

## FREDERICK POLICE DEPARTMENT GENERAL ORDER

**Section 19:** Employee Well-Being  
**Topic:** SICK AND SAFE LEAVE AND FAMILY MEDICAL LEAVE ACT PROVISIONS  
**Order Number:** 1960  
**Issued by:** Chief of Police  
**Approved:** 8/15/19  
**Review:** Annually in September by the Support Services Division Commander  
**Supersedes:** G.O. 1960 dated 4/24/19

### **.01 PURPOSE:**

To define Sick and Safe Leave and Family Medical Leave and their use by Department personnel.

### **.02 CROSS-REF:**

G.O. [1910](#), "Employee Illnesses, Injuries, and Disabilities"  
Family Medical Leave Act of 1993 (FMLA)  
Policies and Procedures for Employees of the City of Frederick  
Labor Agreement(s)  
Form FA-006 Request for Leave/ Holiday Compensation  
Form HR-006 Initial Injury Report

### **.03 DISCUSSION:**

### **.04 POLICY:**

The Department allows its employees to use accumulated leave to care for a member of their immediate family, consistent with the Labor Agreement and the City's Employee Policies and Procedures. This is called Personal Care Leave. The Department also adheres to the provisions of the Family Medical Leave Act (FMLA) in allowing employees the use of accrued leave and unpaid leave to care for themselves and others as specified in the FMLA.

### **.05 SICK AND SAFE LEAVE DEFINITIONS:**

EXIGENT CIRCUMSTANCE – From Black's Law Dictionary: "Emergency; something arising suddenly out of the current events; any event of occasional combination of circumstances calling for immediate action or remedy...."

IMMEDIATE FAMILY - Family members as defined by Maryland Healthy Working Families Act are:

1. Child: biological, adopted, step, foster, or child for whom the officer has legal or physical custody or guardianship, child for whom the officer stands in loco parentis regardless of the child's age;
2. Parent: biological, adoptive, foster or stepparent of the officer or of the officer's spouse, legal guardian of the officer, or person who acted as a parent or stood in loco parentis to the officer or the officer's spouse when the officer or the officer's spouse was a minor;
3. Spouse;
4. Grandparent: biological, adoptive, foster, or step-grandparent of the officer;
5. Grandchild: biological, adoptive, foster, or step-grandchild of the officer; and

6. Sibling: biological, adopted, foster, or step sibling of the officer.

**.07 FMLA DEFINITIONS:**

**ELIGIBLE EMPLOYEE:** Individuals who have worked for their employer for a total of 12 months and at least 1,250 hours during the year immediately preceding the start of any qualifying leave.

**IN LOCO PARENTIS –**

1. In loco parentis refers to a relationship in which a person puts himself or herself in the situation of a parent by assuming and discharging the obligations of a parent to a child. The in loco parentis relationship exists when an individual intends to take on the role of a parent to a child who is under 18 or 18 years of age or older and incapable of self-care because of a mental or physical disability. Although no legal or biological relationship is necessary, grandparents or other relatives, such as siblings, may stand in loco parentis to a child under the FMLA as long as the relative satisfies the in loco parentis requirements.
2. Under the FMLA, persons who are in loco parentis include those with day-to-day responsibilities to care for or financially support a child. Courts have indicated some factors to be considered in determining in loco parentis status include:
  - A. the age of the child;
  - B. the degree to which the child is dependent on the person;
  - C. the amount of financial support, if any, provided; and
  - D. the extent to which duties commonly associated with parenthood are exercised.
3. The fact that a child has a biological parent in the home, or has both a mother and a father, does not prevent an employee from standing in loco parentis to that child. The FMLA does not restrict the number of parents a child may have. The specific facts of each situation will determine whether an employee stands in loco parentis to a child

**PARENT:** A biological, adoptive, or step-parent, or an individual who stands or stood “in loco parentis” to an employee when the employee was a child.

**SERIOUS HEALTH CONDITION:** An illness, injury, impairment or physical or mental condition that involves:

1. Any period of incapacity or treatment in connection with or consequent to inpatient care, hospice, or residential medical care facility;
2. 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 (or under the supervision of) a health care provider;
3. Continuing treatment by (or under the supervision of) 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

4. Pregnancy and prenatal care.

SON/DAUGHTER: Includes biological, adopted, foster and stepchildren, legal wards, or children for whom one has stood "in loco parentis." The child must be under 18, unless incapable of taking care of himself.

SPOUSE: An individual as defined or recognized under state laws for purposes of marriage, including common-law marriage where it is recognized.

**.15 REQUIRED AUTHORIZATIONS:**

1. The use of accrued sick leave for Sick and Safe Leave is at the discretion of the Chief of Police and may be granted by their designee as follows:
  - A. Up to three working days requires approval from the employee's first line supervisor.
  - B. Up to two weeks requires approval from the employee's Division Commander.
  - C. In excess of two weeks requires approval by the Chief of Police or their designee.
2. Approval of Sick and Safe Leave is not guaranteed, as with any other type of leave. Requests which are for an unreasonable length of time, or for which the circumstances are not exigent, may be denied. The Chief of Police will make the final decision.

**.25 REQUIRED SICK AND SAFE LEAVE SUBMISSIONS:**

1. All requests for Sick and Safe Leave in excess of three work days must be submitted using a Request for Leave/Holiday Compensation (Form FA-006). The form may be completed by the employee's supervisor in the event of a time critical emergency.
  - A. An explanation of the situation requiring the employee to take leave must be provided in the Remarks section of the form except that:
    - (1). If the situation is of such a sensitive or personal nature that disclosure is precluded, the employee may indicate "Confidential" in the Remarks area of the form.
    - (2). The Chief of Police may require some level of disclosure in order to approve the confidential request. The disclosure is to be kept confidential, and would only be used to ensure proper use of the leave.
2. The request must include the following information:
  - A. The nature of the illness/injury;
  - B. The type of care needed;
  - C. The expected duration of leave;
  - D. The role of the employee in the care-taking activities.
3. Sick and Safe Leave will be recorded as Sick Leave for payroll purposes.

**.30 FAMILY MEDICAL LEAVE ACT (FMLA):**

Under the FMLA, an eligible employee may take up to twelve work weeks of unpaid leave, or a combination of paid and unpaid leave, during a twelve-month, rolling calendar period. Spouses employed by the same employer are jointly entitled to a combined total of twelve work weeks of family leave for the following events:

1. The birth and care of a newborn child of the employee;
2. The adoption of a child by the employee, or placement of a child in the employee's foster care;
3. The care of a spouse, child, or parent of the employee who has a serious health condition; or
4. A serious health condition that makes the employee unable to perform the functions of the job.

**.31 FAMILY MEDICAL LEAVE ACT (FMLA) MILITARY LEAVE:**

1. **Qualifying Exigency Leave:**  
Eligible employees with a spouse, child, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their twelve week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative child care, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.
2. **Military Caregiver Leave:**  
FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 work weeks of leave to care for a covered service member during a single 12-month period. A covered service member as a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or a covered veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness. Covered veteran means an individual who was a member of the Armed Forces (including a member of the National Guard or Reserves), and was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran.

**.35 USE OF ACCRUED LEAVE UNDER FMLA:**

1. Personnel will be required to exhaust all other means of paid leave before unpaid leave under FMLA is granted. Sick leave may be used as Sick and Safe Leave as previously outlined. Vacation, compensatory time of any type, holiday leave, sick leave, Sick and Safe Leave, and unpaid leave will be deducted from the twelve weeks allowed by FMLA.
2. Employees requesting FMLA leave must initially submit an Initial Injury Report (HR-006) for self-care or a Request for Leave (FA-006) for Sick and Safe Leave. Decisions concerning the use of FMLA leave will be made by the Chief of Police or their designee.
3. Employees must complete and submit in a timely manner all FMLA required paperwork as directed by the City or Department of Human Resources personnel.

4. Throughout the duration of their leave, employees must maintain frequent, periodic contact with the Department via a method and schedule determined by their immediate supervisor in order to recertify leave or discuss the employee's return to work.

**.40 LEAVE UNDER FMLA FOR BIRTH, ADOPTION, FOSTER CARE, OR PLANNED MEDICAL TREATMENT:**

1. Use of FMLA leave for the birth or adoption of a child, or placement of a child in foster care, must be taken within twelve months of the event and can be used intermittently.
2. Employees who anticipate using FMLA leave for the birth, adoption, or placement in their foster care of a child, or for planned medical treatment of themselves or an immediate family member, must submit a Leave Request form (FA-006) at least 30 days in advance of the requested leave date, except in the event of medical emergencies and/or exigent circumstances.
3. Sick and Safe Leave, which is ordinarily granted upon proper request following the birth of a child, adoption, guardianship is as follows: Requests for additional Sick and Safe Leave due to complications or for additional leave under the FMLA must follow the procedures outlined in this Order. Unless both parents are employees of the City of Frederick, employees may use up to twelve work weeks of any type of leave. Under FMLA, in cases where both parents/employees are employed by the City of Frederick, the parents may use a combination of leave, jointly, up to twelve work weeks.

**.45 LEAVE UNDER FMLA FOR SERIOUS MEDICAL CONDITION:**

1. Use of FMLA leave for a serious medical condition requires the following submissions to accompany the request. Failure to provide required documentation may result in denial of the request.
  - A. Certification from the health care provider containing the date on which the condition commenced;
  - B. The probable duration of the condition;
  - C. The appropriate medical facts regarding the condition;
  - D. A statement from the individual needing care (as his condition allows) that the assistance is needed;
  - E. An estimate of the amount of time that will be needed.
2. FMLA leave may be used intermittently for this purpose, providing the above listed documentation is provided and supports that request. An individual using the leave on an intermittent basis will attempt to schedule the leave so as to minimize the impact on the operations of the agency.
3. In the event that the Department is better served by temporarily reassigning an individual to another assignment for the duration, the Chief of Police may exercise that discretion as the Chief sees fit.

**.50 FMLA LEAVE FOR SELF CARE:**

Eligible personnel may request leave under the provisions of FMLA to provide self-care when they are unable to perform the essential functions of their position as a result of a serious medical condition. The conditions for approval are identical for those under .45.

**.55 SICK LEAVE BANK AND DONATIONS:**

Personnel who have exhausted all available leave may be eligible to participate in the Sick Leave Bank program as described in the Labor Agreement or in the leave donation process as described in the Labor Agreement or Employee Policies and Procedures, as applicable.