

**COUNTY OF MONROE
OFFICE OF THE SHERIFF
ROCHESTER, NEW YORK**

GENERAL ORDER MULTI-BUREAU	DATE OF ISSUE March 5, 2026	EFFECTIVE DATE March 5, 2026	NO. 090-26
Subject: General Order Family Medical Leave Act (FMLA)		Distribution All Personnel	Amends
REFERENCE: THE FAMILY AND MEDICAL LEAVE ACT			RESCINDS 090-23

Purpose: To conform to the Federal Statute enacted in 1993 and with the Regulations of the United States Department of Labor.

Policy: It is the policy of the Sheriff's Office to have all members and employees conform to the requirements of The Family and Medical Leave Act (FMLA) and afford those employees and members the protections in said act. In all cases where an employee or member has a serious health condition which meets the criteria as defined in this general order (for either themselves or a qualifying family member) and/or for any other FMLA qualifying reason, the employee or member must submit the paperwork for FMLA leave. **(Pursuant to 29 CFR 825.300(d)(1) and 29 CFR 825.302.**

Definitions: **Sheriff's physician** – The medical provider under contract with the Monroe County Sheriff's Office.

FMLA – The Family and Medical Leave Act, is federal legislation that provides qualifying employees with up to 12 weeks of unpaid, job-protected leave in a 12-month period measured backward from the date of any FMLA leave usage. It also requires that their group health benefits be maintained during the leave.

I. Family Medical Leave Act (FMLA)

A. Employees on extended or intermittent sick leave may be entitled to protected absence under the Family and Medical Leave Act of 1993, as amended. In every instance of extended or intermittent sick leave, Monroe County and the Monroe County Sheriff's Office will administer FMLA protected leave in accordance with federal regulations as stipulated under 29 CFR Part 825, when applicable.

B. Serious Health Condition - (Definition pursuant to 29 CFR §825.113, §825.114 and §825.115) - An illness, injury, impairment, or physical or mental condition that involves either:

1. In patient care (i.e. an overnight stay) in a hospital, hospice, or residential medical-care facility, including any period of incapacity (i.e. inability to work, attend school, or perform other regular daily activities) or subsequent treatment in connection with such in patient care, or

2. Continuing treatment by a health care provider, this includes:

a. A period of incapacity lasting more than three consecutive, full calendar days,

and any subsequent treatment or period of incapacity relating to the same condition that **also** includes;

- i. Treatment two or more times by or under the supervision of a health care provider (i.e. in person visits, the first within seven days and both within 30 days of the first day of incapacity); **or**
 - ii. One treatment by a health care provider (i.e. an in-person visit within seven days of the first day of incapacity) with a continuing regimen of treatment (i.e. prescription medication, physical therapy); **or**
- b. Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence; **or**
3. Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence; **or**
 4. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment; **or**
 5. Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three days if not treated.

C. Exceptions

Some conditions are not considered "Serious Health Conditions" under FMLA unless inpatient care is required or unless complications occur. Pursuant to **29 CFR 825.113(d)**,

"Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc. are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA".

D. When the employee meets the above criteria (with a **serious health condition** for either themselves or a qualifying family member) it is incumbent upon the employee's supervisor to ensure that the employee completes the necessary FMLA paperwork and documentation.

E. Employee Responsibilities:

1. Complete the **Monroe County Sheriff's Office Request for FMLA Leave Form (MB-156)** and the US DOL FMLA Certification of Health Care Provider form appropriate for the leave situation. FMLA forms can be found on the MCSO intranet, available through the supervisor or on-line at www.dol.gov. The Health Care Provider Form must be completed by the employee's physician and **original** form must be submitted to the Health and Safety Nurse a minimum of thirty (30) days prior to the start of the leave whenever possible. The forms must include the effective date of the start of the leave as well as its anticipated duration.
2. If FMLA leave is not foreseeable, the employee must provide notice along with a properly completed **original** Certification of Health Care Provider form to the Health and Safety Nurse as soon as practicable with the facts and circumstances of their particular case. Employees are expected to provide notice of their need for

intermittent FMLA leave to their supervisor as soon as they are aware of their need for the same. The FMLA Certification for intermittent leave must clearly state the anticipated frequency and duration of intermittent leave for the next 12-month period.

3. If requested leave is intermittent, the employee is expected to comply with all notice and procedural requirements for requesting leave and reporting through their chain of command. Calling in "sick" without providing more information will not automatically trigger the FMLA protected leave. The employee has an obligation to respond to their supervisor's questions in order to allow the supervisor to determine if a request for leave qualifies for FMLA protection. Failure to respond to a supervisor's reasonable inquiries about an employee's need for leave will result in a denial of FMLA protection.
4. Routine office visits for medical treatments should be scheduled outside of normal work hours whenever possible.
5. The employee shall submit all original forms and supporting documentation to the Health and Safety Nurse for processing. Documentation provided will then be submitted to Sheriff's Counsel for review and determination as to approval. All medical leave information and correspondence will be placed in the employee's confidential medical file. These confidential medical files are maintained in filing cabinets within the Undersheriff's Office separate and apart from the employee's personnel files.
6. During extended FMLA leave the employee must provide weekly reports to their supervisor upon their request during the leave regarding their status and plan to return to work.
7. An employee on FMLA leave due to an employee's health condition must report to the Sheriff's physician for an examination and written authorization to return to duty. The employee's supervisor will ensure compliance with this procedure.
8. If additional FMLA time is necessary and/or dates of FMLA leave need to be changed and/or revised, this will need to be supported by documentation from your health care provider. This *may* require an additional Certification of the Health Care Provider Form if it is for a condition separate and apart from the original condition for which you requested FMLA leave.

Note: Employees who are placed on FMLA are not absolved of their responsibilities as set forth previously, relative to contacts with Central Records, their supervisors, and/or the sheriff's physician. (Refer to **MBGO-018 Sick Leave Procedures**).

Note: If reason exists to question the validity or completeness of a request for FMLA leave, it shall be handled in accordance with the applicable Federal Regulations, most specifically, 29 CFR 825.305 and CFR 825.307. In addition, the employee may be required to submit to an independent medical examination in order to obtain a second opinion. This exam will be conducted at the County's expense.

F. Supervisors Responsibilities.

1. Upon request, the supervisor shall provide FMLA forms to an employee prior to a foreseeable absence. In the case of unforeseeable leave, forms should be sent to the employee while he/she is out on leave with instructions to complete and return the forms to the Health and Safety Nurse or Sheriff's Counsel as soon as possible upon returning to work, but no longer than thirty (30) days.
2. For payroll purposes, utilize the FMLA codes on the employee's time sheet only upon FMLA authorization.

3. Maintain accurate records of all time utilized for FMLA requests to ensure that it does not exceed the approved leave time or the maximum 12-week annual leave entitlement.
- G. If the 12-week leave entitlement has been exhausted, the employee must either return to work or request further leave in accordance with employee's bargaining unit agreements.
- H. If an extension of leave is necessary, the employee must submit a new Certification of Health Provider and FMLA request and provide an anticipated return to work date.
- I. FMLA approved absences will not be noted as sickness frequencies when completing annual performance evaluations.

II. Maternity/Paternity Leave Status

- A. FMLA forms must be completed for leaves associated with both maternity and paternity.
- B. Female employees may use sick leave credits or any other leave credits for maternity leave. However, when using sick leave credits for maternity leave, they may only be utilized during the disability period. This disability period is to be determined by the female employees attending physician.
- C. If the female employee has exhausted all accumulated leave time during her maternity leave, she may request in writing, through the Sheriff or their designee, half-pay sick leave in accordance with her respective collective bargaining unit's agreement for any remaining period of disability.
- D. A leave of absence without pay may be requested through the Sheriff in accordance with the respective collective bargaining unit's agreement.
- E. Male employees may be entitled to leave to provide medical care for their spouse and/or for the birth of a child. Leave requests for this purpose will be administered in accordance with the provisions of the Family and Medical Leave Act. In these instances, the employee may use leave credits in accordance with the provisions of his or her collective bargaining agreement or any other agreements.
- * F. For healthy pregnancies and newborns, intermittent leave time will not be granted for maternity/paternity.

* III. American with Disabilities Act (ADA) Compliance

- A. The ADA requires medical records and information about an employee must be maintained in a confidential, secure manner, and kept separate from the regular personnel files. Access should be restricted to supervisors and medical staff who handle, access, or manage medical records or information for current and former employees.

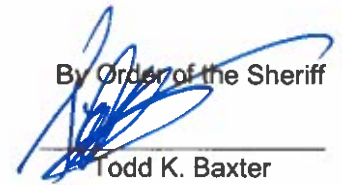
NOTE: Medical information shall not be maintained in an employee's Supervisory Incident Documentarian Log (SIDL) file.

- B. All medical records, including information regarding disability status, medical conditions, medications, or treatment plans, must be kept confidential.
- C. Supervisors and medical staff are allowed to access medical information when necessary to ensure that reasonable accommodations are provided. Supervisors should refrain from

requesting medical information unless an employee is seeking an accommodation or there is a need to assess the employee's ability to perform essential job functions.

- D. When medical records and information are submitted by an employee (e.g., doctor's notes, requests for accommodation, FMLA requests), it must be directed to the Health and Safety Nurse.
- E. In the event of an emergency, first aid and safety personnel may be informed of an employee's medical information to provide emergency treatment.

By Order of the Sheriff



Todd K. Baxter