

## MEMORANDUM

**TO:** Mayor Samora  
Vice Mayor Rumrell  
Commissioner England  
Commissioner George  
Commissioner Torres

**FROM:** Max Royle, City Manager 

**DATE:** December 21, 2021

**SUBJECT:** Paternity/Maternity Leave for City Employees: Consideration of Policies

Commander Travis Harrell of the Police Department has asked to speak to you about this topic. Attached is a memo from him.

Also, attached is additional information:

- a. Page 2, the minutes of that part of your December 6<sup>th</sup> meeting when the Commander spoke to you about the topic.
- b. Page 3, a list the leave 10 Florida cities and St. Johns County allow for parental leave.
- c. Pages 4-6, our City's current policies for parental leave.

### ACTION REQUESTED

It is that you discuss Commander Harrell's request with him and that you decide whether the City needs to change its current policies.



# St. Augustine Beach Police Department

*Daniel Carswell, Chief of Police*



## Memorandum

TO: Max Royle, City Manager  
FROM: T.G. Harrell, Asst. Chief of Police  
REF: January 3rd City Commission agenda item  
DATE: 12/21/2021

---

Mr. Royle,

At your direction and that of the Commission, I have researched maternity and paternity leave for St. Augustine Beach Police Department and city employees. Our current city policy reflects that we do not have a mechanism that allows for paid time off during maternity or paternity outside of their earned vacation or sick time. I intend to present/discuss this issue during the commission meeting scheduled for 01/03/2022. Could you please add this to the agenda?

Please advise if you need any further information prior to the meeting.

Respectfully,

T.G. Harrell, Asst. Chief of Police

## **PARTIAL MINUTES OF DECEMBER 6, 2022**

### **REGULAR COMMISSION MEETING**

Commander Harrell spoke with the Commission regarding paternity leave. He spoke prior to the meeting with the Commission on paternity leave which he feels is inadequate. He asked to place this issue on the agenda for the Commission's January 3<sup>rd</sup> meeting.

Mayor England advised that the City does not have paid paternity, maternity, or Family Medical Leave Act paid time off for the employees. She asked if anyone would object to having it on the agenda.

Commissioner Torres requested staff analysis on this issue but would not object to putting this on the agenda. He asked if there was any temporary disability insurance currently.

Finance Director Douylliez advised that the insurance company offers employees short-term disability if they want to purchase it, but the City does not pay for it. She would find out how much it would be for the City to purchase short-term disability for the employees; however, she advised that the pay out for short-term disability would not start until all the employees' sick, vacation, and compensation leave is used. She explained that she had been researching changing the leave pay to a personal time off and she would be able to get that to the Commission in January.

Mayor England advised that the Commission could consider it and what the alternatives and options would be for that and how to pay for it by adjusting some other rollover maximums.

Commander Harrell advised that the Police Department budgets the officers' pay each year and so if they are out on paternity or maturity leave it still could be paid by the budget. He advised in his opinion it is not an unfunded liability because the money is already there.

Commissioner George asked for all the backup material for this as well. She asked to show examples of those who are doing this and what kind of industries are giving paying it.

Commander Harrell advised that the amount of sick and vacation time that the City gives our employees is much less than the amount other agencies are giving and that is why they do not give it.

Commissioner George advised that what she needs to see the research regarding this.

## MATERNITY / PATERNITY LEAVE

CITY/TOWN	POLICY	PAY	DESCRIPTION
ATLANTIC BEACH	FMLA	NO PAY	CITY REQUIRES ALL LEAVE PAY TO BE USED FIRST DURING FMLA PERIOD
EAGLE LAKE	FMLA	PAY THRU STD	CITY GIVES STD FOR ALL EMPLOYEES WHICH PAYS FOR MATERNITY LEAVE ONLY. MUST USE ALL LEAVE BEFORE
DUNNELLON	FMLA	NO PAY	SICK AND VACATION LEAVE THEN UNPAID LEAVE
LAKE WALES	POLICY	NO PAY	SICK AND VACATION LEAVE THEN UNPAID LEAVE
MARY ESTHER	FMLA	NO PAY	SICK AND VACATION LEAVE
PORT ORANGE	FMLA	NO PAY	SICK AND VACATION LEAVES AND THEN UNPAID LEAVE
ST. AUGUSTINE	FMLA	NO PAY	USES SICK / VACATION LEAVE
ST. JOHNS CTY	FMLA	NO PAY	If the employees runs out of sick or vacation and belongs to the sick pool, they can get paid time off.
TALLAHASSEE	FMLA	NO PAY	SICK AND VACATION LEAVE
VALKARIA	FMLA/POLICY	PAID	EIGHT WEEKS
VENICE	FMLA	NO PAY	

CITY'S PERSONNEL MANUAL

**XI.1 PARENTAL LEAVE**

- A. Federal guidelines on discrimination because of sex provide that absence due to maternity related reasons be considered and treated a temporary disability. Disability caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery is, for all job-related purposes, temporary disability. The medical leave plan shall be applied to disability due to pregnancy or childbirth on the same terms and condition as it is applied to other temporary disabilities.
- B. Parental leave is a period of approved absence for incapacitation related to pregnancy and confinement. Parental leave may be charged to medical leave or to any combination of medical leave, annual leave and leave of absence without pay. Additionally, the City shall also count parental leave as part of an eligible employee's entitlement under the Family and Medical Leave Act.
- C. Parental leave notice shall be given in writing 30 day prior to the leave unless there is a medical emergency regarding the pregnancy.
- D. The time when a birth mother/father should return to work will be determined on an individual basis and will generally depend on the physical nature of the work, the need of the city, and the results of professional medical guidance.
- E. An employee will be allowed to continue working so long as the conditions of the pregnancy do not adversely impair the employee's work performance or health as determined by a physician, the employee's input, and the need of the city.
- F. The date on which the employee shall return to work following maternity leave shall be based on a medical statement from a certified physician stating that the employee is physically and mentally able to perform normal duties of the position with full efficiency.

**XI.1 THE FAMILY AND MEDICAL LEAVE ACT**

The Family and Medical Leave Act (FMLA) entitles eligible employees to take unpaid, job-protected leave for specified family and medical reasons.

**A. Eligible Employees**

Eligible Employees are entitled to take FMLA leave. The definition of an eligible employee is one who:

1. Works for a covered employer which is a public agency, including a local, state, or Federal government agency, regardless of the number of employees it employs.
2. Has worked for the employer for at least 12 months\*.
3. Has at least 1,250 hours of service for the employer during the 12-month period immediately preceding the leave.

\*The 12 months of employment do not have to be consecutive. That means any time previously worked for the same employer (including seasonal work) could, in most cases, be used to meet the 12-month requirement. If the employee has a break in service that lasted seven years or more, the time worked prior to the break will not count unless the break is due to service covered by the Uniformed Services Employment and Reemployment Rights Act (USERRA), or there is a written agreement, including a collective bargaining agreement, outlining the employer's intention to rehire the employee after the break in service.

**B. Leave Entitlement**

Eligible employees may take up to 12 workweeks of leave in a 12-month period for one or more of the following reasons:

1. The birth of a son or daughter or placement of a son or daughter with the employee for adoption or foster care within one year of birth or placement.
2. To care for a spouse, son, daughter, or parent who has a serious health condition.
3. For a serious health condition that makes the employee unable to perform the essential functions of his or her job; or
4. For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call to covered active-duty status.

An eligible employee may also take up to 26 workweeks for leave during a "single 12-month period" to care for a covered servicemember with a serious injury or illness, when the employee is the spouse, son, daughter, parent, or next of kin of the servicemember. The "single 12-month period" for military caregiver leave is different from the 12-month period used for other FMLA leave reasons.

Under some circumstances, employees may take FMLA on an intermittent or reduced schedule basis. That means an employee may take leave in separate blocks of time or reduce the time he or she works each day or week for a single qualifying reason. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment not to disrupt the employer's operations unduly. If FMLA is

for the birth, adoption, or foster placement of a child, use of intermittent or reduced schedule leave requires the employer's approval.

Under certain conditions, employees may choose, or employers may require employees, to "substitute" (run concurrently) accrued paid leave, such as sick or vacation leave, to cover some or all the FMLA leave period. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the employer's normal leave policy.

C. Notice of Leave

Employees must comply with the City's requirements for requesting leave and provide enough information for the city to reasonably determine whether the FMLA may apply to the leave request. Employees must request leave 30 days in advance when the need for leave is foreseeable. When the need for leave is foreseeable less than 30 days in advance or is unforeseeable, employees must provide notice as soon as possible and practicable under the circumstances.

When an employee seeks leave for a FMLA-qualifying reason for the first time, the employee need not expressly assert FMLA rights or even mention the FMLA. If an employee later requests additional leave for the same qualifying condition, the employee must specifically reference either the qualifying reason for leave or the need for FMLA leave.

D. Certification

When an employee requests FMLA leave due to his or her own serious health condition or a covered family member's serious health condition, the employer may also require second or third medical opinions (at the employer's expense) and periodic recertification of a serious health condition.

E. Job Restoration and Health Benefits

Upon return from FMLA leave, an employee must be restored to his or her original job or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. An employee's use of FMLA leave cannot be counted against the employee under a "no-fault" attendance policy. Employers are also required to continue group health insurance coverage for an employee on FMLA leave under the same terms and conditions as if the employee had not taken leave.