

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL 121

By: Kirt

4
5 AS INTRODUCED

6 An Act relating to state government; amending 74 O.S.
7 2011, Section 840-2.23, as amended by Section 1,
8 Chapter 217, O.S.L. 2018 (74 O.S. Supp. 2018, Section
9 840-2.23), which relates to rights and benefits;
10 modifying definitions; and providing an effective
11 date.

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

13 SECTION 1. AMENDATORY 74 O.S. 2011, Section 840-2.23, as
14 amended by Section 1, Chapter 217, O.S.L. 2018 (74 O.S. Supp. 2018,
15 Section 840-2.23), is amended to read as follows:

16 Section 840-2.23. A. There is hereby created the state leave
17 sharing program. The purpose of the state leave sharing program is
18 to permit state employees to donate annual or sick leave to a fellow
19 state employee who has exhausted, or will exhaust, all types of paid
20 leave and:

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

24 2. Who is suffering from or has a relative or household member
25 suffering from an extraordinary or severe illness, injury,
26 impairment, or physical or mental condition which has caused or is

1 likely to cause the employee to take leave without pay or terminate
2 employment;

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

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

10 a. the employee suffered a physical injury as a result of
11 the disaster,

12 b. the spouse, relative, or household member of the
13 employee suffered a physical injury or died as a
14 result of the disaster, or

15 c. the domicile of the employee or the home of a relative
16 of the employee was damaged or destroyed as a result
17 of the disaster.

18 B. As used in this section:

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

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

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

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

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

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

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

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

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

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

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

9 F. Except as otherwise provided for in this subsection, the
10 chief administrative officer of the employee shall determine the
11 amount of donated leave an employee may receive and may authorize an
12 employee to use up to a maximum of two hundred sixty-one (261) days
13 of donated leave during total state employment. If the employee is
14 suffering from an illness which has been certified in writing by a
15 licensed physician or health care practitioner as being terminal and
16 the employee who either has reached or shall reach in the near
17 future the maximum amount as set out in this subsection, the chief
18 administrative officer of the employee may approve additional
19 donated leave upon written request of the employee.

20 G. The chief administrative officer of the employee shall
21 require the employee to submit, prior to approval or disapproval of
22 shared leave pursuant to paragraph 1 of subsection A of this
23 section, a medical certificate from a licensed physician or health
24 care practitioner verifying the need for the leave and expected

1 duration of the illness, injury, impairment, or physical or mental
2 condition for which the leave is donated.

3 H. Donated annual or sick leave shall be transferable between
4 employees in different state entities. State entities shall allow
5 employees to receive donated annual or sick leave from employees
6 within their employing entity and different state entities;
7 provided, that the employee shall first exhaust all available leave
8 options within the state entity of the employee.

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

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

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

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

22 M. All donated leave must be given voluntarily. No employee
23 shall be coerced, threatened, intimidated, or financially induced
24

1 into donating annual or sick leave for purposes of the leave sharing
2 program.

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

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

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

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

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

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

22 5. To ensure an employee has exhausted all sources of shared
23 leave both within his or her employing entity and other state
24

1 entities before requesting leave from the Leave of Last Resort Bank;
2 and

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

5 P. There is hereby created a Leave of Last Resort Bank. In the
6 event a qualifying employee is unable to secure shared leave from
7 employees within his or her employing entity or within a different
8 entity, an employee may request leave from the Leave of Last Resort
9 Bank. The Leave of Last Resort Bank shall be administered by the
10 Human Capital Management Division of the Office of Management and
11 Enterprise Services.

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

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

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

21 SECTION 2. This act shall become effective November 1, 2019.

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