (a) An employee shall  
2 be entitled to a total of [~~four~~]:

3           (1) Four weeks of family leave during any calendar year:

4           [~~(1)~~] (A) Upon the birth of a child of the employee or  
5                                           the adoption of a child; or

6           [~~(2)~~] (B) To care for the employee's child, spouse,  
7                                           reciprocal beneficiary, sibling, or parent with a  
8                                           serious health condition[~~-~~]; and

9           (2) One week of family leave during any calendar year to  
10                                           care for the employee's grandchild with a serious  
11                                           health condition.

12           (b) During each calendar year, the leave may be taken  
13 intermittently.

14           (c) Leave shall not be cumulative.

15           (d) If unpaid leave under this chapter conflicts with the  
16 unreduced compensation requirement for exempt employees under  
17 the federal Fair Labor Standards Act, an employer may require  
18 the employee to make up the leave within the same pay period.

19           (e) Nothing in this chapter shall entitle an employee to  
20 more than [a] the total [~~of four weeks~~] amount of leave provided  
21 for in subsection (a) in any twelve-month period."



1 SECTION 3. Section 398-4, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§398-4 Unpaid leave permitted; relationship to paid**  
4 **leave; sick leave.** (a) [~~Pursuant to section 398-3, an employee~~  
5 ~~shall be entitled to four weeks of family leave.~~] The family  
6 leave provided for in section 398-3 shall consist of unpaid  
7 leave, paid leave, or a combination of paid and unpaid leave.  
8 If an employer provides paid family leave for [~~fewer~~] less than  
9 [~~four weeks,~~] the total amount of leave provided for in section  
10 398-3(a), the additional period of leave added to attain the  
11 [~~four-week~~] this total amount of leave may be unpaid.

12 (b) Except as otherwise provided in subsection (c), an  
13 employee may elect to substitute any of the employee's accrued  
14 paid leaves, including but not limited to vacation, personal, or  
15 family leave, for any part of the [~~four-week~~] period of unpaid  
16 leave provided for in subsection (a).

17 (c) An employer who provides sick leave for employees  
18 shall permit an employee to use the employee's accrued and  
19 available sick leave for purposes of this chapter; provided that  
20 an employee taking leave pursuant to section 398-3(a)(1) shall  
21 not use more than ten days per year for this purpose, unless an



1 express provision of a valid collective bargaining agreement  
2 authorizes the use of more than ten days of sick leave for  
3 family leave purposes[-]; provided further than an employee  
4 taking leave pursuant to section 398-3(a)(2) shall not use more  
5 than seven days per year for this purpose, unless an express  
6 provision of a valid collective bargaining agreement authorizes  
7 the use of more than seven days of sick leave for family leave  
8 purposes. Nothing in this section shall require an employer to  
9 diminish an employee's accrued and available sick leave below  
10 the amount required pursuant to section 392-41; provided that  
11 any sick leave in excess of the minimum statutory equivalent for  
12 temporary disability benefits as determined by the department  
13 may be used for purposes of this chapter."

14 SECTION 4. Section 398-5, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**§398-5 Notice.** In any case in which the necessity for  
17 family leave for purposes of birth or adoption of a child or  
18 providing care to a child, spouse, reciprocal beneficiary,  
19 sibling, grandchild, or parent is foreseeable, the employee  
20 shall provide the employer with prior notice of the expected  
21 birth or adoption or serious health condition in a manner that



1 is reasonable and practicable. Requests for family leave shall  
2 include evidence that the employee has submitted the request and  
3 provided required data in accordance with section 398-9.5."

4 SECTION 5. Section 398-6, Hawaii Revised Statutes, is  
5 amended by amending subsection (c) to read as follows:

6 "(c) When leave is to care for a child, spouse, reciprocal  
7 beneficiary, sibling, grandchild, or parent who has a serious  
8 health condition, certification shall be issued by the health  
9 care provider of the individual requiring care. Certification  
10 shall be considered sufficient if it provides information as  
11 required by the director."

12 SECTION 6. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 7. This Act shall take effect on July 1, 2050.



**Report Title:**

Family Leave; Grandchildren; Child Care

**Description:**

Provides grandparents with 1 week of family leave to care for a grandchild with a serious health condition. Effective 7/1/2050.  
(SD2)

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

