

Legislative Update: Leave Benefits

JUNE 24, 2021 • April Mabry



New categories of paid leave for employees engaged in military service and peace officers are required as the result of 87th Regular Session of the Texas Legislature.

This is the first of a series of posts summarizing new legislation effective immediately or by September 1, 2021. Topics of future posts include the following:

- Teacher Retirement System
- Certification and licensing

- Training and staff development
- Sexual assault, abuse and neglect, misconduct, and harassment
- General personnel issues

Leave for public employees engaged in military service (HB 1589)

The leave required by this bill is similar to the existing 15 days of paid military leave that political subdivisions (e.g., districts, colleges, education service centers) are required to provide for training or call to active duty ([Tex. Gov't Code §437.202](#)). This bill provides up to seven workdays of paid leave in a fiscal year for officers and employees of the state of Texas, a municipality, a county, or another political subdivision who are members of the Texas military forces, a reserve component of the armed forces, or a member of a state or federally authorized urban search and rescue team if called to state active duty by the governor or another appropriate authority in response to a disaster. For purposes of this leave, a disaster is defined in [Texas Government Code § 418.004](#). While on such leave, an employer may not deduct sick leave, personal time, or vacation time, nor may the employee be subject to loss of time or efficiency rating. (Effective 9/1/2021)

Mental health leave for peace officers (SB 1359)

A new type of leave for peace officers is created by this bill. A law enforcement agency is required to develop and adopt a policy allowing use of paid mental health leave by peace officers employed by the agency who experience a traumatic event in the scope of employment. For purposes of this bill “law enforcement agency” includes a political subdivision authorized to employ peace officers, including colleges and school districts.

The leave policy must be implemented as soon as practicable after September 1, 2021 and must provide clear and objective guidelines for granting and use of mental health leave, make the leave available without a deduction in compensation, state the number of leave days available, and detail the limit of anonymity for a peace officer taking such leave. The policy may, but is not required to, list mental health services available to peace officers in the area. (Effective 9/1/2021)

Quarantine leave for peace officers (HB 2073)

The governing body of a political subdivision must develop and implement a paid quarantine leave policy for peace officers employed by the political subdivision. Fire fighters, detention officers, and emergency medical technicians are also entitled to the leave, although educational entities typically don't employ these types of employees. The leave applies if a covered employee is ordered to isolate or quarantine because of a possible or known exposure to a communicable disease while on duty.

The policy must require that the person's supervisor or the political subdivision's health authority order the leave and must provide that a person receiving leave under this provision receive all employment benefits and compensation for the duration of the leave and reimbursement for the cost of the quarantine such as lodging, medical treatment, and transportation.

Because this law restricts a political subdivision from reducing the person's sick leave, vacation leave, holiday leave, or other paid leave balance in connection with paid quarantine leave under this statute, this leave is in addition to existing leave. (Effective 6/15/2021)

Resources

Descriptions of the new leave benefits will be included in the July legislative update to the district and community college model employee handbooks. Updates will be made to the following HR Library (myTASB login required) topics and forms as soon as practicable:

- [State and Federal Leave](#) (pdf)
- [Framework for Developing Leaves and Absence Procedures](#) (docx)
- [Leave for Military Service](#) (pdf)
- [Sample Record of Military Leave of Absence](#) (docx)
- [Types of Leave Summary Chart](#) (pdf)

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RESOLUTION

At the Regular City Council Meeting of the City Council of the City of Mineola, Wood County, Texas, held on October 25, 2021 at 5:30 p.m., at the Mineola Municipal Complex, there being a quorum of the City Council present, upon motion duly made and seconded the following Resolution was adopted, to-wit:

WHEREAS, the City council adopted the revised City of Mineola Employee Handbook on February 26, 2018; and

WHEREAS, the City Council desires to clarify and modify certain provisions, procedures and policies therein to reflect changing laws, technologies, procedures and practices of the City of Mineola.

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MINEOLA, TEXAS:

Add SECTION 5.121 MENTAL HEALTH LEAVE POLICY FOR PEACE OFFICERS as attached hereto as EXHIBIT "A"

Add SECTION 5.122 EMERGENCY RESPONSE PROVIDER QUARANTINE LEAVE POLICY attached hereto as EXHIBIT "B"

This Resolution shall take effective immediately upon adoption by the City Council.

APPROVED and ADOPTED by the City Council of the City of Mineola, Texas on the 25th day of October, 2021.

Jayne Lankford, Mayor

Cindy Karch, City Secretary

MENTAL HEALTH LEAVE POLICY FOR PEACE OFFICERS

This Mental Health Leave Policy for Peace Officers is adopted pursuant to Senate Bill 1359, as codified in the Texas Government Code, Section 614.015. This Policy is adopted pursuant to the following guidelines:

**I.
DEFINITIONS**

- A. Mental Health Leave.** Mental Health Leave - Administrative Leave With Pay granted in response to a traumatic event that occurred within the scope of the peace officer's job responsibilities and duties.
- B. Traumatic Event.** An event which occurs in the peace officer's scope of his/her official responsibilities and duties when the officer is involved in the response to, or investigation of, an event that causes the officer to experience unusually strong emotional reactions or feelings which have the potential to interfere with the officer's ability to function during or after the incident. Traumatic events may include, but are not limited to, the following:
1. Major disasters which may include response to weather related events during multiple casualties, or explosions with multiple casualties, or search and recovery missions involving multiple casualties.
 2. Incidents involving multiple casualties which may include shootings or traffic accidents.
 3. Line of duty death or suicide of a department member.
 4. Death of a child resulting from violence or neglect.
 5. Officer(s) involved shooting of a person.

- C. Mental Health Professional.** A licensed social or mental health worker, counselor, psychotherapist, psychologist or psychiatrist.

**II.
REQUESTING MENTAL HEALTH LEAVE**

- A. An officer directly involved in a traumatic event may request the use of mental health leave. The request shall be made in writing and submitted to the Chief of Police. The request shall be treated as a priority matter, and a decision on the granting of the leave shall be made no later than twenty-four (24) hours following the submission of the request. The request shall be granted unless the Chief of Police can articulate specific compelling reasons to deny granting the leave.
- B. A supervisor or co-worker who becomes aware of behavioral changes in an officer directly involved in a traumatic event should suggest to the officer that he/she seek mental health leave and the assistance of a mental health professional.

**III.
DURATION OF MENTAL HEALTH LEAVE**

- A. An officer directly involved in a traumatic event may request up to five (5) working days of mental health leave.
- B. Extensions of mental health leave may be available under certain circumstances. Any request for an extension shall be accompanied by documentation from a mental health professional who is treating the officer. The request may extend the leave by five (5) additional working days. Each officer may request no more than two (2) extensions, each supported by sufficient documentation by the mental health professional. The Chief of Police shall grant the extension(s) upon receipt of sufficient documentation explaining the need for the extension.

**IV.
CONFIDENTIALITY**

- A. Any request for mental health leave shall be treated as strictly confidential by all parties involved and shall not be discussed or disclosed outside the officer's immediate chain of command, and only as necessary to facilitate the use of the leave. Any officer or supervising officer who becomes aware of behavioral changes and suggests the officer seek mental health leave shall not discuss the matter with any third party. Any breach of this confidentiality shall be grounds for discipline.
- B. Confidentiality may be waived by the officer seeking mental health leave. Confidentiality may be waived under circumstances which indicate the officer is a danger to

himself/herself or others, and department personnel must confer with mental health professionals and/or necessary third parties.

**V.
MENTAL HEALTH SERVICES AVAILABLE**

The Chief of Police and/or administrative staff within the Police Department shall assist, as necessary, any officer granted mental health leave concerning mental health resources available to the officer, such as peer support groups, mental health programs and/or professionals, or any other resource which may be of assistance to the officer.

**VI.
ACCRUED SICK LEAVE**

In the event an officer is granted mental health leave pursuant to this policy, accrued and unused sick leave pursuant to City policy shall be applied for any mental health leave and extensions granted, if any.

EMERGENCY RESPONSE PROVIDER QUARANTINE LEAVE POLICY

This policy is adopted by way of the passage of House Bill 2073, as codified in Section 180.008 of the Texas Local Government Code.

I.

Purpose

The purpose of this policy is to provide paid quarantine leave for peace officers, firefighters and emergency medical technicians who are employed by City and ordered to quarantine and/or isolate due to possible or known exposure to a communicable disease.

II.

Definitions

- A. Emergency Medical Technician means an individual who is employed by the City and is certified as an Emergency Medical Technician pursuant to Chapter 773, Texas Health & Safety Code.
- B. Firefighter means a paid employee of the City's Fire Department who: (a) holds a position that requires substantial knowledge of firefighting; (b) has met the requirements for certification by the Texas Commission on Fire Protection pursuant to Chapter 419 of the Texas Government Code; and (c) performs at least one of the following functions: (i) fire suppression; (ii) fire prevention; (iii) fire training; (iv) fire safety education; (v) fire maintenance; (vi) fire communications; (vii) fire medical emergency technology; (viii) fire administration; and/or (ix) fire investigations.
- C. Paid Quarantine Leave means: (i) all employment benefits and compensation, including leave accrual, pension benefits, and health benefit plans provided by the City; and (ii) if applicable, reimbursement for reasonable costs related to the quarantine, including lodging, medical and transportation costs.
- D. Peace Officer means police officers licensed by the Texas Commission on Law Enforcement and employed by the City.

III.

Paid Quarantine Leave

- A. Employed firefighters, peace officers and/or emergency medical technicians ordered to quarantine or isolate by the person's supervisor, City's administrative staff or a physician and/or any health authority due to a possible or known exposure to a communicable disease while on duty is entitled to receive paid quarantine leave, as defined herein, for the duration of said leave.

- B. City shall not reduce an employed firefighter's, peace officer's or emergency medical technician's sick leave balance, vacation leave balance, holiday leave balance, or other paid leave balance in connection with paid quarantine leave taken in accordance with this policy.