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**HOUSE BILL 1145**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Representatives Reeves, Riccelli, Robinson, Stanford, and Pollet

Read first time 01/15/19. Referred to Committee on State Government & Tribal Relations.

1 AN ACT Relating to Washington child care access for resident  
2 employees of the state; amending RCW 41.04.660; reenacting and  
3 amending RCW 41.04.665; adding a new section to chapter 41.04 RCW;  
4 adding a new section to chapter 41.05 RCW; creating new sections; and  
5 providing expiration dates.

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

7 NEW SECTION. **Sec. 1.** The office of financial management must:

8 (1) Consult with the child care collaborative task force  
9 established by section 1, chapter 91, Laws of 2018 to modify the task  
10 force's model policy for a "bring your infant to work" program as  
11 appropriate for implementation at state agencies; and

12 (2) Provide the modified model policy and implementation  
13 guidelines to state agency directors by February 1, 2020. The  
14 implementation guidelines must require agencies to adopt the policy  
15 by July 1, 2020, and allow agencies to modify the policy or limit its  
16 application as appropriate based on the working conditions and job  
17 duties of agency personnel.

18 (3) This section expires August 1, 2020.

19 **Sec. 2.** RCW 41.04.660 and 2018 c 39 s 3 are each amended to read  
20 as follows:

1       The Washington state leave sharing program is hereby created. The  
2 purpose of the program is to permit state employees, at no  
3 significantly increased cost to the state of providing annual leave,  
4 sick leave, or personal holidays, to come to the aid of a fellow  
5 state employee who is suffering from or has a relative or household  
6 member suffering from an extraordinary or severe illness, injury,  
7 impairment, or physical or mental condition; a fellow state employee  
8 whose child is too ill to attend child care; a fellow state employee  
9 who is a victim of domestic violence, sexual assault, or stalking; a  
10 fellow state employee who is sick or temporarily disabled because of  
11 pregnancy disability or for the purpose of parental leave; or a  
12 fellow state employee who has been called to service in the uniformed  
13 services, which has caused or is likely to cause the employee to take  
14 leave without pay or terminate his or her employment.

15       **Sec. 3.** RCW 41.04.665 and 2018 c 39 s 4 and 2017 c 173 s 1 are  
16 each reenacted and amended to read as follows:

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

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

22       (ii) The employee has been called to service in the uniformed  
23 services;

24       (iii) The employee is a current member of the uniformed services  
25 or is a veteran as defined under RCW 41.04.005, and is attending  
26 medical appointments or treatments for a service connected injury or  
27 disability;

28       (iv) The employee is a spouse of a current member of the  
29 uniformed services or a veteran as defined under RCW 41.04.005, who  
30 is attending medical appointments or treatments for a service  
31 connected injury or disability and requires assistance while  
32 attending appointment or treatment;

33       (v) A state of emergency has been declared anywhere within the  
34 United States by the federal or any state government and the employee  
35 has needed skills to assist in responding to the emergency or its  
36 aftermath and volunteers his or her services to either a governmental  
37 agency or to a nonprofit organization engaged in humanitarian relief  
38 in the devastated area, and the governmental agency or nonprofit  
39 organization accepts the employee's offer of volunteer services;

1 (vi) The employee is a victim of domestic violence, sexual  
2 assault, or stalking;

3 (vii) The employee needs the time for parental leave; (~~(viii)~~)

4 (viii) The employee is sick or temporarily disabled because of  
5 pregnancy disability; or

6 (ix) The employee has a child under the age of thirteen who is  
7 too ill to attend child care, as described in rules adopted by the  
8 department of children, youth, and families;

9 (b) The illness, injury, impairment, condition, call to service,  
10 emergency volunteer service, or consequence of domestic violence,  
11 sexual assault, temporary layoff under section 3(5), chapter 32, Laws  
12 of 2010 1st sp. sess., or stalking has caused, or is likely to cause,  
13 the employee to:

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

15 (ii) Terminate state employment;

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

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

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

21 (ii) Annual leave and paid military leave allowed under RCW  
22 38.40.060 if he or she qualifies under (a)(ii) of this subsection;

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

25 (iv) Annual leave and sick leave reserves if the employee  
26 qualifies under (a)(vii) (~~(viii)~~), (viii), or (ix) of this subsection.  
27 However, the employee is not required to deplete all of his or her  
28 annual leave and sick leave and can maintain up to forty hours of  
29 annual leave and forty hours of sick leave in reserve;

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

31 (i) Sick leave use if he or she qualifies under (a)(i), (vi),  
32 (vii) (~~(viii)~~), (viii), or (ix) of this subsection; or

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

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

38 (2) The agency head shall determine the amount of leave, if any,  
39 which an employee may receive under this section. However, an  
40 employee shall not receive a total of more than five hundred twenty-

1 two days of leave, except that, a supervisor may authorize leave in  
2 excess of five hundred twenty-two days in extraordinary circumstances  
3 for an employee qualifying for the shared leave program because he or  
4 she is suffering from an illness, injury, impairment, or physical or  
5 mental condition which is of an extraordinary or severe nature.  
6 Shared leave received under the uniformed service shared leave pool  
7 in RCW 41.04.685 is not included in this total.

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

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

14 (a) An employee who has an accrued annual leave balance of more  
15 than ten days may request that the head of the agency for which the  
16 employee works transfer a specified amount of annual leave to another  
17 employee authorized to receive leave under subsection (1) of this  
18 section. In no event may the employee request a transfer of an amount  
19 of leave that would result in his or her annual leave account going  
20 below ten days. For purposes of this subsection (4)(a), annual leave  
21 does not accrue if the employee receives compensation in lieu of  
22 accumulating a balance of annual leave.

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

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

34 (5) An employee of an institution of higher education under RCW  
35 28B.10.016, school district, or educational service district who does  
36 not accrue annual leave but does accrue sick leave and who has an  
37 accrued sick leave balance of more than twenty-two days may request  
38 that the head of the agency for which the employee works transfer a  
39 specified amount of sick leave to another employee authorized to  
40 receive leave under subsection (1) of this section. In no event may

1 such an employee request a transfer that would result in his or her  
2 sick leave account going below twenty-two days. Transfers of sick  
3 leave under this subsection are limited to transfers from employees  
4 who do not accrue annual leave. Under this subsection, "sick leave"  
5 also includes leave accrued pursuant to RCW 28A.400.300(1)(b) or  
6 28A.310.240(1) with compensation for illness, injury, and  
7 emergencies.

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

10 (7) Leave transferred under this section may be transferred from  
11 employees of one agency to an employee of the same agency or, with  
12 the approval of the heads of both agencies, to an employee of another  
13 state agency.

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

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

23 (b) In the case of leave transferred by an employee of one agency  
24 to an employee of another agency, the agencies involved shall arrange  
25 for the transfer of funds and credit for the appropriate value of  
26 leave.

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

31 (ii) The office of financial management may adjust the  
32 appropriation authority of an agency receiving funds under this  
33 section only if and to the extent that the agency's existing  
34 appropriation authority would prevent it from expending the funds  
35 received.

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

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

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

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

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

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

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

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

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

32 NEW SECTION. **Sec. 4.** A new section is added to chapter 41.04  
33 RCW to read as follows:

34 (1) The child care in-state service shared leave pool is created  
35 to allow employees to donate leave to be used as shared leave for  
36 employees who meet the requirements of RCW 41.04.665(1)(a)(ii).

37 (2) Participation in the pool must, at all times, be voluntary on  
38 the part of the employee. The office of financial management shall  
39 administer the child care in-state service shared leave pool.

1 (3) Employees who are eligible to donate leave under RCW  
2 41.04.665 may donate leave to the child care in-state service shared  
3 leave pool.

4 (4) An employee who is eligible for shared leave under RCW  
5 41.04.665(1)(a)(ii) may request shared leave from the child care in-  
6 state service shared leave pool.

7 (5) Shared leave under this section may not be granted unless the  
8 pool has a sufficient balance to fund the requested shared leave.

9 (6) Shared leave paid under this section may not exceed the level  
10 of the employee's state monthly salary.

11 (7) Any leave donated must be removed from the personally  
12 accumulated leave balance of the employee donating the leave.

13 (8) All employees who donate to the shared leave pool must  
14 specify their intent to donate to the child care in-state service  
15 shared leave pool.

16 (9) An employee who receives shared leave from the pool is not  
17 required to recontribute such leave to the pool, except as otherwise  
18 provided in this section.

19 (10) Leave that may be donated or received by any one employee  
20 must be calculated as in RCW 41.04.665.

21 (11) As used in this section:

22 (a) "Employee" has the meaning provided in RCW 41.04.655, except  
23 that "employee" as used in this section does not include employees of  
24 school districts and educational service districts. "Employee" does  
25 not include employees called to service in the uniformed services.

26 (b) "Monthly salary" includes monthly salary and special pay and  
27 shift differential, or the monthly equivalent for hourly employees.  
28 "Monthly salary" does not include:

- 29 (i) Overtime pay;
- 30 (ii) Call back pay;
- 31 (iii) Standby pay; or
- 32 (iv) Performance bonuses.

33 (12) The office of financial management shall adopt rules and  
34 policies governing the donation and use of shared leave from the  
35 child care in-state service shared leave pool, including definitions  
36 of pay and allowances and guidelines for agencies to use in  
37 recordkeeping concerning shared leave.

38 (13) Agencies shall investigate any alleged abuse of the child  
39 care in-state service shared leave pool and on a finding of  
40 wrongdoing, the employee may be required to repay all of the shared

1 leave received from the child care in-state service shared leave  
2 pool.

3 (14) Higher education institutions shall adopt policies  
4 consistent with the needs of the employees under their respective  
5 jurisdictions.

6 NEW SECTION. **Sec. 5.** A new section is added to chapter 41.05  
7 RCW to read as follows:

8 (1) The authority shall establish a pilot project under which a  
9 state agency will provide matching contributions to its employees'  
10 dependent care assistance program accounts.

11 (2) The authority shall submit a draft implementation plan for  
12 the pilot project to the appropriate committees of the legislature by  
13 November 1, 2019. The pilot project will begin on January 1, 2020,  
14 and conclude on January 1, 2021. The authority shall adopt rules to  
15 implement the pilot project.

16 (3) The authority shall select three to five state agencies to  
17 participate in the pilot project, subject to the following  
18 restrictions:

19 (a) At least one agency must have a minimum of three thousand  
20 employees;

21 (b) At least one agency must have a minimum of five hundred and a  
22 maximum of one thousand employees; and

23 (c) At least one agency must have a minimum of thirty-five and a  
24 maximum of one hundred employees.

25 (4) All employees of the participating agencies who are eligible  
26 to participate in the dependent care assistance program are eligible  
27 to participate in the pilot project.

28 (5) Under the pilot project, when an employee contributes part of  
29 his or her salary to a dependent care assistance program under this  
30 chapter, the state agency employer shall contribute funds to the  
31 employee's dependent care assistance program account in an amount  
32 equal to the employee's contribution. However, the agency's  
33 contribution to each employee may not exceed two thousand five  
34 hundred dollars per taxable year.

35 (6) The agency's contribution to the dependent care assistance  
36 program is subject to the rules regarding salary reduction plans  
37 under this chapter in the same manner as if it was provided by the  
38 employee.



1 (7) By June 30, 2021, and in compliance with RCW 43.01.036, the  
2 authority shall submit a full report on the pilot project to the  
3 appropriate committees of the legislature and to the governor that  
4 includes the following:

5 (a) The total number of employees participating;

6 (b) The total financial impact to the participating agencies;

7 (c) A discussion of successes and challenges that the agencies  
8 experienced when implementing the project;

9 (d) Individual testimonials about the project from participating  
10 employees; and

11 (e) Recommendations for modifying or expanding the availability  
12 of employer contributions to the dependent child assistance program.

13 (8) This section expires July 1, 2021.

14 NEW SECTION. **Sec. 6.** If specific funding for the purposes of  
15 section 5 of this act, referencing section 5 of this act by bill or  
16 chapter number and section number, is not provided by June 30, 2019,  
17 in the omnibus appropriations act, section 5 of this act is null and  
18 void.

19 NEW SECTION. **Sec. 7.** (1) The department of commerce, within  
20 existing resources, and in partnership with the office of financial  
21 management, the department of enterprise services, the department of  
22 children, youth, and families, and the health care authority, shall  
23 develop a survey for state employees in order to better understand  
24 issues affecting child care access and affordability for their  
25 families.

26 (2) The survey must, at a minimum:

27 (a) Identify the number of children age twelve and under of state  
28 employees who are receiving care from child care and early learning  
29 providers. The survey must allow employees to differentiate, to the  
30 extent possible, the type of child care or early learning provider  
31 serving the family, including:

32 (i) Licensed and certified child care centers and family homes;

33 (ii) License-exempt providers who care for children for four  
34 hours or less per day;

35 (iii) Family, friend, and neighbor caregivers;

36 (iv) Nannies and au pairs;

37 (v) Religious organizations providing care;

38 (vi) Entities providing before-and-after school care;

- 1 (vii) Employer-supported child care; and  
2 (viii) Other formal and informal networks of care;  
3 (b) Identify the number of children age twelve and under whose  
4 care is paid for in whole or in part with state subsidies;  
5 (c) Allow employees to describe challenges they face in accessing  
6 or paying for child care;  
7 (d) Allow employees to describe whether, and if so how, these  
8 challenges affect their labor participation, workplace productivity,  
9 and household earnings; and  
10 (e) Ask employees to provide their total annual household income.  
11 (3) The survey must be made available to all state employees with  
12 children age twelve and under no later than September 1, 2019.  
13 Responses shall be collected through September 30, 2019.  
14 (4) By November 1, 2019, and in compliance with RCW 43.01.036,  
15 the department of commerce shall submit a report to the appropriate  
16 committees of the legislature detailing the results of the survey.  
17 The report must include:  
18 (a) A breakdown of:  
19 (i) The number of children receiving care based on provider type;  
20 (ii) The number of children receiving state subsidized care; and  
21 (iii) The number of children receiving exclusively private pay  
22 care;  
23 (b) An analysis of the relationship between family child care  
24 choices and household income bracket;  
25 (c) A narrative summary of the challenges that employees face in  
26 accessing or paying for child care; and  
27 (d) A narrative summary of the ways in which these challenges  
28 affect the labor participation, workplace productivity, and household  
29 earnings of state employees.  
30 (5) This section expires January 1, 2020.

31 NEW SECTION. **Sec. 8.** This act may be known and cited as the  
32 Washington CARES act.

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