



Model Policy

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<i>Subject</i> Family and Medical Leave			
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<i>Distribution</i>		<i>Reevaluation Date</i>	<i>No. Pages</i> 3

I. PURPOSE

This policy¹ is intended to provide personnel with an understanding of the leave provided under federal law by the Family and Medical Leave Act of 1993.²

II. POLICY

It is the policy of this agency to provide employees with leave for serious health and certain family matters as required by federal law.

III. DEFINITIONS

Eligible Employee: An employee who has worked for this agency for at least 12 months and who has worked at least 1,250 hours during the 12-month period preceding the date upon which leave is to begin.

Key Employee: One who is among the highest-paid 10 percent of persons employed by this agency.

Spouse: A husband or wife as defined or recognized by state law for purposes of marriage, including common-law marriages where recognized by law.

Child: This includes adopted children, foster children, step-children, legal wards and anyone for whom the employee stood in loco parentis.

Parent: This includes biological parents as well as an individual who stands or stood in loco parentis to an employee when the employee was a child.

Serious Health Condition: Any illness, injury, impairment, or physical or mental condition that involves (a) any period of incapacity or treatment in connection with or consequent to in-patient care in a hospital, hospice or residential medical care facility; (b) any period of incapacity requiring absence from work, school or other regular daily activities, of more than three calendar days, that also involves continuing treatment by a health-care provider; (c) continuing treatment by a health-care provider for a chronic or long-term health condition that is incurable or so serious that if not treated, would likely result in a period of incapacity of more than three calendar days; or (d) pre-natal care.

IV. PROCEDURES

A. General Provisions

1. Leave taken under this policy does not preclude eligible personnel from taking leave provided under other local, state or federal law.
2. Leave under FMLA is available for both eligible male and female employees.
3. Leave taken under provisions of the FMLA is unpaid leave subject to the provisions of paragraph IV.A.7 of this policy.
4. Leave is available to eligible employees in any of the four following instances:
 - a. Birth of a child of the employee.
 - b. Placement with the employee of a child for adoption or foster care.

¹ By law, notice regarding leave under the Family Medical Leave Act of 1993 must be included in any employee handbook, policy manual or similar document that provides written guidance to employees regarding their rights and benefits. Employers must also post a notice in the workplace informing employees of their FMLA rights.

² The Family and Medical Leave Act of 1993 is applicable to law enforcement agencies whose employing jurisdictions have 50 or more "eligible" employees at the time in which an eligible employee requests leave. The act provides leave for workers under certain conditions in addition to that normally provided by the employer.

- c. A serious health condition of an employee's spouse, parent or child.
- d. Serious health condition of the employee.
- 5. Eligible employees may take up to 12 weeks of leave under this policy during any 12-month period.
- 6. Husbands and wives employed by this jurisdiction may take a combined total of 12 weeks per year to care for a newborn or newly placed child. This combined leave of employed parents is limited to 12 work weeks in a 12-month period for the birth, adoption or foster care placement of their child even if they are not married. They may also take up to 12 weeks each to care for a sick child or each other.
- 7. Employees may elect and this agency reserves the right to require employees to first exhaust all accrued paid leave, including compensatory time, sick or medical leave, vacation time or similar accrued time, prior to taking unpaid leave under the FMLA. Except when the leave is for the birth, adoption or foster care of a child, this agency may not require the exhaustion of sick or medical leave, but the employee and the agency may agree to such a procedure.
- 8. This agency's policy on off-duty employment shall apply to personnel on FMLA leave.
- 9. During the FMLA leave period, the employee shall not leave the county of his or her residence without the prior approval of the unit commander and the chief of police except for medical treatment purposes.

B. Notice of Need for Leave

- 1. An employee shall provide 30 days' advance notice if the need for leave is foreseeable and as soon as practicable if the leave is not foreseeable.
- 2. The employee shall provide a medical certificate to support requested leave that is taken for a serious health condition of the employee or the employee's family member. If the leave is for the employee's own serious health, the employee shall provide medical certification to state that the employee is unable to perform the "essential functions" of the employee's job. In addition, the employee who seeks leave for a serious health condition is also required to make a reasonable effort to schedule the treatment so as to avoid disruption to the employer's operations subject to the approval of the health provider.
- 3. The medical certification shall also include the treatment prescribed by the health-care provider and whether in-patient hospitalization is

required.

- a. This agency may require the employee to obtain a medical certification from a second health-care provider at the agency's expense. If the opinion of the second health care provider differs from that of the first, this agency may require a third medical opinion at its expense.
- b. The employee and representatives of this agency shall cooperate and act in good faith in selecting any third health-care provider, and both parties shall be bound by that medical decision.

C. Pay and Benefits

- 1. While on FMLA leave, employees will be maintained on this agency's group health insurance under the same terms as applicable while actively employed.
 - a. During the period of leave, employees shall be responsible for the payment of any premiums for health insurance under the same terms and conditions as when actively employed.
 - b. Employees who fail to return to work after leave is taken will be financially liable for any premiums paid by this employer for their health insurance while on leave unless (a) the employee suffers a continuation, recurrence or onset of a serious medical condition that would entitle the employee to leave under the FMLA or (b) other circumstances exist that are beyond the employee's control.
- 2. Life insurance and disability insurance paid by this agency will continue in force during an employee's leave.
- 3. Upon returning from FMLA leave, employees will be reinstated to their original or an equivalent position with equal rank, benefits, pay and working conditions.
 - a. Reinstatement is conditional upon certification that the employee is physically and mentally fit to return to work.
 - b. Return to work in other than a full-duty status may be granted in accordance with provisions and conditions of this agency's light-duty policy.
- 4. Key employees are eligible for FMLA leave but may not be reinstated in the same position on their return if to do so would cause this agency substantial and grievous economic injury.

- a. This agency shall notify employees that are considered key employees at the time that leave is requested or as soon as can be determined thereafter but prior to the leave.
- b. Key employees who will not or who may not be reinstated shall be notified in writing prior to taking the leave.

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