

2023 South Dakota Legislature

House Bill 1151**AMENDMENT 1151B
FOR THE INTRODUCED BILL**

1 **An Act to create the South Dakota paid family leave program.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That chapter 3-6C be amended with a NEW SECTION:**

4 There is hereby established the South Dakota Paid Family Leave Program. The
5 Bureau of Human Resources shall invite competitive bidding from insurance providers
6 licensed in South Dakota for a group policy providing family ~~medical leave~~ wage
7 replacement coverage pursuant to § 3-6C-7.1 to cover state employees.

8 **Section 2. That § 3-6C-7.1 be AMENDED:**

9 **3-6C-7.1.** Each permanent employee who has been employed by the state for a
10 continuous period of six months is entitled to paid family ~~leave following the birth of a~~
11 ~~child or placement of a child for adoption~~ and medical leave wage replacement coverage
12 for qualified leave. The paid family ~~and medical leave~~ wage replacement coverage is
13 available for ~~the same types of leave as protected under the Family and Medical Leave~~
14 Act, 29 U.S.C. § 2601 et seq., as of January 1, 2023, except leave for a health condition
15 of the employee:

- 16 (1) The birth of a child within one year of birth;
17 (2) Placement of a child for adoption or foster care within one year of placement;
18 (3) To care for an employee's spouse, child, or parent who has a serious health
19 condition; or
20 (4) Any qualifying exigency arising out of the fact that the employee's spouse, son,
21 daughter, or parent is a covered military member on covered active duty.

22 **Section 3. That § 3-6C-18 be AMENDED:**

23 **3-6C-18.** The commission may, pursuant to chapter 1-26, promulgate rules to
24 further define and administer the types of leave permitted to be taken as sick leave,

1 vacation leave, paid family ~~and medical leave~~ wage reimbursement qualified leave, and
2 leave of absence, including the following: child care, jury duty, military service, maternity,
3 and education and other fringe benefits.

4 **Section 4. That chapter 3-6C be amended with a NEW SECTION:**

5 The group policy authorized under section 1 of this Act must meet the following
6 requirements:

7 (1) The minimum wage replacement coverage must be sixty percent of the average
8 weekly wage capped at the amount of the Social Security taxable wage maximum,
9 as amended from time to time;

10 (2) The maximum wage replacement coverage must be eighty percent of the average
11 weekly wage capped at the amount of the Social Security taxable wage maximum,
12 as amended from time to time. Group members may choose to offer other types
13 of leave outside of the group policy to reach one hundred percent wage
14 replacement;

15 (3) The maximum duration must be twelve weeks with a minimum duration established
16 by the group policy provider through the competitive bids;

17 (4) The minimum coverage must cover:

18 (a) The birth of a child and the care of the newborn child within one year of
19 birth; and

20 (b) The placement with the employee of a child for adoption or foster care and
21 the care of the newly placed child within one year of placement;

22 (5) The maximum coverage must apply to the same types of leave as ~~protected under~~
23 ~~the Family and Medical Leave Act, 29 U.S.C. § 2601 et seq., as of January 1, 2023~~
24 ~~defined in § 3-6C-7.1,~~ except leave for a health condition of the employee; and

25 (6) The insurance provider shall annually report to the Governor and the Legislature
26 the number of non-state employers and employees covered by the policy, the
27 range of benefits offered, and any other nonproprietary data as determined by the
28 provider.

29 Other plan and policy features may be established by the human resources
30 commissioner when negotiating a contract as part of the competitive bid process.

31 **Section 5. That chapter 58-18 be amended with a NEW SECTION:**

32 The human resources commissioner may make available a group policy issued
33 pursuant to sections 1 and 4 of this Act to all non-state public and private employers in

1 the state on a voluntary basis. Non-state public and private employers who voluntarily
2 enroll shall:

3 (1) Contract directly with the insurance provider;

4 (2) Receive a rate that is derived from the state rate through the application of rating
5 factors that are actuarially justified;

6 (3) Choose to provide coverage at no cost to their employees or on a partially
7 contributory basis; and

8 (4) Select additional policy features that may include a waiting period, elimination
9 period, or tenure requirement as negotiated between the employer and insurance
10 provider.

11 **Section 6. That chapter 58-18 be amended with a NEW SECTION:**

12 Licensed life and health insurance carriers may offer paid family and maternity
13 leave insurance policies to public and private employees in the state.