

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

As Engrossed: S3/1/21

# A Bill

SENATE BILL 380

5 By: Senators K. Hammer, *L. Chesterfield, D. Wallace*  
6 By: Representatives Wooten, *Rye*  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE UNIFORM ATTENDANCE AND LEAVE  
10 POLICY ACT; AMENDING ARKANSAS LAW CONCERNING ANNUAL  
11 LEAVE ACCRUED BY CRITICAL-NEED EMPLOYEES; REQUIRING  
12 THAT CERTAIN ANNUAL LEAVE ACCUMULATED IN EXCESS OF  
13 THE AMOUNT ALLOWED AT THE END OF A CALENDAR YEAR BE  
14 DEPOSITED INTO THE CATASTROPHIC LEAVE BANK; TO  
15 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.  
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## Subtitle

18 AN ACT TO AMEND THE UNIFORM ATTENDANCE  
19 AND LEAVE POLICY ACT; AND TO DECLARE AN  
20 EMERGENCY.  
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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26 SECTION 1. Arkansas Code § 21-4-203, concerning definitions applicable  
27 to the Uniform Attendance and Leave Policy Act, § 21-4-201 et seq., is  
28 amended to add an additional subdivision to read as follows:

29 (15)(A) "Critical-need employee" means a person employed by any  
30 of the following state agencies in a position or classification that is  
31 required to be staffed by the state agency twenty-four (24) hours a day and  
32 seven (7) days a week:

33 (i) The Department of Corrections;

34 (ii) The Department of Health;

35 (iii) The Department of Human Services;

36 (iv) The Division of Emergency Management;



- 1                   (v) The Division of Arkansas State Police;  
2                   (vi) The Department of Veterans Affairs; or  
3                   (vii) The Department of Agriculture.

4                   (B) A state agency shall:

5                   (i) Determine each position or classification that  
6 is required to be staffed twenty-four (24) hours a day and seven (7) days a  
7 week under subdivision (15)(A) of this section and submit the position or  
8 classification to the Office of Personnel Management for approval;

9                   (ii) Upon the approval of the Office of Personnel  
10 Management, notify an employee that he or she is a critical-need employee  
11 based upon his or her employment in a position or classification that is  
12 required to be staffed twenty-four (24) hours a day and seven (7) days a  
13 week; and

14                   (iii) Submit annual reports identifying each  
15 position or classification that must be staffed twenty-four (24) hours a day  
16 and seven (7) days a week to the Legislative Council or, if the General  
17 Assembly is in regular, fiscal, or extraordinary session, the Joint Budget  
18 Committee.

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20           SECTION 2. Arkansas Code § 21-4-204(e), concerning the accrual and use  
21 of annual leave by state employees, is amended to read as follows:

22           (e)(1)(A) Annual leave shall be cumulative. ~~No~~ An employee shall not  
23 have more than thirty (30) days of annual leave accumulated at the end of  
24 each calendar year. However, the thirty-day accumulative annual leave may  
25 exceed thirty (30) days prior to the end of the calendar year.

26           ~~(B) No fire or emergency service employee under~~  
27 ~~subdivision (a)(2) of this section~~ The following employees shall not  
28 accumulate annual leave in excess of forty-five (45) days at the end of each  
29 calendar year, except that the forty-five-day maximum of cumulative annual  
30 leave may exceed forty-five (45) days during the calendar year:

31                   (i) A fire and emergency service employee under  
32 subdivision (a)(2) of this section; and

33                   (ii) A critical-need employee.

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35           SECTION 3. Arkansas Code § 21-4-204 is amended to add an additional  
36 subsection to read as follows:

1           (g)(1) At the end of the calendar year and except as provided in § 21-  
2 4-205(c), an employee's accumulated annual leave that exceeds the maximum  
3 allowed under subsection (e) of this section shall be deposited into the  
4 catastrophic leave bank administered by the Office of Personnel Management.

5           (2) If an employee does not want his or her accumulated annual  
6 leave that exceeds the maximum allowed under subsection (e) of this section  
7 to be deposited into the catastrophic leave bank under subdivision (g)(1) of  
8 this section, he or she shall submit a written request to the Office of  
9 Personnel Management that the accumulated annual leave in question be  
10 forfeited in lieu of being deposited into the catastrophic leave bank.

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12           SECTION 4. Arkansas Code § 21-4-205 is amended to read as follows:  
13           21-4-205. Annual leave – Unused leave.

14           (a)(1) Except as provided in subdivision (a)(2) of this section,  
15 whenever an employee is separated from the state agency by reason of  
16 resignation, layoff, termination of appointment, or dismissal, the unused  
17 annual leave to his or her credit as of his or her last duty date shall be  
18 liquidated by a lump-sum payment, not to exceed thirty (30) working days,  
19 inclusive of holidays.

20           (2) Unused annual leave to the credit of ~~a fire and emergency~~  
21 ~~service employee under § 21-4-204(a)(2)~~ the following shall be liquidated by  
22 a lump-sum payment, not to exceed forty-five (45) working days, inclusive of  
23 holidays:

24                           (A) A fire and emergency service employee under § 21-4-  
25 204(a)(2); and

26                           (B) A critical-need employee.

27           (b)(1) Unused accumulated annual leave of a deceased employee, not to  
28 exceed thirty (30) days, shall be payable either to the estate of the  
29 deceased or to an individual authorized to receive such payment.

30           (2) Payment for services of an employee on leave with pay status  
31 at the time of death shall continue through close of business on the day of  
32 demise.

33           (3) No payment shall be made in any case until it shall have  
34 been determined that the deceased was not indebted to the agency.

35           (4) A voucher shall be prepared for the money due to be made  
36 payable either to the estate of the deceased or to an individual authorized

1 to receive such payment.

2 (c)(1) If at the end of a calendar year the cumulative annual leave of  
3 a critical-need employee exceeds forty-five (45) days and one (1) or more  
4 written or electronic requests by the critical-need employee to use annual  
5 leave were denied in written or electronic form due to the staffing needs of  
6 the state agency employing the critical-need employee, then the amount of the  
7 annual leave that was requested by the critical-need employee but denied  
8 shall be liquidated by a lump-sum payment to the critical-need employee.

9 (2) The total amount of the lump-sum payment to a critical-need  
10 employee under subdivision (c)(1) of this section shall not exceed the value  
11 of the cumulative annual leave exceeding forty-five (45) days at the end of  
12 the calendar year.

13 (d)(1) A state agency:

14 (A) Shall monitor the annual leave balance of a critical-  
15 need employee; and

16 (B) May request that a critical-need employee use annual  
17 leave to avoid his or her cumulative annual leave exceeding forty-five (45)  
18 days.

19 (2)(A) If a state agency determines the cumulative annual leave  
20 of a critical-need employee will exceed forty-five (45) days at the end of a  
21 calendar year, the state agency employing the critical-need employee may  
22 instruct the critical-need employee to use annual leave on one (1) or more  
23 specified dates prior to the end of the calendar year.

24 (B) A state agency instructing a critical-need employee to  
25 use annual leave under subdivision (d)(2)(A) of this section shall notify the  
26 employee at least fourteen (14) days before a specified date to use annual  
27 leave.

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29 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the  
30 General Assembly of the State of Arkansas that critical-need employees  
31 provide services to the State of Arkansas that are essential to the  
32 preservation of the public peace, health, and safety; that this act provides  
33 for revisions to the payment and accrual of annual leave for critical-need  
34 employees that promotes their retention; and that this act should become  
35 effective at the earliest opportunity to preserve the public peace, health,  
36 and safety by aiding in the retention of critical-need employees and

1 maintaining their valuable contributions to the state. Therefore, an  
2 emergency is declared to exist, and this act being immediately necessary for  
3 the preservation of the public peace, health, and safety shall become  
4 effective on:

- 5 (1) The date of its approval by the Governor;  
6 (2) If the bill is neither approved nor vetoed by the Governor,  
7 the expiration of the period of time during which the Governor may veto the  
8 bill; or  
9 (3) If the bill is vetoed by the Governor and the veto is  
10 overridden, the date the last house overrides the veto.

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12 */s/K. Hammer*

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15 **APPROVED: 3/17/21**  
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