

**HB 2739** - S COMM AMD

By Committee on State Government, Tribal Relations & Elections

**NOT ADOPTED 03/06/2020**

1 Strike everything after the enacting clause and insert the  
2 following:

3 **"Sec. 1.** RCW 41.04.655 and 2018 c 39 s 2 are each amended to  
4 read 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  
22 immediately after the birth or placement. However, if the birth  
23 parent has a pregnancy disability, the parental leave will begin  
24 immediately after the pregnancy disability has resolved. When  
25 parental leave is used after a pregnancy disability has resolved, it  
26 must be used within the first year after birth.

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

29 (5) "Program" means the leave sharing program established in RCW  
30 41.04.660.

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

9 (7) "Sexual assault" has the same meaning as set forth in RCW  
10 70.125.030.

11 (8) "Stalking" has the same meaning as set forth in RCW  
12 9A.46.110.

13 (9) "State agency" or "agency" means departments, offices,  
14 agencies, or institutions of state government, the legislature,  
15 institutions of higher education, school districts, and educational  
16 service districts.

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

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

28 **Sec. 2.** RCW 41.04.665 and 2019 c 64 s 17 are each amended to  
29 read as follows:

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

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

35 (ii) The employee has been called to service in the uniformed  
36 services;

37 (iii) The employee is a current member of the uniformed services  
38 or is a veteran as defined under RCW 41.04.005, and is attending

1 medical appointments or treatments for a service connected injury or  
2 disability;

3 (iv) The employee is a spouse of a current member of the  
4 uniformed services or a veteran as defined under RCW 41.04.005, who  
5 is attending medical appointments or treatments for a service  
6 connected injury or disability and requires assistance while  
7 attending appointment or treatment;

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

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

17 (vii) The employee needs the time for parental leave; or

18 (viii) The employee is sick or temporarily disabled because of  
19 pregnancy disability;

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

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

26 (ii) Terminate state employment;

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

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

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

32 (ii) Annual leave and paid military leave allowed under RCW  
33 38.40.060 if he or she qualifies under (a) (ii) of this subsection;

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

36 (iv) Annual leave and sick leave reserves if the employee  
37 qualifies under (a) (vii) or (viii) of this subsection (~~(. However, the~~  
38 ~~employee is not required to deplete all of his or her annual leave~~  
39 ~~and sick leave and can maintain up to forty hours of annual leave and~~  
40 ~~forty hours of sick leave in reserve)); and~~

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

2 (i) Sick leave use if he or she qualifies under (a)(i), (vi),  
3 (vii), or (viii) of 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~~  
8 ~~qualifies under (a)(i) of this subsection)).~~

9 (2)(a) The agency head shall determine the amount of leave, if  
10 any, which an employee may receive under this section. However, the  
11 agency head may not prevent an employee from using shared leave  
12 intermittently or on nonconsecutive days so long as the leave has not  
13 been returned under subsection (10) of this section. In addition, an  
14 employee shall not receive a total of more than five hundred twenty-  
15 two days of leave, except that, a supervisor may authorize leave in  
16 excess of five hundred twenty-two days in extraordinary circumstances  
17 for an employee qualifying for the shared leave program because he or  
18 she is suffering from an illness, injury, impairment, or physical or  
19 mental condition which is of an extraordinary or severe nature.  
20 Shared leave received under the uniformed service shared leave pool  
21 in RCW 41.04.685 is not included in this total.

22 (b) An employee receiving industrial insurance wage replacement  
23 benefits may not receive greater than twenty-five percent of his or  
24 her base salary from the receipt of shared leave under this section.

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

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

31 (a) An employee who has an accrued annual leave balance of more  
32 than ten days may request that the head of the agency for which the  
33 employee works transfer a specified amount of annual leave to another  
34 employee authorized to receive leave under subsection (1) of this  
35 section. In no event may the employee request a transfer of an amount  
36 of leave that would result in his or her annual leave account going  
37 below ten days. For purposes of this subsection (4)(a), annual leave  
38 does not accrue if the employee receives compensation in lieu of  
39 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 (13) For the purposes of this section "shortly deplete" means  
10 that the employee will have forty hours or less of the applicable  
11 leave type under subsection (1)(d) of this section. However, the  
12 employee is not required to deplete all of the employee's leave and  
13 can maintain up to forty hours of the applicable leave in reserve."

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14 On page 1, line 2 of the title, after "program;", strike the  
15 remainder of the title and insert "and amending RCW 41.04.655 and  
16 41.04.665."

EFFECT: (1) Modifies the definition of "parental leave" for  
purposes of the shared leave program.

(2) Defines "shortly deplete" for the purposes of qualifying for  
the state shared leave program, allowing an employee to maintain up  
to 40 hours of the applicable leave in reserve and still be eligible  
for shared leave.

(3) Removes the requirement that an employee pursue and be found  
ineligible for industrial insurance wage benefits for shared leave  
eligibility.

(4) Limits the amount of shared leave that an employee may  
receive when also receiving industrial insurance wage replacement  
benefits to twenty-five percent of base salary.

(5) Corrects the title.

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