

1 State of Arkansas *As Engrossed: S2/2/17 S2/7/17*

2 91st General Assembly

A Bill

3 Regular Session, 2017

SENATE BILL 125

4

5 By: Senator Irvin

6 By: Representative Vaught

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For An Act To Be Entitled

9 *AN ACT TO AMEND PROVISIONS OF THE UNIFORM ATTENDANCE*
10 *AND LEAVE POLICY ACT; TO DECLARE AND EMERGENCY; AND*
11 *FOR OTHER PURPOSES.*

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Subtitle

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TO AMEND PROVISIONS OF THE UNIFORM
16 *ATTENDANCE AND LEAVE POLICY ACT; AND TO*
17 *DECLARE AND EMERGENCY.*

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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. Arkansas Code § 21-4-203(5), concerning definitions used
23 throughout the Uniform Attendance and Leave Policy Act, is amended to read as
24 follows:

25 (5) "Catastrophic leave bank" means a pool of accrued annual and
26 sick leave donated by employees;

27

28 SECTION 2. Arkansas Code § 21-4-203(9)-(13), concerning definitions
29 used throughout the Uniform Attendance and Leave Policy Act, is amended to
30 read as follows:

31 ~~(9) "Immediate family member" means:~~

32 ~~(A) An employee's father, mother, sister, brother,~~
33 ~~husband, wife, child, grandmother, grandfather, grandchild, in laws; and~~

34 ~~(B) An individual acting as parent or guardian of an~~
35 ~~employee;~~

36 ~~(10)~~(9) "Probationary employee" means a person certified from a



1 list of eligibles or employed through a work test appointment and serving a
2 probationary period;

3 ~~(11)~~(10) "Provisional employee" means a person who has been
4 appointed to fill a position pending the establishment of a register for such
5 position;

6 ~~(12) "Severe illness" means a medical condition of an employee
7 or an employee's immediate family member;~~

8 ~~(A) Which is catastrophic in nature;~~

9 ~~(B) Which could not be anticipated;~~

10 ~~(C) That requires continuous in patient or out patient
11 medical treatment; and~~

12 ~~(D) That causes an employee or the employee's immediate
13 family member to be absent from duty for a prolonged period of time;~~

14 ~~(13) "Shared leave" means the donation of an employee's earned
15 sick leave or earned annual leave to another employee who;~~

16 ~~(A) Is suffering from a severe illness;~~

17 ~~(B) Has an immediate family member suffering from a severe
18 illness; or~~

19 ~~(C) Has approved paternity leave or approved maternity
20 leave after;~~

21 ~~(i) The birth of a biological child;~~

22 ~~(ii) The placement of an adoptive child in the
23 adoptive home of the employee; or~~

24 ~~(iii) The placement of a foster child in the foster
25 home of the employee for an appropriate transition period that is in the best
26 interest of the foster child as determined by the Division of Children and
27 Family Services of the Department of Human Services;~~

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29 SECTION 3. Arkansas Code § 21-4-209 is amended to read as follows:

30 21-4-209. Maternity leave.

31 (a) Maternity leave shall be treated as any other leave for sickness
32 or disability. Accumulated sick leave and annual leave, if requested by the
33 employee, shall be granted for maternity use, after which leave without pay
34 may be used.

35 (b) Catastrophic leave under § 21-4-214 may be used for maternity
36 leave.

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SECTION 4. Arkansas Code § 21-4-214 is amended to read as follows:
21-4-214. Catastrophic leave program.

(a)(1) The Department of Finance and Administration shall have administrative responsibility for developing, implementing, and maintaining a the statewide catastrophic leave bank program.

(2)(A) ~~Each state agency approved by the department to participate in the catastrophic leave bank program may establish a catastrophic leave bank for its employees, or the state agency may~~ shall participate in a catastrophic leave bank to be administered by the Office of Personnel Management of the Division of Management Services of the Department of Finance and Administration.

(B) The following governmental entities may voluntarily participate in the catastrophic leave bank program or establish a catastrophic leave bank for its employees:

(i) The General Assembly;

(ii) The Bureau of Legislative Research;

(iii) Arkansas Legislative Audit;

(iv) The Arkansas State Highway and Transportation

Department;

(v) The Arkansas State Game and Fish Commission;

(vi) The Supreme Court;

(vii) The Court of Appeals;

(viii) The Administrative Office of the Courts;

(ix) A constitutional office; and

(x) Institutions of higher education.

(b) Accrued annual leave and sick leave of employees may be donated to a catastrophic leave bank.

(c) Catastrophic leave with pay may be granted to an employee when the employee is unable to perform his or her duties due to a catastrophic illness, including maternity purposes.

(d) An employee may be eligible for catastrophic leave when:

(1)(A) The employee has been employed by the state for more than ~~two (2) years~~ one (1) year or was previously employed by a public school district or state-supported institution of higher learning for more than two (2) years.

1 (B) A person who was employed by a public school district
2 or state-supported institution of higher learning for less than ~~two (2) years~~
3 one (1) year also is eligible for catastrophic leave if:

4 (i) The person's combined years of employment with
5 the state and with a public school district or state-supported institution of
6 higher learning totals more than ~~two (2) years~~ one (1) year; and

7 (ii) The lapse in the person's employment between
8 the state and a public school district or state-supported institution of
9 higher learning is less than six (6) months;

10 (2) Catastrophic leave for maternity purposes may be granted to
11 a female employee after:

12 (A) The birth of the employee's biological child; or

13 (B) The placement of an adoptive child in the home of the
14 employee.

15 ~~(2)(A)(3)(A)~~ At the onset of the illness or injury the employee
16 had to his or her credit at least eighty (80) hours of combined sick and
17 annual leave and has exhausted all such leave, unless the combined sick and
18 annual leave requirement is waived under subdivision (d)(2)(B) of this
19 section.

20 (B) A state agency director or a president of an
21 institution of higher education may waive the minimum eighty-hour requirement
22 for combined sick and annual leave if the agency director determines that the
23 employee warrants eligibility because of extraordinary circumstances under
24 the standards and guidelines promulgated under subdivision (f)(2) of this
25 section;

26 (C)(i) An employee on catastrophic leave for maternity
27 purposes is not required to exhaust sick or annual leave before being granted
28 catastrophic leave.

29 (ii) An employee on catastrophic leave for maternity purposes
30 does not accrue any leave.

31 ~~(3)(4)~~ An acceptable medical certificate from a physician
32 supporting the continued absence is on file; and

33 ~~(4)(5)~~ The employee has not been disciplined for any leave abuse
34 during the past ~~two (2) years~~ year from the time of application.

35 (e)(1) Up to four (4) consecutive weeks of catastrophic leave with
36 full pay may be granted to an employee for maternity purposes.

1 (2) The employee shall be eligible for the leave only within the
 2 first twelve (12) weeks after the birth or adoption of a child.

3 (3) After the expiration of the four (4) weeks of leave under
 4 subdivision (e)(1) of this section, maternity leave shall be treated as any
 5 other leave for sickness or disability under to § 21-4-209.

6 (4) Catastrophic leave for maternity purposes shall run
 7 concurrently with the Family Medical Leave Act of 1993, 29 U.S.C. 2601.

8 ~~(e)~~(f) If the illness or injury is that of an employee and is covered
 9 by workers' compensation, the compensation based on catastrophic leave when
 10 combined with the weekly workers' compensation benefit received by the
 11 employee shall not exceed the compensation being received by the employee at
 12 the onset of the illness or injury.

13 ~~(f)~~(g) The Director of the Department of Finance and Administration,
 14 or the director's designee, shall ~~promulgate rules and regulations~~ establish
 15 policies and procedures:

16 (1) As deemed necessary to carry out the provisions of this
 17 section; and

18 (2) To prescribe the standards and guidelines of the
 19 extraordinary circumstances that the state agency director or the president
 20 of an institution of higher education may use to waive the minimum
 21 requirement for combined sick and annual leave.

22
 23 SECTION 5. Arkansas Code § 21-4-217 is repealed.

24 ~~21-4-217. Shared leave—Definition.~~

25 ~~(a) As used in this section, "employee" means a person regularly~~
 26 ~~appointed or employed in a position of state service by a governmental entity~~
 27 ~~listed in subdivision (b)(1) of this section for which he or she is~~
 28 ~~compensated on a full-time basis.~~

29 ~~(b) An employee is eligible to obtain shared leave if the employee~~
 30 ~~has:~~

31 ~~(1) Been continuously employed for more than one (1) year by~~
 32 ~~the:~~

33 ~~(A) Same state agency;~~

34 ~~(B) General Assembly;~~

35 ~~(C) Bureau of Legislative Research;~~

36 ~~(D) Arkansas Legislative Audit; or~~

1 ~~(E) — Arkansas State Highway and Transportation Department;~~
2 ~~(2) — Applied in writing for shared leave; and~~
3 ~~(3) — Received written approval for shared leave from his or her~~
4 ~~employer.~~

5 ~~(c) — If shared leave is granted to an employee under this section, the~~
6 ~~employee shall use the shared leave after the employee uses the following:~~

- 7 ~~(1) — Earned sick leave;~~
8 ~~(2) — Earned annual leave; and~~
9 ~~(3) — Earned compensatory leave.~~

10 ~~(d)(1) — An employee is eligible as a donor of shared leave when the~~
11 ~~employee:~~

12 ~~(A) — Is employed by the same employer as the employee~~
13 ~~receiving shared leave;~~

14 ~~(B) — Has cumulative earned sick leave and earned annual~~
15 ~~leave in excess of eighty (80) hours; and~~

16 ~~(C) — Has not been disciplined by a governmental entity~~
17 ~~listed in subdivision (b)(1) of this section for an abuse of leave in the~~
18 ~~past two (2) calendar years.~~

19 ~~(2) — A donation of leave as shared leave must be approved in~~
20 ~~writing by the:~~

21 ~~(A) — Donating employee's employer; and~~

22 ~~(B)(i) — Chief Fiscal Officer of the State.~~

23 ~~(ii) — The Chief Fiscal Officer of the State shall~~
24 ~~determine whether the employer of the employee who would donate shared leave~~
25 ~~has sufficient funds in its budget to grant the shared leave.~~

26 ~~(3) — An employee donating shared leave may donate only the amount~~
27 ~~of earned sick leave or earned annual leave that will not cause the donating~~
28 ~~employee's cumulative earned sick leave and earned annual leave to be less~~
29 ~~than eighty (80) hours.~~

30 ~~(4) — An employee may receive a maximum of two thousand eighty~~
31 ~~(2,080) hours of combined shared leave and catastrophic leave in a calendar~~
32 ~~year.~~

33 ~~(e) — An employee who is granted shared leave shall provide his or her~~
34 ~~employer:~~

35 ~~(1) — An acceptable medical certificate from a healthcare provider~~
36 ~~documenting the severe illness or the birth of the employee's biological~~

1 ~~child that made the employee eligible for shared leave;~~

2 ~~(2) A final decree of adoption issued by a court of competent~~
3 ~~jurisdiction approving the adoption of a child by an employee; or~~

4 ~~(3) Documentation provided by the Division of Children and~~
5 ~~Family Services of the Department of Human Services approving the placement~~
6 ~~of a foster child in the foster home of the employee.~~

7 ~~(f) Shared leave that is donated to an employee and is not used by the~~
8 ~~employee shall be converted to the catastrophic leave program as described~~
9 ~~under § 21-4-214.~~

10 ~~(g) The Office of Personnel Management of the Division of Management~~
11 ~~Services of the Department of Finance and Administration shall establish~~
12 ~~procedures and guidelines to implement this section.~~

13
14 *SECTION 6. EMERGENCY CLAUSE. It is found and determined by the*
15 *General Assembly of the State of Arkansas that it is in the best interest of*
16 *the state to provide paid maternity leave to state employees; that this act*
17 *is necessary because it provides a state employee the option to participate*
18 *in a paid maternity leave program; and that this act is immediately necessary*
19 *so that current public employees may utilize the paid maternity leave program*
20 *as soon as possible. Therefore, an emergency is declared to exist, and this*
21 *act being immediately necessary for the preservation of the public peace,*
22 *health, and safety shall become effective on:*

23 *(1) The date of its approval by the Governor;*

24 *(2) If the bill is neither approved nor vetoed by the Governor,*
25 *the expiration of the period of time during which the Governor may veto the*
26 *bill; or*

27 *(3) If the bill is vetoed by the Governor and the veto is*
28 *overridden, the date the last house overrides the veto.*

29
30 /s/Irvin

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33 **APPROVED: 02/16/2017**