

ACT 37

S.B. NO. 499

A Bill for an Act Relating to Leave Sharing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 79-33, Hawaii Revised Statutes, is amended to read as follows:

“§79-33 Leave sharing program. (a) The legislature, the chief executive of the State, or of a county may establish a program to allow employees to donate accumulated vacation leave credits to another employee within the same jurisdiction who has a serious personal illness or injury or who has a family member who has a serious personal illness or injury. The program shall allow employees who are not entitled to vacation leave to donate accumulated sick leave credits.

(b) The director of human resources development or of personnel services of a jurisdiction desiring to establish a leave sharing program shall adopt rules pursuant to chapter 91 governing donors, recipients, and an approval process that ensures fair treatment and freedom from coercion of employees and imposes no undue hardship on the employer’s operations. At a minimum, the rules shall require that an eligible recipient must have:

- (1) No less than six months of service within the respective jurisdiction;
- (2) Exhausted or is about to exhaust all vacation leave, sick leave, and compensatory time credits; provided[~~-, however,~~] that sick leave need not be exhausted when the illness or injury involves a family member;
- (3) A personal illness or injury certified by a competent medical examiner as being serious and the cause of the recipient’s inability to work; provided that[~~;~~] the illness or injury is not covered under chapter 386 or, if covered, all benefits under chapter 386 have been exhausted or, a family member whose illness or injury is certified by a competent medical examiner as being serious;
- (4) No disciplinary record of sick leave abuse within the past two years.

Notwithstanding the requirements of chapter 91, the legislature may establish a leave sharing program for legislative employees, in accordance with this section, under policies adopted separately by each house of the legislature and each legislative service agency, or jointly by any combination of entities thereof.”

SECTION 2. Act 253, Session Laws of Hawaii 2000, section 74, is amended by amending the new section entitled **“§78- Leave sharing program.”**, Hawaii Revised Statutes, to read as follows:

“§78- Leave sharing program. (a) The legislature, with regard to its employees, or the chief executive of a jurisdiction may establish a leave sharing program to allow employees to donate accumulated vacation leave credits to another employee within the same jurisdiction who has a serious personal illness or injury or who has a family member who has a serious personal illness or injury. The program shall allow employees who are not entitled to vacation leave to donate accumulated sick leave credits.

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(b) The legislature, with regard to its employees, or the director of a jurisdiction desiring to establish a leave sharing program shall develop rules governing donors, recipients, and an approval process that ensures fair treatment and freedom from coercion of employees and imposes no undue hardship on the employer's operations. If it is administratively infeasible to allow leave sharing between different departments or different bargaining units, the rules may limit leave sharing to employees within the same department or same bargaining unit, as necessary. At a minimum, the rules shall require that an eligible recipient must have:

- (1) No less than six months of service within the respective jurisdiction;
- (2) Exhausted or is about to exhaust all vacation leave, sick leave, and compensatory time credits; provided that sick leave need not be exhausted when the illness or injury involves a family member;
- (3) A personal illness or injury or a family member's illness or injury certified by a competent medical examiner as being serious and the cause of the recipient's inability to work; provided that the illness or injury is not covered under chapter 386 or, if covered, all benefits under chapter 386 have been exhausted; and
- (4) No disciplinary record of sick leave abuse within the past two years.

Notwithstanding the requirements of chapter 91, the legislature may establish a leave sharing program for legislative employees, in accordance with this section, under policies adopted separately by each house of the legislature and each legislative service agency, or jointly by any combination of entities thereof."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval; provided that section 2 shall take effect on July 1, 2002.

(Approved April 26, 2001.)