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DELAWARE STATE SENATE  
152nd GENERAL ASSEMBLY

SENATE BILL NO. 61

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO ABSENCES OF SCHOOL EMPLOYEES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 1318, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1318. Sick leave and absences for other reasons; accumulation of annual leave.

(b)(1) In the case of a death in the immediate family of the employee, there shall be no reduction of salary of said employee for an absence not to exceed 5 working days. ~~Members of the immediate family shall be defined as the~~

(2) For purposes of this section, “immediate family” means any of the following:

a. The employee’s spouse or domestic ~~partner; parent, stepparent~~ partner.

b. The employee’s parent, stepparent, or child of the employee child.

c. The parent, stepparent, or child of the employee’s spouse or domestic ~~partner; partner.~~

d. The employee’s grandparent or ~~grandchild; grandchild.~~

e. The employee’s ~~sibling; sibling.~~

f. The spouse of the employee’s ~~child; any child.~~

g. A relative who resides in the ~~same household; or any~~ employee’s household.

h. A minor child for whom the employee has assumed and carried out parental responsibilities.

(3) This absence shall be in addition to other leaves granted the employee.

(c)(1) In the case of a serious illness of a member of the employee’s immediate ~~family, as defined in subsection (b) of this section~~ family that requires the employee’s personal attention, an employee may use accrued sick leave.

(2) An employee ~~needing who needs~~ sick leave under ~~the provisions of this title~~ this subsection shall inform that employee’s own immediate supervisor of the fact and reason in advance, when possible, or otherwise before the expiration of the first hour of absence or as soon thereafter as ~~practicable; practicable.~~

(3) ~~The failure to do so of an employee to comply with paragraph (c)(2) of this section~~ may be cause for denial of pay for the period of absence.

(4) Before approving pay for sick leave, the supervisor ~~may~~ may, at that supervisor's ~~discretion~~ discretion, require either a doctor's certificate or a written statement signed by the employee setting forth the reason for the absence.

(5) In the case of an absence of more than 5 consecutive days, a doctor's certificate is required as a condition of approval.

(d)(1) In case of the death of a near relative, there shall be no deduction in the salary of the employee for an absence not to exceed 1 working day.

(2) An absence under paragraph (d)(1) of this section may be used on the day of the funeral or the day before or the day after the funeral. A near relative shall be defined as:

(3) For purposes of this subsection, "near relative" means any of the following:

a. The employee's first cousin, aunt, uncle, niece, nephew, brother-in-law, sister-in-law, grandparent-in-law, or any other or grandparent-in-law.

b. Any friend living in the employee's household.

(f) An employee may be absent without loss of pay no more than ~~3~~ 5 days per fiscal year for personal reasons of the employee. ~~Such absences shall be~~ These absences are included in the employee's sick leave ~~of the employee. Such absences and~~ must be approved by the employee's chief school ~~officers~~ officer. ~~The chief school officer may not do any of the following regarding an employee's request to be absent for personal reasons:~~

(1) Ask the employee the reason for the absence.

(2) Deny the request unless operational requirements cannot be met if the request is granted.

(j) Any absence not covered ~~in subsection (a), (b), (c), (d), (e), (f) or (g)~~ under subsections (a) through (f) of this section ~~shall be~~ is considered unexcused.

Section 2. Amend § 1318, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1318. Sick leave and absences for other reasons; accumulation of annual leave.

(j) Any absence not covered ~~in subsection (a), (b), (c), (d), (e), (f) or (g)~~ under subsections (a) through (f) or (l) of this section ~~shall be~~ is considered unexcused.

(l) After a pregnancy loss, the employee may be absent without reduction of pay for no more than 5 days under the same circumstances as state employees under § 5125(b) of Title 29.

51           Section 3. If House Bill No. 65 has passed both chambers by July 1, 2023, and is enacted into law, Section 1 of  
52 this Act takes effect immediately and Section 2 of this Act takes effect the later of the following:

53           (1) One day after HB 65 takes effect.

54           (2) Immediately upon enactment.

55           Section 4. Section 1 of this Act takes effect immediately and Section 2 of this Act does not take effect, if either of  
56 the following apply:

57           (1) House Bill No. 65 has not passed both chambers by July 1, 2023.

58           (2) House Bill No. 65 has passed both chambers by July 1, 2023, and is not enacted into law.

#### SYNOPSIS

Teachers and other school employees (school employees) do not accrue annual leave that can be used on a flexible basis. Under current law, school employees may only use 3 days of sick leave for personal reasons and may be absent for 5 days after the death of an immediate family member and for 1 day only, on the day of the funeral, after the death of a near relative.

This Act makes the following changes to the days that school employees may be absent without loss of pay:

1. Allows a school employee to use the 1 day of leave provided for the funeral of a near relative on the day before or the day after the funeral.
2. Increases the number of days of sick leave that a school employee can use for personal reasons from 3 to 5.
3. Provides that a chief school officer may not ask a school employee the reason they are requesting to be absent for personal reasons and can only deny the school employee's request because of operational requirements.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual, including all of the following:

1. Clarifies the definition of “immediate family”.
2. Corrects an internal reference in subsection (j) that has been incorrect since 1971 when the language regarding excused absences by employees of special school districts, the City of Wilmington, and the State Board of Education in subsection (g) was repealed and the current requirements for the payment of unused sick leave were first enacted.

Finally, Sections 2 through 4 of this Act provide that if House Bill No. 65 is enacted in 2023, school employees will receive the same bereavement leave as state employees after a pregnancy loss. If HB 65 is not enacted in 2023, these changes will not take effect.

Author: Senator Sturgeon