

RCW [41.04.650](#)

Leave sharing program—Findings—Intent.

The legislature finds that: (1) State employees historically have joined together to help their fellow employees who suffer from, or have relatives or household members suffering from, an extraordinary or severe illness, injury, impairment, or physical or mental condition which prevents the individual from working and causes great economic and emotional distress to the employee and his or her family; (2) state employees have also joined together to help their fellow employees who are sick or temporarily disabled because of pregnancy disability or for the purpose of parental leave to bond with the employee's newborn, adoptive, or foster child; and (3) these circumstances may be exacerbated because the affected employees use all their accrued sick leave and annual leave and are forced to take leave without pay or terminate their employment. Therefore, the legislature intends to provide for the establishment of a leave sharing program.

[[2018 c 39 § 1](#); [1989 c 93 § 1](#).]

NOTES:

Effective date—2018 c 39: "This act takes effect July 1, 2018." [[2018 c 39 § 5](#).]

Severability—1989 c 93: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [[1989 c 93 § 8](#).]

RCW [41.04.655](#)

Leave sharing program—Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW [41.04.650](#) through [41.04.670](#), [28A.400.380](#), and section 7, chapter 93, Laws of 1989.

(1) "Domestic violence" means: (a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault, between family or household members as defined in RCW [26.50.010](#); (b) sexual assault of one family or household member by another family or household member; or (c) stalking as defined in RCW [9A.46.110](#) of one family or household member by another family or household member.

(2) "Employee" means any employee of the state, including employees of school districts and educational service districts, who are entitled to accrue sick leave or annual leave and for whom accurate leave records are maintained.

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

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

(5) "Program" means the leave sharing program established in RCW [41.04.660](#).

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

(7) "Sexual assault" has the same meaning as set forth in RCW [70.125.030](#).

(8) "Stalking" has the same meaning as set forth in RCW [9A.46.110](#).

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

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

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

[[2018 c 39 § 2](#); [2008 c 36 § 1](#); [2003 1st sp.s. c 12 § 1](#); [1990 c 33 § 569](#); [1989 c 93 § 2](#).]

NOTES:

Effective date—2018 c 39: See note following RCW [41.04.650](#).

Effective date—2008 c 36: "This act takes effect October 1, 2008." [[2008 c 36 § 4](#).]

Effective date—2003 1st sp.s. c 12: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [June 20, 2003]." [[2003 1st sp.s. c 12 § 4](#).]

Purpose—Statutory references—Severability—1990 c 33: See RCW [28A.900.100](#) through [28A.900.102](#).

Severability—1989 c 93: See note following RCW [41.04.650](#).

RCW [41.04.660](#)

Leave sharing program—Created.

The Washington state leave sharing program is hereby created. The purpose of the program is to permit state employees, at no significantly increased cost to the state of providing annual leave, sick leave, or personal holidays, to come to the aid of a fellow state employee 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; a fellow state employee who is a victim of domestic violence, sexual assault,

or stalking; a fellow state employee who is sick or temporarily disabled because of pregnancy disability or for the purpose of parental leave; or a fellow state employee who has been called to service in the uniformed services, which has caused or is likely to cause the employee to take leave without pay or terminate his or her employment.

[[2018 c 39 § 3](#); [2008 c 36 § 2](#); [2003 1st sp.s. c 12 § 2](#); [1996 c 176 § 2](#); [1990 c 23 § 1](#); [1989 c 93 § 3](#).]

NOTES:

Effective date—2018 c 39: See note following RCW [41.04.650](#).

Effective date—2008 c 36: See note following RCW [41.04.655](#).

Effective date—2003 1st sp.s. c 12: See note following RCW [41.04.655](#).

Severability—1989 c 93: See note following RCW [41.04.650](#).

CW [41.04.665](#)

Leave sharing program—When employee may receive leave—When employee may transfer accrued leave—Transfer of leave between employees of different agencies—Return of unused leave—Rules (as amended by 2017 c 173).

*** CHANGE IN 2019 *** (SEE 1091-S.SL) ***

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

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

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

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

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

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

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

(b) The illness, injury, impairment, condition, call to service, emergency volunteer service, or consequence of domestic violence, sexual assault, temporary layoff under

section 3(5), chapter 32, Laws of 2010 1st sp. sess., or stalking has caused, or is likely to cause, the employee to:

- (i) Go on leave without pay status; or
 - (ii) Terminate state employment;
 - (c) The employee's absence and the use of shared leave are justified;
 - (d) The employee has depleted or will shortly deplete his or her:
 - (i) Annual leave and sick leave reserves if he or she qualifies under (a)(i) of this subsection;
 - (ii) Annual leave and paid military leave allowed under RCW [38.40.060](#) if he or she qualifies under (a)(ii) of this subsection; or
 - (iii) Annual leave if he or she qualifies under (a)(~~(iii)~~)(v) or (~~(iv)~~)(vi) of this subsection;
 - (e) The employee has abided by agency rules regarding:
 - (i) Sick leave use if he or she qualifies under (a)(i) or (~~(iv)~~)(vi) of this subsection;
- or

- (ii) Military leave if he or she qualifies under (a)(ii) of this subsection; and
- (f) The employee has diligently pursued and been found to be ineligible for benefits under chapter [51.32](#) RCW if he or she qualifies under (a)(i) of this subsection.

(2) The agency head shall determine the amount of leave, if any, which an employee may receive under this section. However, an employee shall not receive a total of more than five hundred twenty-two days of leave, except that, a supervisor may authorize leave in excess of five hundred twenty-two days in extraordinary circumstances for an employee qualifying for the shared leave program because he or she is suffering from an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature. Shared leave received under the uniformed service shared leave pool in RCW [41.04.685](#) is not included in this total.

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

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

(a) An employee who has an accrued annual leave balance of more than ten days may request that the head of the agency for which the employee works transfer a specified amount of annual leave to another employee authorized to receive leave under subsection (1) of this section. In no event may the employee request a transfer of an amount of leave that would result in his or her annual leave account going below ten days. For purposes of this subsection (~~((3))~~)(4)(a), annual leave does not accrue if the employee receives compensation in lieu of accumulating a balance of annual leave.

(b) An employee may transfer a specified amount of sick leave to an employee requesting shared leave only when the donating employee retains a minimum of one hundred seventy-six hours of sick leave after the transfer.

(c) An employee may transfer, under the provisions of this section relating to the transfer of leave, all or part of his or her personal holiday, as that term is defined under RCW [1.16.050](#), or as such holidays are provided to employees by agreement with a school district's board of directors if the leave transferred under this subsection does not exceed the amount of time provided for personal holidays under RCW [1.16.050](#).

~~((4))~~(5) An employee of an institution of higher education under RCW 28B.10.016, school district, or educational service district who does not accrue annual leave but does accrue sick leave and who has an accrued sick leave balance of more than twenty-two days may request that the head of the agency for which the employee works transfer a specified amount of sick leave to another employee authorized to receive leave under subsection (1) of this section. In no event may such an employee request a transfer that would result in his or her sick leave account going below twenty-two days. Transfers of sick leave under this subsection are limited to transfers from employees who do not accrue annual leave. Under this subsection, "sick leave" also includes leave accrued pursuant to RCW 28A.400.300(1)(b) or 28A.310.240(1) with compensation for illness, injury, and emergencies.

~~((5))~~(6) Transfers of leave made by an agency head under subsections ~~((3) and)~~ (4) and (5) of this section shall not exceed the requested amount.

~~((6))~~(7) Leave transferred under this section may be transferred from employees of one agency to an employee of the same agency or, with the approval of the heads of both agencies, to an employee of another state agency.

~~((7))~~(8) While an employee is on leave transferred under this section, he or she shall continue to be classified as a state employee and shall receive the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued annual leave or sick leave.

(a) All salary and wage payments made to employees while on leave transferred under this section shall be made by the agency employing the person receiving the leave. The value of leave transferred shall be based upon the leave value of the person receiving the leave.

(b) In the case of leave transferred by an employee of one agency to an employee of another agency, the agencies involved shall arrange for the transfer of funds and credit for the appropriate value of leave.

(i) Pursuant to rules adopted by the office of financial management, funds shall not be transferred under this section if the transfer would violate any constitutional or statutory restrictions on the funds being transferred.

(ii) The office of financial management may adjust the appropriation authority of an agency receiving funds under this section only if and to the extent that the agency's existing appropriation authority would prevent it from expending the funds received.

(iii) Where any questions arise in the transfer of funds or the adjustment of appropriation authority, the director of financial management shall determine the appropriate transfer or adjustment.

~~((8))~~(9) Leave transferred under this section shall not be used in any calculation to determine an agency's allocation of full time equivalent staff positions.

~~((9))~~(10)(a) The value of any leave transferred under this section which remains unused shall be returned at its original value to the employee or employees who transferred the leave when the agency head finds that the leave is no longer needed or will not be needed at a future time in connection with the illness or injury for which the leave was transferred or for any other qualifying condition. Unused shared leave may not be returned until one of the following occurs:

(i) The agency head receives from the affected employee a statement from the employee's doctor verifying that the illness or injury is resolved; or

(ii) The employee is released to full-time employment; has not received additional medical treatment for his or her current condition or any other qualifying condition for at least six months; and the employee's doctor has declined, in writing, the employee's request for a statement indicating the employee's condition has been resolved.

(b) If a shared leave account is closed and an employee later has a need to use shared leave due to the same condition listed in the closed account, the agency head must approve a new shared leave request for the employee.

(c) To the extent administratively feasible, the value of unused leave which was transferred by more than one employee shall be returned on a pro rata basis.

~~((10))~~(11) An employee who uses leave that is transferred to him or her under this section may not be required to repay the value of the leave that he or she used.

~~((11))~~(12) The director of financial management may adopt rules as necessary to implement subsection (2) of this section.

[2017 c 173 § 1; 2016 c 177 § 1; 2015 3rd sp.s. c 1 § 312; 2011 1st sp.s. c 43 § 435. Prior: 2010 1st sp.s. c 32 § 10; 2010 c 168 § 1; 2008 c 36 § 3; prior: 2007 c 454 § 1; 2007 c 25 § 2; 2003 1st sp.s. c 12 § 3; 1999 c 25 § 1; 1996 c 176 § 1; 1990 c 23 § 2; 1989 c 93 § 4.]

RCW 41.04.665

Leave sharing program—When employee may receive leave—When employee may transfer accrued leave—Transfer of leave between employees of different agencies—Return of unused leave—Rules (as amended by 2018 c 39).

*** CHANGE IN 2019 *** (SEE 1091-S.SL) ***

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

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

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

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

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

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

(vi) The employee is sick or temporarily disabled because of pregnancy disability;

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

(i) Go on leave without pay status; or

(ii) Terminate state employment;

- (c) The employee's absence and the use of shared leave are justified;
 - (d) The employee has depleted or will shortly deplete his or her:
 - (i) Annual leave and sick leave reserves if he or she qualifies under (a)(i) of this subsection;
 - (ii) Annual leave and paid military leave allowed under RCW [38.40.060](#) if he or she qualifies under (a)(ii) of this subsection; ~~((or))~~
 - (iii) Annual leave if he or she qualifies under (a)(iii) or (iv) of this subsection; or
 - (iv) Annual leave and sick leave reserves if the employee qualifies under (a)(v) or (vi) of this subsection. However, the employee is not required to deplete all of his or her annual leave and sick leave and can maintain up to forty hours of annual leave and forty hours of sick leave in reserve;
 - (e) The employee has abided by agency rules regarding:
 - (i) Sick leave use if he or she qualifies under (a)(i) ~~((or))~~, (iv), (v), or (vi) of this subsection; or
 - (ii) Military leave if he or she qualifies under (a)(ii) of this subsection; and
 - (f) The employee has diligently pursued and been found to be ineligible for benefits under chapter [51.32](#) RCW if he or she qualifies under (a)(i) of this subsection.
- (2) The agency head shall determine the amount of leave, if any, which an employee may receive under this section. However, an employee shall not receive a total of more than five hundred twenty-two days of leave, except that, a supervisor may authorize leave in excess of five hundred twenty-two days in extraordinary circumstances for an employee qualifying for the shared leave program because he or she is suffering from an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature. Shared leave received under the uniformed service shared leave pool in RCW [41.04.685](#) is not included in this total.
- (3) An employee may transfer annual leave, sick leave, and his or her personal holiday, as follows:
- (a) An employee who has an accrued annual leave balance of more than ten days may request that the head of the agency for which the employee works transfer a specified amount of annual leave to another employee authorized to receive leave under subsection (1) of this section. In no event may the employee request a transfer of an amount of leave that would result in his or her annual leave account going below ten days. For purposes of this subsection (3)(a), annual leave does not accrue if the employee receives compensation in lieu of accumulating a balance of annual leave.
 - (b) An employee may transfer a specified amount of sick leave to an employee requesting shared leave only when the donating employee retains a minimum of one hundred seventy-six hours of sick leave after the transfer.
 - (c) An employee may transfer, under the provisions of this section relating to the transfer of leave, all or part of his or her personal holiday, as that term is defined under RCW [1.16.050](#), or as such holidays are provided to employees by agreement with a school district's board of directors if the leave transferred under this subsection does not exceed the amount of time provided for personal holidays under RCW [1.16.050](#).
 - (4) An employee of an institution of higher education under RCW [28B.10.016](#), school district, or educational service district who does not accrue annual leave but does accrue sick leave and who has an accrued sick leave balance of more than twenty-two days may request that the head of the agency for which the employee works

transfer a specified amount of sick leave to another employee authorized to receive leave under subsection (1) of this section. In no event may such an employee request a transfer that would result in his or her sick leave account going below twenty-two days. Transfers of sick leave under this subsection are limited to transfers from employees who do not accrue annual leave. Under this subsection, "sick leave" also includes leave accrued pursuant to RCW [28A.400.300](#)(1)(b) or [28A.310.240](#)(1) with compensation for illness, injury, and emergencies.

(5) Transfers of leave made by an agency head under subsections (3) and (4) of this section shall not exceed the requested amount.

(6) Leave transferred under this section may be transferred from employees of one agency to an employee of the same agency or, with the approval of the heads of both agencies, to an employee of another state agency.

(7) While an employee is on leave transferred under this section, he or she shall continue to be classified as a state employee and shall receive the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued annual leave or sick leave.

(a) All salary and wage payments made to employees while on leave transferred under this section shall be made by the agency employing the person receiving the leave. The value of leave transferred shall be based upon the leave value of the person receiving the leave.

(b) In the case of leave transferred by an employee of one agency to an employee of another agency, the agencies involved shall arrange for the transfer of funds and credit for the appropriate value of leave.

(i) Pursuant to rules adopted by the office of financial management, funds shall not be transferred under this section if the transfer would violate any constitutional or statutory restrictions on the funds being transferred.

(ii) The office of financial management may adjust the appropriation authority of an agency receiving funds under this section only if and to the extent that the agency's existing appropriation authority would prevent it from expending the funds received.

(iii) Where any questions arise in the transfer of funds or the adjustment of appropriation authority, the director of financial management shall determine the appropriate transfer or adjustment.

(8) Leave transferred under this section shall not be used in any calculation to determine an agency's allocation of full time equivalent staff positions.

(9)(a) The value of any leave transferred under this section which remains unused shall be returned at its original value to the employee or employees who transferred the leave when the agency head finds that the leave is no longer needed or will not be needed at a future time in connection with the illness or injury for which the leave was transferred or for any other qualifying condition. Unused shared leave may not be returned until one of the following occurs:

(i) The agency head receives from the affected employee a statement from the employee's doctor verifying that the illness or injury is resolved; or

(ii) The employee is released to full-time employment; has not received additional medical treatment for his or her current condition or any other qualifying condition for at least six months; and the employee's doctor has declined, in writing, the employee's request for a statement indicating the employee's condition has been resolved.

(b) If a shared leave account is closed and an employee later has a need to use shared leave due to the same condition listed in the closed account, the agency head must approve a new shared leave request for the employee.

(c) To the extent administratively feasible, the value of unused leave which was transferred by more than one employee shall be returned on a pro rata basis.

(10) An employee who uses leave that is transferred to him or her under this section may not be required to repay the value of the leave that he or she used.

(11) The director of financial management may adopt rules as necessary to implement subsection (2) of this section.

[[2018 c 39 § 4](#); [2016 c 177 § 1](#); [2015 3rd sp.s. c 1 § 312](#); [2011 1st sp.s. c 43 § 435](#). Prior: [2010 1st sp.s. c 32 § 10](#); [2010 c 168 § 1](#); [2008 c 36 § 3](#); prior: [2007 c 454 § 1](#); [2007 c 25 § 2](#); [2003 1st sp.s. c 12 § 3](#); [1999 c 25 § 1](#); [1996 c 176 § 1](#); [1990 c 23 § 2](#); [1989 c 93 § 4](#).]

NOTES:

Reviser's note: This section did not amend the most current version of the RCW. It was amended by [2018 c 39 § 4](#) without cognizance of its amendment by [2017 c 173 § 1](#).

Effective date—2018 c 39: See note following RCW [41.04.650](#).

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW [43.19.003](#).

Intent—Conflict with federal requirements—Effective date—2010 1st sp.s. c 32: See notes following RCW [42.04.060](#).

Effective date—2010 c 168: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 23, 2010]." [[2010 c 168 § 2](#).]

Effective date—2008 c 36: See note following RCW [41.04.655](#).

Severability—Effective date—2007 c 25: See notes following RCW [41.04.685](#).

Effective date—2003 1st sp.s. c 12: See note following RCW [41.04.655](#).

Severability—1989 c 93: See note following RCW [41.04.650](#).

RCW [41.04.670](#)

Leave sharing program—Adoption of rules.

The office of financial management and other personnel authorities shall each adopt rules applicable to employees under their respective jurisdictions: (1) Establishing appropriate parameters for the program which are consistent with the provisions of RCW [41.04.650](#) through [41.04.665](#); (2) providing for equivalent treatment of employees between their respective jurisdictions and allowing transfers of leave in accordance with RCW [41.04.665](#)(5); (3) establishing procedures to ensure that the program does not

significantly increase the cost of providing leave; and (4) providing for the administration of the program and providing for maintenance and collection of sufficient information on the program to allow a thorough legislative review.

[[2011 1st sp.s. c 43 § 436](#); [1993 c 281 § 18](#); [1990 c 23 § 3](#); [1989 c 93 § 5](#).]

NOTES:

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW [43.19.003](#).

Effective date—1993 c 281: See note following RCW [41.06.022](#).

Temporary policies—1989 c 93: "School districts, the department of personnel, the higher education personnel board, and other personnel authorities may adopt temporary emergency policies and procedures to implement the program on April 20, 1989, so that donated leave may be used in lieu of leave without pay taken after April 20, 1989." [[1989 c 93 § 7](#).]

Severability—1989 c 93: See note following RCW [41.04.650](#).