

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2739

66th Legislature
2020 Regular Session

Passed by the House March 10, 2020
Yeas 97 Nays 0

**Speaker of the House of
Representatives**

Passed by the Senate March 10, 2020
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2739** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 2739

AS AMENDED BY THE SENATE

Passed Legislature - 2020 Regular Session

State of Washington **66th Legislature** **2020 Regular Session**

By Representatives Kloba, Stonier, Appleton, Davis, and Duerr

Read first time 01/20/20. Referred to Committee on State Government & Tribal Relations.

1 AN ACT Relating to adjusting certain requirements of the shared
2 leave program; amending RCW 41.04.655 and 41.04.665; adding a new
3 section to chapter 41.04 RCW; and declaring an emergency.

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

5 **Sec. 1.** RCW 41.04.655 and 2018 c 39 s 2 are each amended to read
6 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
14 by another family or household member; or (c) stalking as defined in
15 RCW 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
18 employees of school districts and educational service districts, who
19 are entitled to accrue sick leave or annual leave and for whom
20 accurate leave records are maintained.

1 (3) "Parental leave" means leave to bond and care for a newborn
2 child after birth or to bond and care for a child after placement for
3 adoption or foster care(~~(, for a period of up to sixteen weeks after~~
4 ~~the birth or placement)~~).

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

7 (5) "Program" means the leave sharing program established in RCW
8 41.04.660.

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

17 (7) "Sexual assault" has the same meaning as set forth in RCW
18 70.125.030.

19 (8) "Stalking" has the same meaning as set forth in RCW
20 9A.46.110.

21 (9) "State agency" or "agency" means departments, offices,
22 agencies, or institutions of state government, the legislature,
23 institutions of higher education, school districts, and educational
24 service districts.

25 (10) "Uniformed services" means the armed forces, the army
26 national guard, and the air national guard of any state, territory,
27 commonwealth, possession, or district when engaged in active duty for
28 training, inactive duty training, full-time national guard duty, or
29 state active duty, the commissioned corps of the public health
30 service, the coast guard, and any other category of persons
31 designated by the president of the United States in time of war or
32 national emergency.

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

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

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

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

4 (ii) The employee has been called to service in the uniformed
5 services;

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

10 (iv) The employee is a spouse of a current member of the
11 uniformed services or a veteran as defined under RCW 41.04.005, who
12 is attending medical appointments or treatments for a service
13 connected injury or disability and requires assistance while
14 attending appointment or treatment;

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

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

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

25 (viii) The employee is sick or temporarily disabled because of
26 pregnancy disability;

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

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

33 (ii) Terminate state employment;

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

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

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

39 (ii) Annual leave and paid military leave allowed under RCW
40 38.40.060 if he or she qualifies under (a) (ii) of this subsection;

1 (iii) Annual leave if he or she qualifies under (a) (v) or (vi)
2 of 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 and~~
6 ~~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), (vi),
10 (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)) (i) Until the expiration
16 of proclamation 20-05, issued February 29, 2020, by the governor and
17 declaring a state of emergency in the state of Washington, or any
18 amendment thereto, whichever is later, an agency head may permit an
19 employee to receive shared leave under this section if the employee,
20 or a relative or household member, is isolated or quarantined as
21 recommended, requested, or ordered by a public health official or
22 health care provider as a result of suspected or confirmed infection
23 with or exposure to the 2019 novel coronavirus (COVID-19). An agency
24 head may permit use of shared leave under this subsection (1) (f)
25 without considering the requirements of (a) through (e) of this
26 subsection.~~

27 (ii) The office of the governor must provide notice of the
28 expiration of proclamation 20-05, or any amendment thereto, whichever
29 is later, to the chief clerk of the house of representatives, the
30 secretary of the senate, the office of the code reviser, and others
31 as deemed appropriate by the office of the governor.

32 (2) (a) The agency head shall determine the amount of leave, if
33 any, which an employee may receive under this section. However, the
34 agency head may not prevent an employee from using shared leave
35 intermittently or on nonconsecutive days so long as the leave has not
36 been returned under subsection (10) of this section. In addition, an
37 employee shall not receive a total of more than five hundred twenty-
38 two days of leave, except that, a supervisor may authorize leave in
39 excess of five hundred twenty-two days in extraordinary circumstances
40 for an employee qualifying for the shared leave program because he or

1 she is suffering from an illness, injury, impairment, or physical or
2 mental condition which is of an extraordinary or severe nature.
3 Shared leave received under the uniformed service shared leave pool
4 in RCW 41.04.685 is not included in this total.

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

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 (13) For the purposes of this section, "shortly deplete" means
33 that the employee will have forty hours or less of the applicable
34 leave types under subsection (1)(d) of this section. However, the
35 employee is not required to deplete all of the employee's leave and
36 can maintain up to forty hours of the applicable leave types in
37 reserve.

38 NEW SECTION. Sec. 3. A new section is added to chapter 41.04
39 RCW to read as follows:

1 (1) Parental leave received under RCW 41.04.665 must be used
2 within the sixteen weeks immediately after birth or placement, except
3 as provided in subsection (2) of this section.

4 (2) If a person receiving parental leave also receives leave due
5 to a pregnancy disability, the parental leave may be taken in the
6 sixteen weeks immediately after the pregnancy disability leave.
7 However, parental leave may not be used more than one year after
8 birth.

9 NEW SECTION. **Sec. 4.** Section 2 of this act is necessary for the
10 immediate preservation of the public peace, health, or safety, or
11 support of the state government and its existing public institutions,
12 and takes effect immediately.

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