

AN ORDINANCE TO AMEND CHAPTER 40 OF THE CITY CODE TO ALLOW EMPLOYEES TO DONATE AN UNEQUAL AMOUNT OF ACCRUED SICK AND VACATION LEAVE TO DESIGNATED EMPLOYEES OR TO THE DONATED LEAVE BANK

#0201

Sponsor:

Council
Member
Oliver

WHEREAS, many states and cities utilize donated leave programs, in which employees may donate their accumulated sick or vacation days to a leave bank and other employees may utilize those days when needed and permitted; and

WHEREAS, in September 2017, the Delaware General Assembly passed House Bill 258 as Amended by House Amendment 1, which amended the Delaware Code regarding donated leave to allow State employees to donate up to one half of their yearly accrual of sick leave without a concomitant donation of vacation leave to the State leave bank; and

WHEREAS, just like the previous language in the Delaware Code, the City Code only permits employees to donate equal amounts of vacation and sick leave; and

WHEREAS, the City Code's current prohibition on employees donating more of one type of leave than another potentially deters the donation of any type of leave; and

WHEREAS, donated leave is an important resource for employees who experience medical emergencies or critical illnesses or injuries that negatively impact them for an extended period of time; and

WHEREAS, currently, classified service employees who leave City service are paid \$40.00 per day for their sick days if they have between 60 and 100 days of sick leave, and \$50.00 per day for sick days if they have between 101 and 240 days of sick leave; and

WHEREAS, elected and appointed officials who leave City service are paid \$40.00 per day for their sick days if they have between 30 and 100 days of sick leave, and \$50.00 per day for sick days if they have between 101 and 240 days of sick leave; and

WHEREAS, donated leave is calculated at the donor's base rate of pay, potentially creating an imbalance if the donor attempts to donate an excessive number of hours before leaving City service; and

WHEREAS, City Council recognizes that this should not be a complete impediment to donating leave; and

WHEREAS, City Council deems it necessary and appropriate to amend the City Code to substantially mirror the recent changes made at the State level in order to encourage City employees to donate accumulated leave to support their colleagues in times of need.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON
HEREBY ORDAINS:**

SECTION 1. Chapter 40 of the City Code is hereby amended by amending Section 40-340 thereof by deleting the stricken language and adding the underlined language to read as follows:

Section 40-340. – Donated Leave.

(a) Donated leave. Regular employees who have completed at least one-year of continuous employment may be eligible to donate up to ~~20~~ twenty (20) days of accumulated leave (sick or vacation) to designated employees or to the donated leave bank per calendar year. Employees ~~shall donate in equal amounts~~ may donate accrued sick and vacation leave to the designated employees or to the donated leave bank as set forth in Sections 40-340(a)(1) and (2). Donations to designated employees or to the leave ~~pool~~ bank shall be accounted for on the basis of the dollar values of the days donated based on the donor's then-current salary. Leave shall be donated only in increments of full days. Employees must retain a minimum of ten (10) sick days for personal use.

(1) Donation of sick leave.

- a. Six (6) days or less. An employee may donate up to six (6) days of sick leave per calendar year without having to match donated vacation leave.

b. Donations of more than six (6) days. Regular employees may donate sick leave in excess of six (6) days per calendar year, but such donations must be matched by an equal amount of donated vacation leave.

(2) Donation of vacation leave.

a. An employee may donate up to twenty (20) hours of vacation leave per calendar year without having to match donated sick leave.

(b) Granting of Eligibility to receive donated leave. Regular employees who have completed one year of continuous employment may be eligible to receive up to ten (10) days of donated leave per request as a designated employee or from the donated leave bank, and up to a maximum of thirty (30) days of donated leave within a twelve (12)-month period if:

(1) All of their available sick leave (including extended sick leave), vacation leave and compensatory leave have been exhausted; and

(2) They are not eligible for paid leave from any other source (e.g., long-term disability, workers' compensation or a claim against a third party).

(c) Medical emergency or critical illness/injury required. Donated leave shall only be granted for use by employees during a medical emergency or critical illness/injury.

(d) The director of personnel/human resources shall promulgate the rules and regulations necessary to implement the donated leave program.

SECTION 2. This Ordinance shall become effective immediately upon its passage by City Council and approval by the Mayor.

First Reading.....March 5, 2026

Second Reading.....March 5, 2026

Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____

City Clerk

Approved as to form this 2nd
Day of March 2026.

John D. Stant II
Assistant City Solicitor

Approved this _____ day of _____, 2026

Mayor

SYNOPSIS: This Ordinance amends Chapter 40 of the City Code to allow regular City employees to donate unequal amounts of sick and vacation leave to designated employees or the donated leave bank. This Ordinance allows regular City employees to donate: 1) up to twenty (20) days of vacation leave per calendar year; or 2) up to 6 days of sick leave per calendar year without having to match with donated vacation leave. The Ordinance also permits regular City employees to donate in excess of 6 days of sick leave per calendar year, but such donations must be matched with an equal amount of donated vacation leave. This Ordinance has been influenced by similar amendments made to the Delaware Code in September 2017, and substantially mirrors the donated leave policies of other entities. This Ordinance is intended to make it easier and more convenient for regular City employees to donate accumulated sick and vacation leave to assist colleagues in times of need, thereby encouraging such donations. Finally, as housekeeping matters, this Ordinance adds some clarifying language to Sections 40-340(b) and (c) and changes the term “director of personnel” to “director of human resources” in Section 40-340(d).

FISCAL IMPACT STATEMENT: The Office of Management & Budget has reviewed the ordinance and obtained relevant information from the Human Resources Department regarding utilization of the current sick leave donation program. For the period from 2017 through 2025, an average of 3.6 employees per year donated sick leave. During the same period, an average of one (1) employee per year utilized donated sick leave, indicating an extremely low participation rate.

The fiscal impact of the current program is *de minimis*. It is not evident that the changes proposed to the sick leave donation program under this ordinance would result in a material increase in participation by either donors or recipients. However, even if participation were to increase tenfold, the full budgeting of employee annual salaries would mitigate any fiscal impact.