

# An Act

ENROLLED SENATE  
BILL NO. 1581

By: Floyd and Griffin of the  
Senate

and

Osborn (Leslie) and  
Dunnington of the House

An Act relating to state government; amending 74 O.S. 2011, Section 840-2.23, which relates to the state leave sharing program; requiring certain eligibility; requiring certain leave be transferable between state entities; requiring Office of Management and Enterprise Services to designate employee as shared leave liaison; authorizing certain employees to contact liaison; specifying duties of liaison; creating a Leave of Last Resort Bank; specifying circumstances in which bank may be accessed; requiring Office to administer bank; specifying funding of bank; authorizing Office to promulgate rules; and providing an effective date.

SUBJECT: State leave sharing program

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 74 O.S. 2011, Section 840-2.23, is amended to read as follows:

Section 840-2.23. A. There is hereby created the state leave sharing program. The purpose of the state leave sharing program is to permit state employees to donate annual or sick leave to a fellow

state employee who has exhausted, or will exhaust, all types of paid leave and:

1. Who is eligible for and requires family leave pursuant to the provisions of the Family and ~~Leave~~ Medical Leave Act of 1993, 29 U.S.C., 2601 et seq.; or

2. Who is suffering from or has a relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition which has caused or is likely to cause the employee to take leave without pay or terminate employment;

3. Immediately after the death of a relative or household member, provided that the total leave received for this purpose shall not exceed five (5) days in any calendar year; or

4. Who is affected by a presidentially declared national disaster in Oklahoma after May 1, 1999, for a period of eighteen (18) months after the date of the presidentially declared national disaster if:

- a. the employee suffered a physical injury as a result of the disaster,
- b. the spouse, relative, or household member of the employee suffered a physical injury or died as a result of the disaster, or
- c. the domicile of the employee or the home of a relative of the employee was damaged or destroyed as a result of the disaster.

B. As used in this section:

1. "Relative of the employee" shall be limited to the spouse, child, stepchild, grandchild, grandparent, stepparent, or parent of the employee;

2. "Household members" means those persons who reside in the same home, who have reciprocal duties to and do provide financial support for one another. This term shall include foster children

and legal wards even if they do not live in the household. The term does not include persons sharing the same general house, when the living style is primarily that of a dormitory or commune;

3. "Severe" or "extraordinary" means extreme or life-threatening;

4. "State employee" means a permanent classified employee or a regular unclassified employee with one (1) year or more continuous service with the state. The term "state employee" does not include classified employees in probationary status or unclassified employees on temporary or other limited term appointments, except that those employees are eligible to receive shared leave as provided in paragraph 4 of subsection A of this section and the leave with pay authorized by Section 840-2.23A of this title related to a presidentially declared national disaster; and

5. "Terminal" means likely to result in death within two (2) calendar years.

C. An employee may be eligible to receive shared leave pursuant to the following conditions:

1. The chief administrative officer of the employee determines that the employee meets the criteria described in this section; and

2. The employee has abided by state policies regarding the use of leave.

D. An employee may not donate annual or sick leave to an eligible employee without the permission of the chief administrative officer of the donating employee's agency.

E. An employee may donate annual or sick leave to another employee provided the donation does not cause the annual leave balance of the employee to fall below eighty (80) hours and provided the donation does not cause the sick leave balance of the employee to fall below eighty (80) hours.

F. Except as otherwise provided for in this subsection, the chief administrative officer of the employee shall determine the amount of donated leave an employee may receive and may authorize an

employee to use up to a maximum of two hundred sixty-one (261) days of donated leave during total state employment. If the employee is suffering from an illness which has been certified in writing by a licensed physician or health care practitioner as being terminal and the employee who either has reached or shall reach in the near future the maximum amount as set out in this subsection, the chief administrative officer of the employee may approve additional donated leave upon written request of the employee.

G. The chief administrative officer of the employee shall require the employee to submit, prior to approval or disapproval of shared leave pursuant to paragraph 1 of subsection A of this section, a medical certificate from a licensed physician or health care practitioner verifying the need for the leave and expected duration of the illness, injury, impairment, or physical or mental condition for which the leave is donated.

H. Donated annual or sick leave ~~is~~ shall be transferable between employees in different state entities ~~with the agreement of both chief administrative officers of the entities.~~ State entities shall allow employees to receive donated annual or sick leave from employees within their employing entity and different state entities; provided, that the employee shall first exhaust all available leave options within the state entity of the employee.

I. Donated annual or sick leave is transferable between employees on an hour-to-hour basis irrespective of the hourly wage of the donating or receiving employee.

J. Any donated leave may only be used by the recipient for the purposes specified in this section.

K. All forms of paid leave available for use by the recipient must be used prior to using donated leave.

L. Any donated leave not used by the recipient during each occurrence as determined by the chief administrative officer of the employee shall be returned to the donor. The donated leave remaining will be divided among the donors on a prorated basis based on the original donated value and returned at its original donor value and reinstated to the original leave balance of each donor.

M. All donated leave must be given voluntarily. No employee shall be coerced, threatened, intimidated, or financially induced into donating annual or sick leave for purposes of the leave sharing program.

N. Employees Except as provided by subsection P of this section, employees may not donate ~~excess~~ annual or sick leave that the donor would not be able to otherwise take.

O. The Human Capital Management Division of the Office of Management and Enterprise Services shall designate an employee to serve as the shared leave liaison. If a qualifying employee is unable to obtain the necessary number of donated leave hours from his or her employing entity, he or she may contact the shared leave liaison. The shared leave liaison shall have the following responsibilities:

1. To inform all state agencies of the requirements of this section;

2. To inform all state employees of the rights afforded under this section;

3. To ensure an employee requesting shared leave from other state entities meets the criteria set forth in this section;

4. To coordinate outreach efforts within the employing agency and to other state entities to obtain all necessary hours of shared leave for the employee;

5. To ensure an employee has exhausted all sources of shared leave both within his or her employing entity and other state entities before requesting leave from the Leave of Last Resort Bank; and

6. To coordinate leave requested from the Leave of Last Resort Bank.

P. There is hereby created a Leave of Last Resort Bank. In the event a qualifying employee is unable to secure shared leave from employees within his or her employing entity or within a different entity, an employee may request leave from the Leave of Last Resort

Bank. The Leave of Last Resort Bank shall be administered by the Human Capital Management Division of the Office of Management and Enterprise Services.

1. The Leave of Last Resort Bank shall be funded by voluntary donations of annual and sick leave from employees retiring from or leaving state service.

2. Upon retirement or the final day of state service, an employee shall elect, in writing, whether any of his or her annual or sick leave shall be deposited into the Leave of Last Resort Bank.

Q. The Office of Management and Enterprise Services shall promulgate rules and regulations as necessary to carry out the provisions of this section.

SECTION 2. This act shall become effective November 1, 2018.

Passed the Senate the 26th day of April, 2018.

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Presiding Officer of the Senate

Passed the House of Representatives the 24th day of April, 2018.

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Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_