

An Act

ENROLLED SENATE
BILL NO. 809

By: Weaver of the Senate

and

Ford and Manger of the
House

An Act relating to law enforcement officers; amending 74 O.S. 2011, Section 150.23, as last amended by Section 1, Chapter 15, O.S.L. 2019 (74 O.S. Supp. 2020, Section 150.23), which relates to custody and possession of sidearms and badges upon retirement or death; modifying inclusions; amending 74 O.S. 2011, Sections 840-2.15, as amended by Section 1 of Enrolled Senate Bill No. 333 of the 1st Session of the 58th Oklahoma Legislature, and 840-2.20, as last amended by Section 1 of Enrolled Senate Bill No. 282 of the 1st Session of the 58th Oklahoma Legislature, which relate to the Oklahoma Personnel Act; modifying provisions related to certain leave accruals based on emergency conditions; providing an effective date; and declaring an emergency.

SUBJECT: Permitting continued custody and possession of sidearm and badge for certain law enforcement officers upon retirement and authorizing carryover of certain leave and compensatory time

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

SECTION 1. AMENDATORY 74 O.S. 2011, Section 150.23, as last amended by Section 1, Chapter 15, O.S.L. 2019 (74 O.S. Supp. 2020, Section 150.23), is amended to read as follows:

Section 150.23 A. An officer, investigator, or agent of the Oklahoma State Bureau of Investigation, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Wildlife Conservation, the Law Enforcement Division of the Oklahoma Horse Racing Commission, the State Fire Marshal's Office, the Oklahoma Tourism and Recreation Department, the Office of Inspector General and the Oklahoma Child Support Services divisions of the Department of Human Services, a Probation and Parole officer or Internal Affairs agent of the Department of Corrections, law enforcement officers employed by the Grand River Dam Authority, a campus police officer, as defined in Section 360.16 of this title, or the office of a district attorney shall be entitled to receive, upon retirement by reason of length of service, the continued custody and possession of the sidearm and badge carried by such officer, investigator, or agent immediately prior to retirement.

B. An officer, investigator, or agent specified in subsection A of this section may be entitled to receive, upon retirement by reason of disability, the continued custody and possession of the sidearm and badge carried by such officer or agent immediately prior to retirement upon written approval of the applicable Director of the appropriate Bureau, Department, Commission, or district attorney.

C. Custody and possession of the sidearm and badge of an officer, investigator, or agent who dies while employed by any Bureau, Department, Commission, or office specified in subsection A of this section may be awarded by the applicable Director of the appropriate Bureau, Department, Commission, or office to the spouse or next of kin of the deceased officer, investigator, or agent.

D. A correctional officer or a peace officer of the Department of Corrections shall be entitled to receive, upon retirement by reason of length of service, the continued custody and possession of the firearm and badge carried by such officer immediately prior to retirement.

E. In addition to the firearm carried by a correctional officer or a peace officer of the Department of Corrections, the retired correctional officer or peace officer may purchase the rifle or shotgun, or both, issued to the correctional officer or peace officer immediately prior to retirement. The cost to the retired

officer of purchasing the rifle or shotgun, or both, shall be the price the Department of Corrections paid at the time of purchase, and upon payment of that price, the retired correctional officer or peace officer shall be entitled to ownership of the rifle or shotgun, or both.

F. In addition to the sidearm carried by a retired agent of the Oklahoma State Bureau of Investigation, the retired agent may purchase the rifle or shotgun, or both, issued to the retired agent immediately prior to retirement. The cost to the retired agent of purchasing the rifle or shotgun, or both, shall be the price the Oklahoma State Bureau of Investigation paid at the time of purchase, and upon payment of that price, the retired agent shall be entitled to ownership of the rifle or shotgun, or both.

SECTION 2. AMENDATORY 74 O.S. 2011, Section 840-2.15, as amended by Section 1 of Enrolled Senate Bill No. 333 of the 1st Session of the 58th Oklahoma Legislature, is amended to read as follows:

Section 840-2.15. A. The federal Fair Labor Standards Act, 29 U.S.C., Section 201, et seq., provides for minimum standards for overtime entitlement, and spells out administrative procedures by which covered work time must be compensated. This section is not a comprehensive listing of the provisions of the Fair Labor Standards Act and regulations promulgated thereunder, and is not intended to conflict with either the Act or the regulations. No agency, board, commission, department, institution, bureau, executive officer or other entity of the executive branch shall exceed the minimum overtime entitlement provisions of the Fair Labor Standards Act and regulations promulgated thereunder except as herein provided.

B. Nothing in this title or the federal Fair Labor Standards Act shall be construed to prohibit an employer from paying an employee who is required to work on a holiday, as defined in Section 82.1 of Title 25 of the Oklahoma Statutes, for such work at a rate of two times the employee's regular hourly rate, or from rescheduling the holiday at the discretion of the appointing authority; provided, however, any state employee who is required to work on a holiday, as defined in Section 82.1 of Title 25 of the Oklahoma Statutes, in the performance of fire suppression duties

shall receive holiday pay at a rate of two times the employee's regular hourly rate.

C. Any employee receiving compensatory time consistent with the provisions of the federal Fair Labor Standards Act shall exhaust such compensatory time prior to the taking of annual leave, except where the employee is subject to losing such annual leave due to the application of the accumulation limits in Section 840-2.20 of this title.

D. An employee receiving compensatory time under the provisions of subsection A of this section shall be permitted to use accrued compensatory time within one hundred eighty (180) days, except as provided in subsection E of this section, following the day on which it was accrued, provided the taking of compensatory time does not unduly impact agency operations or the health, safety or welfare of the public, or endanger public property. ~~Agencies shall not be allowed to extend this one-hundred-eighty-day time period for employees in an institutional setting.~~ The balance of any unused compensatory time received but not taken during this time period, if payable, shall be paid to the employee at the employee's current regular hourly rate.

E. Following an emergency declaration as described in Section 683.8 of Title 63 of the Oklahoma Statutes, the accumulation limits for compensatory time shall temporarily increase and shall carryover to the end of the fiscal year following the year in which the emergency declaration ended.

All compensatory time that accrued or expired during the period of the emergency declarations issued by the Governor in 2020 and 2021 in response to the novel coronavirus (COVID-19) shall carry over to the end of the fiscal year following the year in which the emergency declaration ended. Expired compensatory time governed by this subsection shall be reinstated as of the effective date of this act, and accumulation limits for compensatory time shall not apply to amounts accrued or reinstated pursuant to this subsection. Eligibility for reinstatement of compensatory time is limited to employees currently employed by the State of Oklahoma on the effective date of this act.

~~F. As used in this section, "institutional setting" shall mean any agency or part of any agency where twenty four hour care, monitoring or supervision is required for patients, clients or inmates to protect public health, safety or property.~~

SECTION 3. AMENDATORY 74 O.S. 2011, Section 840-2.20, as last amended by Section 1 of Enrolled Senate Bill No. 282 of the 1st Session of the 58th Oklahoma Legislature, is amended to read as follows:

Section 840-2.20. A. The Director of the Office of Management and Enterprise Services shall promulgate such emergency and permanent rules regarding leave and holiday leave as are necessary to assist the state and its agencies.

The Director of the Office of Management and Enterprise Services, in adopting new rules, amending rules and repealing rules, shall ensure that the following provisions are incorporated:

1. Eligible employees who enter on duty or who are reinstated after a break in service shall receive leave benefits in accordance with the schedule outlined below. Leave shall be accrued based upon hours worked, paid leave, and holidays, but excluding overtime, not to exceed the total possible work hours for the pay period. Years of service shall be based on cumulative periods of employment calculated in the manner that cumulative service is determined for longevity purposes pursuant to Section 840-2.18 of this title. Employees may accumulate more than the maximum annual leave accumulation limits shown in the schedule below provided that such excess is used during the same calendar year in which it accrues or within twelve (12) months of the date on which it accrues, at the discretion of the appointing authority. If an employee whose job duties include providing fire protection services, law enforcement services or services with the Department of Corrections is unable to use excess leave as provided for in this paragraph because the employee's request for leave is denied by the employee's appointing authority and the denial of leave is due to extraordinary circumstances such that taking leave could pose a threat to public safety, health or welfare, the employee shall receive compensation at the employee's regular rate of pay for the amount of excess leave the employee is unable to use. Such compensation shall be paid at

the end of the time period during which the excess leave was required to have been used;

2. From November 1, 2001, the following accrual rates and accumulation limits apply to eligible employees as follows:

	ACCRUAL RATES		ACCUMULATION
			LIMITS
Cumulative			
Years of	Annual	Sick	Annual
Service	Leave	Leave	Leave
Persons employed 0-5 yrs	= 15 day/yr	15 days/yr	30 days
5-10 yrs	= 18 day/yr	15 days/yr	60 days
10-20 yrs	= 20 day/yr	15 days/yr	60 days
over 20 yrs	= 25 day/yr	15 days/yr	60 days

Following an emergency declaration as described in Section 683.8 of Title 63 of the Oklahoma Statutes, the accumulation limits for annual leave shall temporarily increase and shall carryover to the end of the fiscal year following the year in which the emergency declaration ended.

All annual leave that accrued or expired during the period of the emergency declarations issued by the Governor in 2020 and 2021 in response to the novel coronavirus (COVID-19) shall carry over to the end of the fiscal year following the year in which the emergency declaration ended regardless of regulatory provisions that establish a maximum amount of annual leave that may be accumulated by an employee of the State of Oklahoma. Expired annual leave governed by this subsection shall be reinstated as of the effective date of this act, and accumulation limits for annual leave shall not apply to amounts accrued or reinstated pursuant to this subsection. Eligibility for reinstatement of annual leave is limited to

employees currently employed by the State of Oklahoma on the effective date of this act;

3. Temporary employees and other limited term employees are ineligible to accrue, use, or be paid for sick leave and annual leave. Such employees shall be eligible for paid holiday leave at the discretion of the appointing authority;

4. Employees Except as provided in paragraph 2 of this subsection, employees shall not be entitled to retroactive accumulation of leave as a result of amendments to this section;

5. The Director of the Office of Management and Enterprise Services and the Executive Director of the Oklahoma Merit Protection Commission shall cooperate to assist agencies in developing policies to prevent violence in state government workplaces without abridging the rights of state employees. Such policy shall include a paid administrative leave provision as a cooling-off period which the Director of the Office of Management and Enterprise Services is authorized to provide pursuant to the Administrative Procedures Act. Such leave shall not be charged to annual or sick leave accumulations;

6. State employees who terminated their employment in the state service on or after October 1, 1992, may be eligible to have sick leave accrued at the time of termination of employment restored if they return to state employment provided that the state employees' enter-on-duty dates for reemployment occur on or before two (2) years after their termination of employment and they are eligible to accrue sick leave before the two (2) years expire;

7. Employees who are volunteer firefighters pursuant to the Oklahoma Volunteer Firefighters Act and who are called to fight a fire shall not have to use any accrued leave or need to make up any time due to the performance of their volunteer firefighter duties;

8. Employees who are reserve municipal police officers pursuant to Section 34-101 of Title 11 of the Oklahoma Statutes and who miss work in performing their duties in cases of emergency shall not have to use any accrued leave or need to make up any time due to the performance of their reserve municipal police officer duties; and

9. Employees who are reserve deputy sheriffs pursuant to Section 547 of Title 19 of the Oklahoma Statutes and who miss work in performing their duties in case of emergency shall not have to use any accrued leave or need to make up any time due to the performance of their reserve deputy sheriff duties.

B. Nothing in the Oklahoma Personnel Act is intended to prevent or discourage an appointing authority from disciplining or terminating an employee due to abuse of leave benefits or absenteeism. Appointing authorities are encouraged to consider attendance of employees in making decisions regarding promotions, pay increases, and discipline.

C. Upon the transfer of a function in state government to an entity outside state government, employees may, with the agreement of the outside entity, waive any payment for leave accumulations to which the employee is entitled and authorize the transfer of the leave accumulations or a portion thereof to the outside entity.

SECTION 4. Section 1 of this act shall become effective November 1, 2021.

SECTION 5. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 3rd day of May, 2021.

Presiding Officer of the Senate

Passed the House of Representatives the 21st day of April, 2021.

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: _____