

GENERAL ORDER

April 2016

Immediately

III-29

Distribution: All Employees

Subject: **FAMILY MEDICAL LEAVE ACT (FMLA)**

Index as:	Active Duty	Light-duty	Reintegration
	Covered Active Duty	Military Leave	Serious Health Condition
	Covered Service Member	Military Service Member	Serious Injury or Illness
	Duration (FMLA)	Next of Kin	Service Member, Military
	Eligibility (FMLA)	No-duty	Telephone Reporting Unit (TRU)
	Family Medical Leave	Parental Leave	Training Requirements
	FMLA	Qualifying Exigency	Workers Compensation

Accreditation Standards: 22.1.2

Cross Reference: G.O. III-13, Leave Due to Illness
 G.O. III-35, Military Leave and Reintegration
 V.6:1, Injury Reporting/Workers' Compensation
 City Rules and Regulations Section 6-2, 6-4, 7
 Section 101(a)(13)(B) of Title 10, United States Code.

Replaces: G.O. III-29, Family Medical Leave Act (FMLA) (April 10, 2020)

This Order details procedures for employees on leave under the Family Medical Leave Act (FMLA).

- I. Policy
- II. Definitions
- III. Eligibility and Duration
- IV. Procedures
- V. Reintegration

I. POLICY

This Order incorporates, by reference, the City of St. Petersburg *Rules and Regulations of the Personnel Management System* with regard to the FMLA. The Family Medical Leave Act is federal law which protects an employee from suffering negative work consequences when the employee is absent from work on FMLA qualified leave.

A. No portion of this Order is intended to expand, limit or revoke any right created by the FMLA.

B. The FMLA does not create any right to compensation. The Act simply protects the employee's job interests while the employee is on FMLA Leave.

C. The City's rules regarding leave time govern compensation due an employee.

D. The protection afforded by the FMLA shall be provided in every instance that qualified leave is taken, regardless of whether or not the employee asks for the leave.

E. No adverse employment action can result from an employee's request for or use of FMLA protected leave. Discipline will not be issued for taking such FMLA protected leave and performance evaluations may not be adversely affected as a result of an employee's use of such leave. However, if patterns of abuse are suspected within the use of FMLA time, the Department does have the right to investigate such instances and issue discipline if determined to be appropriate.

F. If an employee meets the criteria for a qualifying FMLA event, the employee's leave will be coded as FMLA.

G. All forms required to document leave due to FMLA absences are available on the network at [J:\Forms\FMLA_Injury Reporting Workers' Compensation\FMLA](J:\Forms\FMLA_Injury_Reporting_Workers'_Compensation\FMLA).

II. DEFINITIONS

A. Covered Active Duty – Duty during the deployment of a member of the regular Armed Forces to a foreign country, and duty of a member of the Reserve component of the Armed Forces to a foreign country, under a call or order to active duty under Section 101(a)(13)(B) of Title 10, United States Code.

B. Covered Service Member – A member of the Armed Forces (including the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is on the temporary disability retired list, for a serious injury or illness; or a veteran who is undergoing medical treatment, recuperation, therapy for a serious injury or illness, and who was a member of the Armed Forces (including the National Guard or Reserves) at any time during the period of five (5) years preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy.

C. Next of Kin

1. The nearest blood relative other than the covered service member's spouse, parent, son, or daughter, in the following order of priority:

- a. A person who is designated, in writing, to be the service member's nearest blood relative for purposes of FMLA military caregiver leave;
- b. Blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions;
- c. Brothers and sisters;
- d. Grandparents;
- e. Aunts and uncles; and
- f. First cousins.

2. If no person is designated next of kin, and there are multiple family members with the same level of relationship to the service member, all of those family members are considered the next of kin and may be eligible to take FMLA leave, consecutively or simultaneously.

D. Parental Leave – Provides a full-time employee with base salary continuation for the period define in the City of St Petersburg Rules and Regulations 6-4, following the birth, adoption, or foster care intake of the employee's child. Parental leave is available to both female and male employees.

E. Serious Health Condition – An illness, injury, impairment, or physical or mental condition that involves inpatient care (an overnight stay in a hospital, hospice or residential medical care facility), or continuing treatment by a health care provider including:

1. A period of incapacity for more than three (3) consecutive calendar days and any subsequent treatment or period of incapacity that involves continuing treatment;
2. Pregnancy or prenatal care;
3. Chronic conditions (require periodic visits at least twice per year, continues over an extended period of time, and may cause episodic rather than a continuing period of incapacity);

4. Permanent or long-term conditions; or
5. Conditions requiring multiple treatments.

F. Serious Injury or Illness – An injury or illness incurred by a member of the Armed Forces (including a member of the National Guard or Reserves) in the line of duty, on active duty, in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty, on active duty, in the Armed Forces) that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and a qualifying injury or illness that was incurred by a veteran of the Armed Forces (including the National Guard or Reserves) or was aggravated by service in the line of duty and that manifested itself before or after the member became a veteran.

G. Qualifying Exigency – Includes:

1. Short-notice deployment (called seven [7] or less days prior to the date of deployment);
2. Military events and related activities;
3. Childcare and school activities;
4. Financial and legal arrangements;
5. Counseling;
6. Rest and recuperation;
7. Post-deployment activities; and
8. Additional activities provided the employer and employee agree that the activities qualify as an exigency arising out of the military member's covered active duty or call to covered active duty.

III. Eligibility and Duration

A. All full-time and part-time employees who have been employed by the City for at least twelve (12) months, consecutive or otherwise, and who have worked a minimum of 1,250 hours during the twelve (12) month period preceding the commencement of the leave, are eligible for the equivalent of up to twelve (12) unpaid (or substituted accrued paid leave) weeks of leave each year for the following reasons:

1. The birth of a child.
2. Placement with the employee of a son or daughter through adoption or foster care.
3. Care for the employee's spouse, son or daughter (generally under eighteen [18] years of age), or parent (excluding in-laws) with a serious health condition.
4. A serious health condition, including a Workers' Compensation related illness or injury that makes the employee unable to perform their job functions. All on-the-job injuries or illnesses **must be reported immediately** by each employee to their respective supervisor. A *Report of Injury to an Employee* form must be completed within 24 hours. (See <J:\Research\GeneralOrders\V Instructional Orders\V6-01 Injury Reporting Workers Compensation.pdf>.)
5. Any qualifying exigency arising out of the fact that the employee's spouse, son or daughter (no age restriction), or parent (excluding in-laws) is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces. Normally, the twelve (12) weeks is 480 hours for full-time employees. The equivalent number of protected leave hours for part-time employees is prorated, based upon the average hours worked in the twelve (12) weeks prior to the leave.

6. All full-time and part-time employees who have been employed by the City for at least twelve (12) months, consecutive or otherwise, and who have worked a minimum of 1,250 hours during the twelve (12)-month period preceding the commencement of the leave may be eligible for twenty-six (26) weeks of leave during a single twelve (12)-month period to care for a covered military service member with a serious injury or illness if the employee is the spouse, son or daughter (no age restriction), parent (excluding in-laws) or next of kin of the covered military service member.

IV. Procedures

A. Requests for FMLA protected leave shall be made verbally or via email, at least thirty (30) days prior to the commencement of leave, if the leave is foreseeable, or as soon as practicable.

B. Within five (5) working days after being notified by the employee of needing FMLA paperwork, the employee's Supervisor will determine FMLA eligibility. The Supervisor will then provide the employee with the Notice of Eligibility J:\Forms\FMLA_Injury_Reporting_Workers'_Compensation\FMLA\FMLA_Notice_of_Eligibility_and_Rights_and_Responsibilities.pdf and the Certification of Health Care provider J:\Forms\FMLA_Injury_Reporting_Workers'_Compensation\FMLA\Certification_of_Healthcare_Provider_Employee.pdf forms.

C. Within fifteen (15) days of receiving notice of eligibility from their Supervisor, the employee must provide supportive documentation on the applicable *Certification of Health Care Provider* form to the Operations Analyst, Fiscal Services. This Certification shall be obtained at the employee's expense, depending on the type of leave requested. Failure to provide the certification within the time frame may result in the employee being denied leave until the certification is received. In the case of certification of a serious health condition, a second or third opinion may be requested at the City's expense, but the City shall not be responsible for the employee's time or incidental expenses related to obtaining a second or third opinion.

D. Submission of the required form does not guarantee FMLA approval.

E. For payroll purposes, with their Supervisor's approval, applicable leave due to illness may be coded as FMLA, pending receipt of the *Certification of Health Care Provider* form.

F. Once all documentation is received, the Operations Analyst, Fiscal Services, will evaluate each instance of leave for possible FMLA applicability.

G. The Human Resources Specialist – FMLA, Workers Compensation and Military, will provide the employee with the *Designation Notice* (J:\Forms\FMLA_Injury_Reporting_Workers'_Compensation\FMLA\Designation_Notice.pdf) within five (5) business days of receiving all information necessary to make a determination about whether the leave is being taken for a FMLA-qualifying reason. If the forms are incomplete, the Operations Analyst, Fiscal Services, will inform the employee and give them seven (7) additional calendar days to gather all necessary information.

H. Once the Human Resources Specialist – FMLA, Workers Compensation and Military, Fiscal Services, receives all relevant FMLA paperwork, it will be verified for compliance with all Departmental and City Policies and Procedures.

I. The Human Resources Specialist – FMLA, Workers Compensation and Military will notify the employee and their affected Chain of Command of the approval or denial of FMLA.

J. If approved for FMLA, the Human Resources Specialist – FMLA, Workers Compensation and Military will notify the employee and their affected Chain of Command via email, of the employee's work status (light duty, no duty, or intermittent leave).

K. The FMLA protected leave taken for the reasons listed in this Order may be taken on an intermittent or reduced work-week basis.

L. Intermittent leave, or a reduced work week for the birth or placement of a child, must be approved by the Chief of Police, or designee.

M. While on FMLA, the affected employee's Chain of Command will remain their current Chain of Command

N. Employees on FMLA will be accommodated, when possible, to remain on their shift/days off; however, the employee's schedule may be modified, if necessary, to meet the needs of the Department.

O. Depending on work restrictions, the Sworn employee will be given an assignment once they are transferred to TRU. Accommodations can be made for various injuries/restrictions while working in TRU.

P. A Non-sworn employee may be assigned alternate work assignments, with the approval of their Assistant Chief, dependent on the affected employee's restrictions and Department needs.

Q. For intermittent FMLA, it is the responsibility of the employee to notify their immediate Supervisor of any upcoming leave. The employee need only provide the beginning date of leave, duration of leave, and return date.

R. Employees should make a reasonable effort to schedule appointments for planned medical treatment so as not to unduly disrupt Departmental operations.

S. Vacation taken while on a no duty work status must be approved by the Chief of Police, or designee, and the employee's attending physician (See City Rules and Regulations Section 6-2, D., 7.)

T. Where applicable, the employee's immediate Supervisor is responsible for obtaining the employee's take-home vehicle, computer, and portable radio (and batteries) once the employee is placed on FMLA leave

U. All medical related paperwork will be routed through the Human Resources Specialist – FMLA, Workers Compensation and Military, Fiscal Services and will be locked in the confidential medical files located in Fiscal Services Division.

V. When an employee is cleared to return to work, they must provide a note from a doctor stating they may return to full duty. Subsequently, an email will be generated, by the Human Resources Specialist – FMLA, Workers Compensation and Military, Fiscal Services, notifying the employee's Chain of Command of the employee's return date

W. The employee is responsible for contacting the Commander, Training Division and ensuring all training and Department requirements are up to date and no certifications have lapsed while they were on the FMLA leave. All training, qualifications, and certifications must be reinstated prior to returning to full duty.

V. Reintegration

A. The employee (sworn and non-sworn) is responsible for contacting the Commander, Training Division to ensure that all training and Department requirements are up to date and no certifications have lapsed while they were on the FMLA leave. All applicable training, qualifications, and certifications must be reinstated prior to returning to full duty.

B. The employee's Chain of Command is responsible for re-issuing any equipment that was returned to the Department at the onset of the employee's FMLA leave.

C. Sworn Employees

1. A Sworn employee out of work for an extended period of time (more than twelve weeks) will require reintegration back into work by riding along with a member of their assigned division for a minimum of one (1) week. Additional time may be required if decided by the employee's original Chain of Command.

2. A sworn employee out of work for over one (1) year will require at least (2) weeks of reintegration back to work by riding along with a member of their original assigned Division. Additional time may be added as deemed necessary by their Supervisor.

D. Non-sworn Employees

1. A non-sworn employee out of work for an extended period of time (more than twelve weeks) will require reintegration back into the workplace for a minimum of one (1) week. Additional time may be required if decided by the employee's original Chain of Command.

2. A non-sworn employee out of work for over one (1) year will require at least (2) weeks of reintegration back into the workplace. Additional time may be added as deemed necessary by their Supervisor.

Anthony Holloway
Chief of Police