
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: S-3567.1/18

ATTY/TYPIST: LL:lcl

BRIEF DESCRIPTION: Adding the use of shared leave for employees who are sick or temporarily disabled because of pregnancy disability or for the purposes of parental leave to bond with the employee's newborn, adoptive, or foster child.

1 AN ACT Relating to adding the use of shared leave for employees
2 who are sick or temporarily disabled because of pregnancy disability
3 or for the purposes of parental leave to bond with the employee's
4 newborn, adoptive, or foster child; amending RCW 41.04.650,
5 41.04.655, 41.04.660, and 41.04.665; and providing an effective date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 41.04.650 and 1989 c 93 s 1 are each amended to read
8 as follows:

9 The legislature finds that: (1) State employees historically have
10 joined together to help their fellow employees who suffer from, or
11 have relatives or household members suffering from, an extraordinary
12 or severe illness, injury, impairment, or physical or mental
13 condition which prevents the individual from working and causes great
14 economic and emotional distress to the employee and his or her
15 family; ~~((and))~~ (2) state employees have also joined together to help
16 their fellow employees who are sick or temporarily disabled because
17 of pregnancy disability or for the purpose of parental leave to bond
18 with the employee's newborn, adoptive, or foster child; and (3) these
19 circumstances may be exacerbated because the affected employees use
20 all their accrued sick leave and annual leave and are forced to take
21 leave without pay or terminate their employment. Therefore, the

1 legislature intends to provide for the establishment of a leave
2 sharing program.

3 **Sec. 2.** RCW 41.04.655 and 2008 c 36 s 1 are each amended to read
4 as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout RCW 41.04.650 through 41.04.670,
7 28A.400.380, and section 7, chapter 93, Laws of 1989.

8 (1) "Domestic violence" means: (a) Physical harm, bodily injury,
9 assault, or the infliction of fear of imminent physical harm, bodily
10 injury, or assault, between family or household members as defined in
11 RCW 26.50.010; (b) sexual assault of one family or household member
12 by another family or household member; or (c) stalking as defined in
13 RCW 9A.46.110 of one family or household member by another family or
14 household member.

15 (2) "Employee" means any employee of the state, including
16 employees of school districts and educational service districts, who
17 are entitled to accrue sick leave or annual leave and for whom
18 accurate leave records are maintained.

19 (3) "Parental leave" means leave to bond and care for a newborn
20 child after birth or to bond and care for a child after placement for
21 adoption or foster care, for a period of up to sixteen weeks after
22 the birth or placement.

23 (4) "Pregnancy disability" means a pregnancy-related medical
24 condition or miscarriage.

25 (5) "Program" means the leave sharing program established in RCW
26 41.04.660.

27 (~~(4)~~) (6) "Service in the uniformed services" means the
28 performance of duty on a voluntary or involuntary basis in a
29 uniformed service under competent authority and includes active duty,
30 active duty for training, initial active duty for training, inactive
31 duty training, full-time national guard duty including state-ordered
32 active duty, and a period for which a person is absent from a
33 position of employment for the purpose of an examination to determine
34 the fitness of the person to perform any such duty.

35 (~~(5)~~) (7) "Sexual assault" has the same meaning as set forth in
36 RCW 70.125.030.

37 (~~(6)~~) (8) "Stalking" has the same meaning as set forth in RCW
38 9A.46.110.

1 ~~((7))~~ (9) "State agency" or "agency" means departments,
2 offices, agencies, or institutions of state government, the
3 legislature, institutions of higher education, school districts, and
4 educational service districts.

5 ~~((8))~~ (10) "Uniformed services" means the armed forces, the
6 army national guard, and the air national guard of any state,
7 territory, commonwealth, possession, or district when engaged in
8 active duty for training, inactive duty training, full-time national
9 guard duty, or state active duty, the commissioned corps of the
10 public health service, the coast guard, and any other category of
11 persons designated by the president of the United States in time of
12 war or national emergency.

13 ~~((9))~~ (11) "Victim" means a person against whom domestic
14 violence, sexual assault, or stalking has been committed as defined
15 in this section.

16 **Sec. 3.** RCW 41.04.660 and 2008 c 36 s 2 are each amended to read
17 as follows:

18 The Washington state leave sharing program is hereby created. The
19 purpose of the program is to permit state employees, at no
20 significantly increased cost to the state of providing annual leave,
21 sick leave, or personal holidays, to come to the aid of a fellow
22 state employee who is suffering from or has a relative or household
23 member suffering from an extraordinary or severe illness, injury,
24 impairment, or physical or mental condition; a fellow state employee
25 who is a victim of domestic violence, sexual assault, or stalking; a
26 fellow state employee who is sick or temporarily disabled because of
27 pregnancy disability or for the purpose of parental leave; or a
28 fellow state employee who has been called to service in the uniformed
29 services, which has caused or is likely to cause the employee to take
30 leave without pay or terminate his or her employment.

31 **Sec. 4.** RCW 41.04.665 and 2017 c 173 s 1 are each amended to
32 read as follows:

33 (1) An agency head may permit an employee to receive leave under
34 this section if:

35 (a)(i) The employee suffers from, or has a relative or household
36 member suffering from, an illness, injury, impairment, or physical or
37 mental condition which is of an extraordinary or severe nature;

- 1 (ii) The employee has been called to service in the uniformed
2 services;
- 3 (iii) The employee is a current member of the uniformed services
4 or is a veteran as defined under RCW 41.04.005, and is attending
5 medical appointments or treatments for a service connected injury or
6 disability;
- 7 (iv) The employee is a spouse of a current member of the
8 uniformed services or a veteran as defined under RCW 41.04.005, who
9 is attending medical appointments or treatments for a service
10 connected injury or disability and requires assistance while
11 attending appointment or treatment;
- 12 (v) A state of emergency has been declared anywhere within the
13 United States by the federal or any state government and the employee
14 has needed skills to assist in responding to the emergency or its
15 aftermath and volunteers his or her services to either a governmental
16 agency or to a nonprofit organization engaged in humanitarian relief
17 in the devastated area, and the governmental agency or nonprofit
18 organization accepts the employee's offer of volunteer services;
19 (~~⊖~~))
- 20 (vi) The employee is a victim of domestic violence, sexual
21 assault, or stalking;
- 22 (vii) The employee needs the time for parental leave; or
23 (viii) The employee is sick or temporarily disabled because of
24 pregnancy disability;
- 25 (b) The illness, injury, impairment, condition, call to service,
26 emergency volunteer service, or consequence of domestic violence,
27 sexual assault, temporary layoff under section 3(5), chapter 32, Laws
28 of 2010 1st sp. sess., or stalking has caused, or is likely to cause,
29 the employee to:
- 30 (i) Go on leave without pay status; or
31 (ii) Terminate state employment;
- 32 (c) The employee's absence and the use of shared leave are
33 justified;
- 34 (d) The employee has depleted or will shortly deplete his or her:
35 (i) Annual leave and sick leave reserves if he or she qualifies
36 under (a)(i) of this subsection;
- 37 (ii) Annual leave and paid military leave allowed under RCW
38 38.40.060 if he or she qualifies under (a)(ii) of this subsection;
39 (~~⊖~~))

1 (iii) Annual leave if he or she qualifies under (a)(v) or (vi) of
2 this subsection; or

3 (iv) Annual leave and sick leave reserves if the employee
4 qualifies under (a)(vii) or (viii) of this subsection. However, the
5 employee is not required to deplete all of his or her annual leave
6 and sick leave and can maintain up to forty hours of annual leave and
7 forty hours of sick leave in reserve;

8 (e) The employee has abided by agency rules regarding:

9 (i) Sick leave use if he or she qualifies under (a)(i) ~~((e))~~,
10 (vi), (vii), or (viii) of this subsection; or

11 (ii) Military leave if he or she qualifies under (a)(ii) of this
12 subsection; and

13 (f) The employee has diligently pursued and been found to be
14 ineligible for benefits under chapter 51.32 RCW if he or she
15 qualifies under (a)(i) of this subsection.

16 (2) The agency head shall determine the amount of leave, if any,
17 which an employee may receive under this section. However, an
18 employee shall not receive a total of more than five hundred twenty-
19 two days of leave, except that, a supervisor may authorize leave in
20 excess of five hundred twenty-two days in extraordinary circumstances
21 for an employee qualifying for the shared leave program because he or
22 she is suffering from an illness, injury, impairment, or physical or
23 mental condition which is of an extraordinary or severe nature.
24 Shared leave received under the uniformed service shared leave pool
25 in RCW 41.04.685 is not included in this total.

26 (3) The agency head must allow employees who are veterans, as
27 defined under RCW 41.04.005, and their spouses, to access shared
28 leave from the veterans' in-state service shared leave pool upon
29 employment.

30 (4) An employee may transfer annual leave, sick leave, and his or
31 her personal holiday, as follows:

32 (a) An employee who has an accrued annual leave balance of more
33 than ten days may request that the head of the agency for which the
34 employee works transfer a specified amount of annual leave to another
35 employee authorized to receive leave under subsection (1) of this
36 section. In no event may the employee request a transfer of an amount
37 of leave that would result in his or her annual leave account going
38 below ten days. For purposes of this subsection (4)(a), annual leave
39 does not accrue if the employee receives compensation in lieu of
40 accumulating a balance of annual leave.

1 (b) An employee may transfer a specified amount of sick leave to
2 an employee requesting shared leave only when the donating employee
3 retains a minimum of one hundred seventy-six hours of sick leave
4 after the transfer.

5 (c) An employee may transfer, under the provisions of this
6 section relating to the transfer of leave, all or part of his or her
7 personal holiday, as that term is defined under RCW 1.16.050, or as
8 such holidays are provided to employees by agreement with a school
9 district's board of directors if the leave transferred under this
10 subsection does not exceed the amount of time provided for personal
11 holidays under RCW 1.16.050.

12 (5) An employee of an institution of higher education under RCW
13 28B.10.016, school district, or educational service district who does
14 not accrue annual leave but does accrue sick leave and who has an
15 accrued sick leave balance of more than twenty-two days may request
16 that the head of the agency for which the employee works transfer a
17 specified amount of sick leave to another employee authorized to
18 receive leave under subsection (1) of this section. In no event may
19 such an employee request a transfer that would result in his or her
20 sick leave account going below twenty-two days. Transfers of sick
21 leave under this subsection are limited to transfers from employees
22 who do not accrue annual leave. Under this subsection, "sick leave"
23 also includes leave accrued pursuant to RCW 28A.400.300(1)(b) or
24 28A.310.240(1) with compensation for illness, injury, and
25 emergencies.

26 (6) Transfers of leave made by an agency head under subsections
27 (4) and (5) of this section shall not exceed the requested amount.

28 (7) Leave transferred under this section may be transferred from
29 employees of one agency to an employee of the same agency or, with
30 the approval of the heads of both agencies, to an employee of another
31 state agency.

32 (8) While an employee is on leave transferred under this section,
33 he or she shall continue to be classified as a state employee and
34 shall receive the same treatment in respect to salary, wages, and
35 employee benefits as the employee would normally receive if using
36 accrued annual leave or sick leave.

37 (a) All salary and wage payments made to employees while on leave
38 transferred under this section shall be made by the agency employing
39 the person receiving the leave. The value of leave transferred shall
40 be based upon the leave value of the person receiving the leave.

1 (b) In the case of leave transferred by an employee of one agency
2 to an employee of another agency, the agencies involved shall arrange
3 for the transfer of funds and credit for the appropriate value of
4 leave.

5 (i) Pursuant to rules adopted by the office of financial
6 management, funds shall not be transferred under this section if the
7 transfer would violate any constitutional or statutory restrictions
8 on the funds being transferred.

9 (ii) The office of financial management may adjust the
10 appropriation authority of an agency receiving funds under this
11 section only if and to the extent that the agency's existing
12 appropriation authority would prevent it from expending the funds
13 received.

14 (iii) Where any questions arise in the transfer of funds or the
15 adjustment of appropriation authority, the director of financial
16 management shall determine the appropriate transfer or adjustment.

17 (9) Leave transferred under this section shall not be used in any
18 calculation to determine an agency's allocation of full time
19 equivalent staff positions.

20 (10)(a) The value of any leave transferred under this section
21 which remains unused shall be returned at its original value to the
22 employee or employees who transferred the leave when the agency head
23 finds that the leave is no longer needed or will not be needed at a
24 future time in connection with the illness or injury for which the
25 leave was transferred or for any other qualifying condition. Unused
26 shared leave may not be returned until one of the following occurs:

27 (i) The agency head receives from the affected employee a
28 statement from the employee's doctor verifying that the illness or
29 injury is resolved; or

30 (ii) The employee is released to full-time employment; has not
31 received additional medical treatment for his or her current
32 condition or any other qualifying condition for at least six months;
33 and the employee's doctor has declined, in writing, the employee's
34 request for a statement indicating the employee's condition has been
35 resolved.

36 (b) If a shared leave account is closed and an employee later has
37 a need to use shared leave due to the same condition listed in the
38 closed account, the agency head must approve a new shared leave
39 request for the employee.

1 (c) To the extent administratively feasible, the value of unused
2 leave which was transferred by more than one employee shall be
3 returned on a pro rata basis.

4 (11) An employee who uses leave that is transferred to him or her
5 under this section may not be required to repay the value of the
6 leave that he or she used.

7 (12) The director of financial management may adopt rules as
8 necessary to implement subsection (2) of this section.

9 NEW SECTION. **Sec. 5.** This act takes effect July 1, 2018.

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