An Act

ENROLLED SENATE
BILL NO. 1121

By: Thompson (Roger), Hall, Newhouse, and Pugh of the Senate

and

Wallace, Martinez, Deck, McBride, and Baker of the House

An Act relating to education employees; entitling certain full-time employees who have worked for a certain amount of time to certain amount of paid maternity leave; directing maternity leave be in addition to certain sick leave; prohibiting employee on maternity leave from being deprived of certain compensation or benefits; directing the Legislature to appropriate adequate funding to provide paid maternity leave to certain school employees; providing for allocation of funds if certain appropriation is not made; providing for promulgation of rules; amending 70 O.S. 2021, Section 6-104.1, which relates to leave without pay for teachers; updating statutory reference; allowing maternity leave in addition to certain sick leave and extended leave; updating statutory language; amending 70 O.S. 2021, Section 6-104.5, which relates to pay deductions for certain leave; adding statutory reference; allowing certain deductions after exhausting certain sick leave and maternity leave; amending 70 O.S. 2021, Section 6-104.6, which relates to establishment of leave sharing programs; allowing certain district employees to participate in certain shared leave after exhausting maternity leave; requiring maternity leave and sick leave to be used prior to shared sick leave; making language gender neutral; amending 10A O.S. 2021, Section 2-7-202, as last amended by Section 1 of Enrolled House Bill No. 1842 of the 1st Session of the 59th Oklahoma

Legislature, which relates to duties of the Office of Juvenile Affairs; entitling certain eligible employees to paid maternity leave; amending 57 O.S. 2021, Section 510.6a, which relates to salaries for correctional teachers; updating statutory language; updating statutory reference; entitling certain eligible employees to paid maternity leave; creating the Public School Paid Maternity Leave Revolving Fund; specifying source of fund; providing for expenditures; providing purpose of fund; creating the Education Employee Paid Maternity Leave Revolving Fund; specifying source of fund; providing for expenditures; providing purpose of fund; providing for codification; providing an effective date; and declaring an emergency.

SUBJECT: Paid maternity leave

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-104.8 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. 1. Full-time employees of a public school district in this state who have been employed by the school district for at least one year and have worked at least one thousand two hundred fifty (1,250) hours during the preceding twelve-month period;

2. Persons employed full time as classroom instructional employees of technology center school districts supervised by the State Board of Career and Technology Education who have been employed by the technology center school district for at least one year and have worked at least one thousand two hundred fifty (1,250) hours during the preceding twelve-month period;

3. Persons employed as teachers by the State Department of Rehabilitation Services who have been employed by the State Department of Rehabilitation Services for at least one year and have

worked at least one thousand two hundred fifty (1,250) hours during the preceding twelve-month period;

4. Persons employed full time as correctional teachers or vocational instructors by the Department of Corrections pursuant to Section 510.6a of Title 57 of the Oklahoma Statutes who have been employed by a Department of Corrections facility for at least one year and have worked at least one thousand two hundred fifty (1,250) hours during the preceding twelve-month period; and

5. Persons employed full time as teachers by the Office of Juvenile Affairs who have been employed by an Office of Juvenile Affairs facility for at least one year and have worked at least one thousand two hundred fifty (1,250) hours during the preceding twelve-month period,

shall be entitled to six (6) weeks of paid maternity leave following the birth of the employee's child. The six (6) weeks of paid maternity leave shall be used immediately following the birth of the school district employee's child.

B. 1. Paid maternity leave provided pursuant to paragraphs 1, 2, and 3 of subsection A of this section shall be in addition to and not in place of sick leave due to pregnancy, as authorized by Section 6-104 of Title 70 of the Oklahoma Statutes.

2. Paid maternity leave provided pursuant to paragraph 4 of subsection A of this section shall be in addition to and not in place of sick leave due to pregnancy, as authorized by Section 510.6a of Title 57 of the Oklahoma Statutes.

3. Paid maternity leave provided pursuant to paragraph 5 of subsection A of this section shall be in addition to and not in place of sick leave due to pregnancy, as authorized by Section 2-7-202 of Title 10A of the Oklahoma Statutes.

C. An employee who takes maternity leave pursuant to the provisions of subsection A of this section shall not be deprived of any compensation or other benefits to which the employee is otherwise entitled.

D. Each fiscal year, the Legislature shall appropriate adequate funding to the Public School Paid Maternity Leave Revolving Fund created in Section 7 of this act for the purpose of providing paid maternity leave to eligible school district employees pursuant to paragraph 1 of subsection A of this section. If the Legislature does not appropriate adequate funding specifically for the purpose of providing paid maternity leave to school district employees, the State Board of Education shall allocate from the funds appropriated to the State Board of Education for the support of public school activities an amount to fully fund paid maternity leave.

E. The State Board of Education, the State Board of Career and Technology Education, the Commission for Rehabilitation Services, the State Board of Corrections, and the Board of Juvenile Affairs may promulgate rules to implement the provisions of this section.

SECTION 2. AMENDATORY 70 O.S. 2021, Section 6-104.1, is amended to read as follows:

Section 6-104.1. After exhausting sick leave and extended leave pursuant to Sections 6-104 and 6-104.5 of ~~Title 70 of the Oklahoma Statutes~~ this title and maternity leave pursuant to Section 1 of this act, a full-time teacher who, with the proper approval of the district board of education, takes not more than ninety (90) school days of leave without pay to care for the teacher's child during the first year of the child's life, shall receive full credit for the days on leave without pay as though the teacher had been on leave with pay for purposes of computing experience for the minimum teacher salary schedule. A teacher on leave without pay pursuant to this section who pays the actuarial cost, as determined by the Board of Trustees of the Teachers' Retirement System of Oklahoma, shall have the period during which such leave without pay is taken, counted toward retirement service credit as though the teacher had been on leave with pay. The teacher shall notify ~~their~~ his or her employer and the System in writing within thirty (30) days from the date he or she returns to service that ~~they~~ he or she will pay such actuarial cost. The teacher shall have up to twelve (12) months from the date he or she returns to service to pay such actuarial cost.

SECTION 3. AMENDATORY 70 O.S. 2021, Section 6-104.5, is amended to read as follows:

Section 6-104.5. A. If, after exhausting all sick leave pursuant to Section 6-104 of this title and maternity leave pursuant to Section 1 of this act, a teacher is absent from his or her duties due to personal accidental injury, illness, or pregnancy, the teacher shall receive for a period of not to exceed twenty (20) days his or her full contract salary less the amount:

1. ~~actually~~ Actually paid a certified substitute teacher for his or her position if a certified substitute teacher is hired; or

2. ~~normally~~ Normally paid a certified substitute teacher for his or her position if a certified substitute teacher is not hired.

B. The district's plan may provide that the teacher is entitled to payment for accrued but unused sick leave upon termination of employment.

SECTION 4. AMENDATORY 70 O.S. 2021, Section 6-104.6, is amended to read as follows:

Section 6-104.6. A. The board of education of each school district may establish a leave sharing program for all district employees. The program shall permit district employees to donate sick leave to a fellow district employee who is pregnant or recovering from childbirth or 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 which has caused or is likely to cause the employee to take leave without pay or to terminate employment.

B. As used in this section:

1. "Relative of the employee" means a spouse, child, stepchild, grandchild, grandparent, stepparent, or parent of the employee;

2. "Household members" means those persons who reside in the same home, who have reciprocal duties to and do provide financial support for one another. This term shall include foster children and legal wards even if they do not live in the household. The term does not include persons sharing the same general house, when the living style is primarily that of a dormitory or commune;

3. "Severe" or "extraordinary" means serious, extreme, or life-threatening including temporary disability resulting from pregnancy, miscarriage, childbirth, and recovery therefrom; and

4. "District employee" means a teacher or any full-time employee of the school district.

C. A district employee may be eligible to receive shared leave pursuant to the following conditions:

1. The board of education determines that the employee meets the criteria described in this section; and

2. The employee has abided by district policies regarding the use of sick leave.

D. A district employee may donate annual leave to another district employee only pursuant to the following conditions:

1. The receiving employee has exhausted, or will exhaust, ~~only~~ maternity leave granted pursuant to Section 1 of this act or sick leave earned pursuant to Section 6-104 of this title due to pregnancy, miscarriage, childbirth and recovery therefrom, an illness, injury, impairment, or physical or mental condition, which is of an extraordinary or severe nature, and involves the employee, a relative of the employee, or household member;

2. The condition has caused, or is likely to cause, the employee to go on leave without pay or to terminate employment;

3. The board of education of the district permits the leave to be shared with an eligible employee;

4. The amount of leave to be donated is within the limits set by the board of education of the district; and

5. District employees may not donate excess sick leave that the donor would not be able to otherwise take.

E. The board of education of each school district shall determine the amount of donated leave an employee may receive.

F. The board of education shall require the employee to submit, prior to approval or disapproval, a medical certificate from a licensed physician or health care practitioner verifying the severe or extraordinary nature and expected duration of the condition.

G. Donated sick leave is transferable between employees of different school districts in the state with the agreement of both boards of education of each school district.

H. The receiving employee shall be paid the regular rate of pay of the employee. The sick leave received will be designated as shared sick leave and be maintained separately from all other sick leave balances.

I. Any donated sick leave may only be used by the recipient for the purposes specified in this section.

J. ~~Only~~ Maternity leave granted pursuant to Section 1 of this act and sick leave earned pursuant to Section 6-104 of this title available for use by the recipient ~~must~~ shall be used prior to using shared sick leave.

K. Any shared sick leave not used by the recipient during each occurrence as determined by the board of education shall be returned to the donor. The shared sick leave remaining will be divided among the donors on a prorated basis based on the original donated value and returned at its original donor value and reinstated to the annual leave balance of each donor.

L. All donated sick leave ~~must~~ shall be given voluntarily. No employee shall be coerced, threatened, intimidated, or financially induced into donating sick leave for purposes of the leave sharing program.

M. In addition to the sick leave sharing program provided for in this section, the board of education of each school district may establish a sick leave sharing bank for all district employees. A district employee may donate sick leave to a common fund which may be used by any district employee who is eligible to receive shared leave as set forth in subsection A of this section. The terms and conditions for donation and use of sick leave to a leave sharing

bank shall be subject to the provisions of this section, unless negotiations, entered into pursuant to Section 509.1 et seq. of this title, between district employees and the school district establish terms and conditions for a sick leave sharing bank in excess of those provided for in this section.

SECTION 5. AMENDATORY 10A O.S. 2021, Section 2-7-202, as last amended by Section 1 of Enrolled House Bill No. 1842 of the 1st Session of the 59th Oklahoma Legislature, is amended to read as follows:

Section 2-7-202. A. There is hereby created the Office of Juvenile Affairs which shall be responsible for programs and services for youthful offenders and juveniles alleged or adjudicated to be delinquent or in need of supervision. The Executive Director shall be responsible for established divisions and appointing Division Directors within the Office of Juvenile Affairs.

B. Suitable office space shall be provided by the Office of Management and Enterprise Services to the Office of Juvenile Affairs, to the extent necessary for the Office to implement its jurisdictional duties provided by the Oklahoma Juvenile Code, and the Office may incur necessary expenses for office rent.

C. Effective July 1, 1995, the Office of Juvenile Affairs shall be a Merit System agency and all employees of the Office of Juvenile Affairs shall be classified employees who are subject to the Oklahoma Personnel Act and the Merit System of Personnel Administration, except as otherwise provided by law. Eligible persons employed as teachers by the Office of Juvenile Affairs shall be entitled to paid maternity leave as provided for in Section 1 of this act. Effective June 1, 2020, employees hired for service at the Southwest Oklahoma Juvenile Center in Manitou shall be considered unclassified and employed in a term-limited appointment. If state services continue at the facility after the designated term, the employee may be transferred into a non-term-limited position. Current employees and employees hired prior to June 1, 2020, shall not be subject to this provision.

D. Effective July 1, 1995, within its jurisdictional areas of responsibility, the Office of Juvenile Affairs, acting through the Executive Director, or persons authorized by law, rule or designated

by the Executive Director to perform such acts, shall have the power and duty to:

1. Advise, consult, cooperate and enter into agreements with agencies of the state, municipalities and counties, other states and the federal government, and other persons;

2. Enter into agreements for, accept, administer and use, disburse and administer grants of money, personnel and property from the federal government or any department or agency thereof, or from any state or state agency, or from any other source, to promote and carry on in this state any program within its jurisdictional area of responsibility;

3. Require the establishment and maintenance of records and reports;

4. Establish a system of training for personnel in order to assure uniform statewide application of law and rules;

5. Enforce the provisions of the Oklahoma Juvenile Code and rules promulgated thereunder and orders issued pursuant thereto;

6. Charge and receive fees pursuant to fee schedules promulgated by the Board of Juvenile Affairs;

7. Conduct studies, research and planning of programs and functions, pursuant to the authority granted by the Oklahoma Juvenile Code;

8. Enter into interagency agreements;

9. Provide administrative and support services to the Board of Juvenile Affairs as necessary to assist the Board in the performance of its duties;

10. Establish and maintain such facilities and institutions as are necessary or convenient for the operation of programs for children under the jurisdiction of the Office of Juvenile Affairs;

11. Lease, from time to time, any real property which the Board of Juvenile Affairs shall determine advisable to more fully carry

into effect the operation of the Office of Juvenile Affairs in accordance with applicable state statutes. All such leases for real property shall be subject to the provisions of Section 63 of Title 74 of the Oklahoma Statutes;

12. Purchase or lease any equipment, supplies or materials pursuant to the Oklahoma Central Purchasing Act;

13. Contract for professional services;

14. Acquire, construct, extend, and operate any and all facilities of all kinds which in the judgment of the Executive Director and the approval of the Legislature shall be necessary or convenient to carry out the duties of the Office of Juvenile Affairs, as authorized by law;

15. Establish an employee recruitment and referral incentive program and promulgate internal agency policy for the operation of the program, which may include, but shall not be limited to, program purposes, pay incentives for employees, eligibility requirements, payment conditions and amounts, payment methods, payment recoupment, and record keeping; and

16. Exercise all incidental powers which are necessary and proper to implement and administer the purposes of the Oklahoma Juvenile Code.

E. The Office of Juvenile Affairs shall maintain a fair, simple and expeditious system for resolution of grievances of all persons committed to the Office of Juvenile Affairs regarding the substance or application of any written or unwritten policy, rule of the Board of Juvenile Affairs or of an agent or contractor of the Office of Juvenile Affairs or any decision, behavior or action by an employee, agent or contractor or by any other person committed to the Office of Juvenile Affairs.

F. Effective November 1, 2012, the Office of Juvenile Affairs shall establish a system of certification in accordance with the Oklahoma Child Care Facilities Licensing Act for the shelters managed and operated by the Department of Human Services pursuant to the requirements of Section 1-9-111 of this title. The Office of Juvenile Affairs shall certify shelters pursuant to the requirements

of existing rules as established by the Oklahoma Commission on Children and Youth until such time the Office of Juvenile Affairs has promulgated rules for the certification of shelters.

SECTION 6. AMENDATORY 57 O.S. 2021, Section 510.6a, is amended to read as follows:

Section 510.6a. A. Persons certified to teach in ~~the State of Oklahoma~~ this state and meeting all minimum qualifications set by the Office of Management and Enterprise Services, who are hired or employed as ~~Correctional Teachers~~ correctional teachers or ~~Vocational Instructors~~ vocational instructors by the Department of Corrections educational program, shall receive in salary the minimum amounts specified in ~~Section 18-114.12 of Title 70 of the Oklahoma Statutes~~ Section 1 of Enrolled Senate Bill No. 1119 of the 1st Session of the 59th Oklahoma Legislature multiplied by a factor of 1.20. Correctional ~~Teachers~~ teachers serving as lead workers with supervisory responsibilities shall receive the minimum amounts specified above multiplied by a factor of 1.25. Correctional ~~Teachers~~ teachers who have a special education certificate shall receive salary of an additional five percent (5%). Correctional ~~Teachers~~ teachers shall receive the benefits set forth in Sections 1370 and 1707 of Title 74 of the Oklahoma Statutes; provided, however, ~~Correctional Teachers~~ correctional teachers shall not be eligible for longevity payments pursuant to Section 840-2.18 of Title 74 of the Oklahoma Statutes. Eligible persons employed as correctional teachers or vocational instructors by the Department of Corrections shall be entitled to paid maternity leave as provided for in Section 1 of this act.

B. Persons employed by the Department of Corrections school system as nonteaching administrators shall be in the unclassified service and shall not be placed under the classified service; however, any classified employee occupying an administrative position prior to July 1, 2000, shall retain the right to remain in the classified service. At such time as such position becomes vacant, it shall be placed in the unclassified service.

C. Except as provided by this section of law, the employment of persons by the Department of Corrections educational program as teachers or administrators shall be entirely governed by the provisions of Title 74 of the Oklahoma Statutes and any other laws

or rules regarding state employees and their employment; however, no Department of Corrections ~~Correctional Teacher~~ correctional teacher or ~~Vocational Instructor~~ vocational instructor, whose salary is calculated in accordance with the provisions of this section, shall be entitled to receive any pay increases for state employees authorized elsewhere in statute, rule, or law. Correctional ~~Teachers~~ teachers or ~~Vocational Instructors~~ vocational instructors shall receive any legislated pay increases granted in addition to the Title 70 minimum salary schedule; provided, such increases are given to all common education/vocational technical teachers.

D. The salaries for all ~~Correctional Teachers~~ correctional teachers and ~~Vocational Instructors~~ vocational instructors shall be adjusted annually on July 1 unless legislation authorizes a pay raise for educators with an implementation date other than July 1, in which case the annual adjustment shall occur on the date of the pay raise implementation.

E. The monthly salaries of ~~Correctional Teachers~~ correctional teachers and ~~Vocational Instructors~~ vocational instructors employed by the Department of Corrections on the effective date of this act will be adjusted according to the procedures authorized in subsection A of this section on the first day of the month following the effective date of this act. Longevity payments will be eliminated in the month following the effective date of this act for ~~Correctional Teachers~~ correctional teachers and ~~Vocational Instructors~~ vocational instructors whose salaries are calculated according to the provisions of this section. The salaries of the employees governed by this section who are employed on the effective date of this act will be recalculated. The recalculation will be based on the provisions of subsection A of this section for actual time employed as a Department of Corrections ~~Correctional Teacher~~ correctional teacher or ~~Vocational Instructor~~ vocational instructor between July 1, 2004, and the last day of the month in which this act becomes effective. Authorized employees will receive a one-time payment equal to the difference between the recalculated salary amount and the compensation received.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-104.9 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the State Treasury a revolving fund for the State Board of Education to be designated the "Public School Paid Maternity Leave Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Board of Education from state appropriations. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Board of Education for the purpose of reimbursing school districts for expenses related to providing paid maternity leave as provided for in subsection B of this section. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. School districts in this state shall file claims with the State Board of Education for reimbursement of expenses related to providing eligible employees with paid maternity leave as provided for in Section 1 of this act.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-104.10 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services to be designated the "Education Employee Paid Maternity Leave Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Office of Management and Enterprise Services from state appropriations. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Office of Management and Enterprise Services for the purpose of reimbursing agencies for expenses related to providing paid maternity leave as provided for in subsection B of this section. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. The Oklahoma Department of Career and Technology Education, State Department of Rehabilitation Services, the Department of

Corrections, and the Office of Juvenile Affairs shall file claims with the Director of the Office of Management and Enterprise Services for reimbursement of expenses related to providing eligible employees with paid maternity leave as provided for in Section 1 of this act.

SECTION 9. This act shall become effective July 1, 2023.

SECTION 10. It being immediately necessary for the preservation of the public peace, health, or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 17th day of May, 2023.

Presiding Officer of the Senate

Passed the House of Representatives the 19th day of May, 2023.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 19th

day of May, 20 23, at 2:43 o'clock p. M.

By: [illegible]

Approved by the Governor of the State of Oklahoma this 25th

day of May, 20 23, at 5:01 o'clock p. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 25th

day of May, 20 23, at 5:50 o'clock P. M.

By: [illegible]