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**SUBSTITUTE SENATE BILL 6500**

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**State of Washington**

**60th Legislature**

**2008 Regular Session**

**By** Senate Labor, Commerce, Research & Development (originally sponsored by Senators Eide, Kohl-Welles, Stevens, Shin, Rasmussen, Kline, Spanel, Holmquist, and Haugen; by request of Attorney General)

READ FIRST TIME 01/30/08.

1 AN ACT Relating to leave sharing for victims of domestic violence,  
2 sexual assault, and stalking; amending RCW 41.04.655 and 41.04.660;  
3 reenacting and amending RCW 41.04.665; and providing an effective date.

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

5 **Sec. 1.** RCW 41.04.655 and 2003 1st sp.s. c 12 s 1 are each amended  
6 to read as follows:

7 Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout RCW 41.04.650 through 41.04.670,  
9 28A.400.380, and section 7, chapter 93, Laws of 1989.

10 (1) "Domestic violence" means: (a) Physical harm, bodily injury,  
11 assault, or the infliction of fear of imminent physical harm, bodily  
12 injury, or assault, between family or household members as defined in  
13 RCW 26.50.010; (b) sexual assault of one family or household member by  
14 another family or household member; or (c) stalking as defined in RCW  
15 9A.46.110 of one family or household member by another family or  
16 household member.

17 (2) "Employee" means any employee of the state, including employees  
18 of school districts and educational service districts, who are entitled

1 to accrue sick leave or annual leave and for whom accurate leave  
2 records are maintained.

3 ~~((+2))~~ (3) "Program" means the leave sharing program established  
4 in RCW 41.04.660.

5 ~~((+3))~~ (4) "Service in the uniformed services" means the  
6 performance of duty on a voluntary or involuntary basis in a uniformed  
7 service under competent authority and includes active duty, active duty  
8 for training, initial active duty for training, inactive duty training,  
9 full-time national guard duty including state-ordered active duty, and  
10 a period for which a person is absent from a position of employment for  
11 the purpose of an examination to determine the fitness of the person to  
12 perform any such duty.

13 ~~((+4))~~ (5) "Sexual assault" has the same meaning as set forth in  
14 RCW 70.125.030.

15 (6) "Stalking" has the same meaning as set forth in RCW 9A.46.110.

16 (7) "State agency" or "agency" means departments, offices,  
17 agencies, or institutions of state government, the legislature,  
18 institutions of higher education, school districts, and educational  
19 service districts.

20 ~~((+5))~~ (8) "Uniformed services" means the armed forces, the army  
21 national guard, and the air national guard of any state, territory,  
22 commonwealth, possession, or district when engaged in active duty for  
23 training, inactive duty training, full-time national guard duty, or  
24 state active duty, the commissioned corps of the public health service,  
25 the coast guard, and any other category of persons designated by the  
26 president of the United States in time of war or national emergency.

27 (9) "Victim" means a person against whom domestic violence, sexual  
28 assault, or stalking has been committed as defined in this section.

29 **Sec. 2.** RCW 41.04.660 and 2003 1st sp.s. c 12 s 2 are each amended  
30 to read as follows:

31 The Washington state leave sharing program is hereby created. The  
32 purpose of the program is to permit state employees, at no  
33 significantly increased cost to the state of providing annual leave,  
34 sick leave, or personal holidays, to come to the aid of a fellow state  
35 employee who is suffering from or has a relative or household member  
36 suffering from an extraordinary or severe illness, injury, impairment,  
37 or physical or mental condition~~((7))~~; a fellow state employee who is a

1 victim of domestic violence, sexual assault, or stalking; or a fellow  
2 state employee who has been called to service in the uniformed  
3 services, which has caused or is likely to cause the employee to take  
4 leave without pay or terminate his or her employment.

5 **Sec. 3.** RCW 41.04.665 and 2007 c 454 s 1 and 2007 c 25 s 2 are  
6 each reenacted and amended to read as follows:

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

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

12 (ii) The employee has been called to service in the uniformed  
13 services; ~~((or))~~

14 (iii) A state of emergency has been declared anywhere within the  
15 United States by the federal or any state government and the employee  
16 has needed skills to assist in responding to the emergency or its  
17 aftermath and volunteers his or her services to either a governmental  
18 agency or to a nonprofit organization engaged in humanitarian relief in  
19 the devastated area, and the governmental agency or nonprofit  
20 organization accepts the employee's offer of volunteer services; or

21 (iv) The employee is a victim of domestic violence, sexual assault,  
22 or stalking;

23 (b) The illness, injury, impairment, condition, call to service,  
24 ~~((or))~~ emergency volunteer service, or consequence of domestic  
25 violence, sexual assault, or stalking has caused, or is likely to  
26 cause, the employee to:

27 (i) Go on leave without pay status; or

28 (ii) Terminate state employment;

29 (c) The employee's absence and the use of shared leave are  
30 justified;

31 (d) The employee has depleted or will shortly deplete his or her:

32 (i) Annual leave and sick leave reserves if he or she qualifies  
33 under (a)(i) of this subsection;

34 (ii) Annual leave and paid military leave allowed under RCW  
35 38.40.060 if he or she qualifies under (a)(ii) of this subsection; or

36 (iii) Annual leave if he or she qualifies under (a)(iii) or (iv) of  
37 this subsection;

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

2 (i) Sick leave use if he or she qualifies under (a)(i) or (iv) of  
3 this subsection; or

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

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

9 (2) The agency head shall determine the amount of leave, if any,  
10 which an employee may receive under this section. However, an employee  
11 shall not receive a total of more than two hundred sixty-one days of  
12 leave, except that shared leave received under the uniformed service  
13 shared leave pool in RCW 41.04.685 is not included in this total.

14 (3) An employee may transfer annual leave, sick leave, and his or  
15 her personal holiday, as follows:

16 (a) An employee who has an accrued annual leave balance of more  
17 than ten days may request that the head of the agency for which the  
18 employee works transfer a specified amount of annual leave to another  
19 employee authorized to receive leave under subsection (1) of this  
20 section. In no event may the employee request a transfer of an amount  
21 of leave that would result in his or her annual leave account going  
22 below ten days. For purposes of this subsection (3)(a), annual leave  
23 does not accrue if the employee receives compensation in lieu of  
24 accumulating a balance of annual leave.

25 (b) An employee may transfer a specified amount of sick leave to an  
26 employee requesting shared leave only when the donating employee  
27 retains a minimum of one hundred seventy-six hours of sick leave after  
28 the transfer.

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

36 (4) An employee of an institution of higher education under RCW  
37 28B.10.016, school district, or educational service district who does  
38 not accrue annual leave but does accrue sick leave and who has an

1 accrued sick leave balance of more than twenty-two days may request  
2 that the head of the agency for which the employee works transfer a  
3 specified amount of sick leave to another employee authorized to  
4 receive leave under subsection (1) of this section. In no event may  
5 such an employee request a transfer that would result in his or her  
6 sick leave account going below twenty-two days. Transfers of sick  
7 leave under this subsection are limited to transfers from employees who  
8 do not accrue annual leave. Under this subsection, "sick leave" also  
9 includes leave accrued pursuant to RCW 28A.400.300(2) or 28A.310.240(1)  
10 with compensation for illness, injury, and emergencies.

11 (5) Transfers of leave made by an agency head under subsections (3)  
12 and (4) of this section shall not exceed the requested amount.

13 (6) Leave transferred under this section may be transferred from  
14 employees of one agency to an employee of the same agency or, with the  
15 approval of the heads of both agencies, to an employee of another state  
16 agency. However, leave transferred to or from employees of school  
17 districts or educational service districts is limited to transfers to  
18 or from employees within the same employing district.

19 (7) While an employee is on leave transferred under this section,  
20 he or she shall continue to be classified as a state employee and shall  
21 receive the same treatment in respect to salary, wages, and employee  
22 benefits as the employee would normally receive if using accrued annual  
23 leave or sick leave.

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

28 (b) In the case of leave transferred by an employee of one agency  
29 to an employee of another agency, the agencies involved shall arrange  
30 for the transfer of funds and credit for the appropriate value of  
31 leave.

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

36 (ii) The office of financial management may adjust the  
37 appropriation authority of an agency receiving funds under this section

1 only if and to the extent that the agency's existing appropriation  
2 authority would prevent it from expending the funds received.

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

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

9 (9) The value of any leave transferred under this section which  
10 remains unused shall be returned at its original value to the employee  
11 or employees who transferred the leave when the agency head finds that  
12 the leave is no longer needed or will not be needed at a future time in  
13 connection with the illness or injury for which the leave was  
14 transferred or for any other qualifying condition. Before the agency  
15 head makes a determination to return unused leave in connection with an  
16 illness or injury, or any other qualifying condition, he or she must  
17 receive from the affected employee a statement from the employee's  
18 doctor verifying that the illness or injury is resolved. To the extent  
19 administratively feasible, the value of unused leave which was  
20 transferred by more than one employee shall be returned on a pro rata  
21 basis.

22 (10) An employee who uses leave that is transferred to him or her  
23 under this section may not be required to repay the value of the leave  
24 that he or she used.

25 NEW SECTION. **Sec. 4.** This act takes effect October 1, 2008.

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