

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to establish a voluntary leave transfer leave bank program for District government employees.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Voluntary Transfer of Leave Amendment Act of 2003".

Sec. 2. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01*et seq.*), is amended by adding a new Title XII-A to read as follows:

"TITLE XII-A. VOLUNTARY LEAVE TRANSFER PROGRAM.

"1231. Definitions.

"For purposes of this title, the term:

"(1) "Agency" shall have the meaning provided in section 301(1).

"(2) "Child" means any person:

"(A) Under 21 years of age;

"(B) Twenty-one years of age or older and is substantially dependent upon the recipient employee by reason of physical or mental disability; or

"(C) Under 23 years of age and is a full-time student.

"(3) "Domestic partner" shall have the meaning provided in section 2 of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code §32-701).

"(4) "Employee" shall have the meaning provided in §1-603.01(7), except that it shall mean an employee who is eligible to accrue annual or universal leave.

"(5) "Head" shall have the meaning provided in section 301.

"(6) "Immediate relative" means:

"(A) An individual who is related by blood or marriage to the recipient employee as father, mother, child, husband, or wife;

“(B) An individual for whom the recipient employee is the legal guardian;

or

“(C) A domestic partner.

“(7) “Independent agency” shall have the meaning provided in section 301(13).

“(8) “Intimidate, threaten, or coerce” includes promising to confer or conferring any benefit such as appointment, promotion, or compensation, or effecting, or threatening to effect, any reprisal such as deprivation of appointment, promotion, or compensation.

“(9) “Leave contributor” means an employee who contributes annual or universal leave to be transferred to a designated recipient employee.

“(10) “Personal care” means custodial or primary assistance that helps an individual with activities of daily living, including bathing, eating, dressing, and continence. The term “personal care” shall include the recent adoption of a child and the care of a newborn child.

“(11) “Prolonged absence” means an employee’s absence from duty for at least 10 consecutive workdays that will result in a substantial loss of income to the employee because of the unavailability of paid leave.

“(12) “Recipient employee” means an individual employed by the District government for a minimum of one year without a break in service who is designated to receive annual or universal leave transferred from a leave contributor.

“(13) “Serious health condition” means pregnancy or a physical or mental illness, injury, or impairment that involves a hospital, hospice, or residential health care facility or continuing treatment at home by a competent health care provider or other individual.

“Sec. 1232. Voluntary leave transfer program.

“(a) Each agency or independent agency shall establish a voluntary leave transfer program under which annual or universal leave accrued or accumulated by an employee may be transferred on an hour-for-hour basis within the agency to the annual or universal leave account of any other eligible agency employee.

“(b) A voluntary transfer of leave is authorized when a potential recipient employee will suffer a prolonged absence due to the employee’s serious health condition or the employee’s responsibility to provide personal care to an immediate relative.

“(c) A recipient employee shall be eligible to receive a maximum of 320 hours of transferred leave during any 12-month period. Any unused transferred leave shall be forfeited or may be transferred to the annual leave bank upon the concurrence of the Office of Personnel.

“(d)(1) Notwithstanding any other provision of this section, if the head of an agency determines that any organization or program within the agency or independent agency is being substantially disrupted in carrying out its functions or is incurring additional costs because of its participation in the voluntary leave transfer program, the agency head may exclude from the program any employee or group of employees.

(2) If the head of an agency excludes an employee or group of employees from the program, he or she shall submit a report to the Director of the Office of Personnel specifying

how the organization or program would be substantially disrupted in carrying out its functions or would incur additional costs. This information shall be included in this Voluntary Transfer of Leave Program Report required under section 1238.

“Sec. 1233. Application to receive transferred leave.

“(a) An employee who expects to experience a prolonged absence may make written application to the agency head or designee to become a recipient employee.

“(b) If the employee is not capable of making an application, another employee of the agency may make written application on the employee’s behalf.

“(c) The application shall include at least the following:

“(1) The anticipated duration of the prolonged absence;

“(2) The name, position title, and grade of the proposed recipient employee;

“(3) The name and organizational location within the agency or independent agency as appropriate of the potential leave contributor; and

“(4) The amount of leave requested.

“(d) The agency shall require submission of the following:

“(1) An affidavit signed by the recipient employee attesting to the fact that the individual requiring personal care is an immediate relative or that the personal care is due to the recent adoption of a child or care of a newborn child; and

“(2) Certification from a physician or other licensed healthcare professional that the recipient employee has experienced a serious health condition or that the recipient employee’s immediate relative requires personal care, except that no certification shall be required in cases of pregnancy, the recent adoption of a child, or care of a newborn child.

“Sec. 1234. Leave contributions.

“(a) A potential leave contributor may, by written application to the agency head or designee, request that a specified number of hours be transferred from the annual or universal leave account of the employee to the annual or universal leave account of a potential recipient employee.

“(b) A leave contributor shall not contribute more than 1/2 of the amount of annual or universal leave that the leave contributor would be entitled to accrue during the leave year; provided, that a leave contributor may contribute restored leave without limitation.

“Sec. 1235. Approval or disapproval of leave transfer.

“(a) Before approving an application, the agency head or designee shall determine that the request to become a recipient employee has been necessitated by a prolonged absence due to the employee’s serious health condition or the employee’s responsibility to provide personal care to an immediate relative.

“(b) In approving or disapproving the application, the agency head or designee may consider the leave record of the potential receiving employee, the probability that the recipient employee will separate from service, and any exigency or disruption in service that the agency or independent agency may experience.

“(c) The agency head or designee shall approve or disapprove an application of a proposed recipient employee and, to the extent practicable, shall notify the proposed recipient employee or the employee acting on behalf of the proposed recipient employee within 15 calendar days of receipt of the application. Notwithstanding any other law, if the recipient employee is eligible for leave under the Family and Medical Leave provisions of 28 U.S. C. § 2601 *et seq.*, the leave transfer shall be granted.

“Sec. 1236. Receipt and use of transferred leave.

“(a) Each agency or independent agency shall maintain an accounting of the voluntary leave transfer program and the leave records of the recipient employee and the leave contributor.

“(b) A recipient employee may use contributed annual or universal leave transferred under this section in the same manner as if the leave had accrued to the recipient employee; provided, that any annual, universal leave, sick leave, or advanced leave shall be exhausted before any transferred leave may be used.

“(c) During the period in which transferred leave is being used, no annual, universal, or sick leave shall accrue to the recipient employee.

“(d) Use of transferred leave shall terminate when:

“(1) The recipient employee is no longer affected by the serious health condition or is not responsible for providing personal care to the immediate family member; or

“(2) The recipient employee separates from employment.

“(e) Unused transferred leave shall not be subject to any form of lump-sum leave payment upon the recipient employee’s separation from employment.

“Sec. 1237. Prohibition of coercion.

“An employee shall not directly or indirectly intimidate, threaten, or coerce any other employee for the purpose of interfering with any right that the employee may exercise to contribute, receive, or use annual or universal leave.

“Sec. 1238. Voluntary transfer of leave program report.

“On or before February 1 of each year, the Office of Personnel shall provide a Voluntary Transfer of Leave Program Report to the Council. The report shall include:

“(1) A comprehensive list of all voluntary leave bank contributors;

“(2) A comprehensive list of all transfer of leave recipients;

“(3) Documentation demonstrating that proper deductions have been taken from the contributor’s leave accrual;

“(4) Documentation demonstrating the actual transfer of leave to the recipient;

and

“(5) If the head of an agency excludes an employee or group of employees from the program under section 1232(d) because an organization or program within the agency would be substantially disrupted in carrying out its functions or would incur additional costs:

“(A) The manner in which the organization or program within the agency would be substantially disrupted in carrying out its functions; or

“(B) The amount of additional costs which will be incurred and the reasons that they will be incurred.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia