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**ENGROSSED SUBSTITUTE HOUSE BILL 1434**

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**State of Washington**

**65th Legislature**

**2017 Regular Session**

**By House State Government, Elections & Information Technology**  
(originally sponsored by Representatives Robinson, Ormsby, Jinkins,  
Appleton, Senn, Kilduff, Stanford, Slatter, Kagi, and Pollet; by  
request of Office of Financial Management)

READ FIRST TIME 02/09/17.

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 2016 c 177 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) A state of emergency has been declared anywhere within the  
4 United States by the federal or any state government and the employee  
5 has needed skills to assist in responding to the emergency or its  
6 aftermath and volunteers his or her services to either a governmental  
7 agency or to a nonprofit organization engaged in humanitarian relief  
8 in the devastated area, and the governmental agency or nonprofit  
9 organization accepts the employee's offer of volunteer services;  
10 ((~~or~~))

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

13     (v) The employee needs the time for parental leave; or

14     (vi) The employee is sick or temporarily disabled because of  
15 pregnancy disability;

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

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

22       (ii) Terminate state employment;

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

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

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

28       (ii) Annual leave and paid military leave allowed under RCW  
29 38.40.060 if he or she qualifies under (a)(ii) of this subsection;  
30 ((~~or~~))

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

33       (iv) Annual leave and sick leave reserves if the employee  
34 qualifies under (a)(v) or (vi) of this subsection. However, the  
35 employee is not required to deplete all of his or her annual leave  
36 and sick leave and can maintain up to forty hours of annual leave and  
37 forty hours of sick leave in reserve;

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

39       (i) Sick leave use if he or she qualifies under (a)(i) ((~~or~~))  
40 (iv), (v), or (vi) of this subsection; or

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

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

6       (2) The agency head shall determine the amount of leave, if any,  
7 which an employee may receive under this section. However, an  
8 employee shall not receive a total of more than five hundred twenty-  
9 two days of leave, except that, a supervisor may authorize leave in  
10 excess of five hundred twenty-two days in extraordinary circumstances  
11 for an employee qualifying for the shared leave program because he or  
12 she is suffering from an illness, injury, impairment, or physical or  
13 mental condition which is of an extraordinary or severe nature.  
14 Shared leave received under the uniformed service shared leave pool  
15 in RCW 41.04.685 is not included in this total.

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

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

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

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

38       (4) An employee of an institution of higher education under RCW  
39 28B.10.016, school district, or educational service district who does  
40 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  
8 who do not accrue annual leave. Under this subsection, "sick leave"  
9 also includes leave accrued pursuant to RCW 28A.400.300(1)(b) or  
10 28A.310.240(1) with compensation for illness, injury, and  
11 emergencies.

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

14 (6) Leave transferred under this section may be transferred from  
15 employees of one agency to an employee of the same agency or, with  
16 the approval of the heads of both agencies, to an employee of another  
17 state agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

33       (11) The director of financial management may adopt rules as  
34 necessary to implement subsection (2) of this section.

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

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