

Chapter 116. Family and Medical Leave and Paid Parental Leave¹

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¹ Chapter 16 was adopted by Commissioners Court on June 20, 2017, Item #17 Revised. Chapter 16 was renumbered as Chapter 116 on June 1, 2018 (approved May 5, 2018, Item 7). Chapter 116 was repealed and replaced on August 23, 2022, Item 16. See section 116.004 for effective dates of Paid Parental Leave and FMLA leave.

Subchapter A. General Interpretive Provisions of Chapter

116.001 Authority

Travis County is subject to the Family and Medical Leave Act (FMLA) of 1993, as amended, and all of its Final Regulations. Texas Local Government Code section 152.011 authorizes the Travis County Commissioners Court to set the compensation and all allowances for all county and precinct officers and employees wholly paid from county funds.

116.002 Purpose

- (a) The expanded purpose of Chapter 116 is to create Paid Parental Leave which is described in full in sections 116.040 through 116.047.
- (b) The initial purpose of Chapter 116 is to provide a brief overview of the federally required FMLA Leave which is described in full in the Family and Medical Leave Act of 1993, as amended, and its several Final Regulations, (“Family Leave Requirements”).
- (c) The portion of this chapter related to Family and Medical Leave is interpreted to be consistent with the Family Leave Requirements current at the time of the request. It is the express intent of this policy to comply with the relevant federal law. Whenever chapter benefits and Family Leave Requirements overlap, the more favorable applies to the Eligible Employee.

116.003 Application of Family Leave Requirements to Eligible Employees

- (a) The Family Leave Requirements apply to Eligible Employees.
- (b) Eligible Employees are County employees, including regular, project, part-time, temporary and seasonal employees, who:
 - (1) Have not used the maximum Basic FMLA Leave or the maximum Military Care Giver Leave to which that employee is entitled in the applicable 12-month period.
 - (2) Have been employed by County for at least 12 months (not necessarily consecutively) on the date when FMLA Leave is to begin.
 - (3) Have provided at least 1,250 hours of actual work for County during the 12-month period immediately before the date on which FMLA Leave is to begin.
- (c) Transfer employees from the City of Austin may consult with the Human Resources Management Department about calculation of time related to eligibility.

116.004 Effective Date

- (a) FMLA Leave was adopted by Commissioners Court and went into effect on August 5, 1993, and has been revised to comply with changes in the Family and Medical Leave Act and the regulations under it as amended from time to time.
- (b) Paid Parental Leave is effective for any Parental Event that occurs after May 3, 2022.

116.005 Definitions Applicable to Entire Chapter

- (a) “Child” means a biological, adopted, or foster child, a stepchild, a legal ward, or a child for whom a person has or had day-to-day responsibilities to care for or financially support who is either:
 - (1) under age 18, or
 - (2) 18 or older and incapable of caring for themselves because of physical or mental disability
- (b) “Continuing Treatment” includes Treatment of, or recovery from, any one or more of the following: incapacity, chronic conditions, permanent or long-term conditions, or conditions requiring multiple treatments, each of which are described more fully in (1) through (4).
 - (1) Incapacity. Incapacity due to the Serious Health Condition that lasts more than three consecutive, full calendar days, and any subsequent Treatment or Incapacity relating to the same condition, that also involves:
 - (A) Treatment on two or more occasions based on in-person visits to a health care provider or a professional under their direction, the first within 7 days and the second within 30 days of the first day of Incapacity, unless there are circumstances beyond the employee’s control that prevent the second visit from occurring as planned by the health care provider. For example, if a health care provider wants a second in-person visit, but does not have any available appointments within the 30-day period; or
 - (B) Treatment based on an in-person visit to a health care provider on at least one occasion within 7 days of the first day of Incapacity, which results in a regimen of continuing treatment under the supervision of the health care provider that cannot be initiated without a visit to a health care provider.
 - (C) Examples of a regimen of continuing treatment:
 - (i) a course of prescription medication or
 - (ii) therapy requiring special equipment to resolve or alleviate the health condition like oxygen.
 - (D) NOT examples of a regimen of continuing treatment:

- (i) taking over-the-counter medications;
 - (ii) bed-rest,
 - (iii) drinking fluids,
 - (iv) exercise, and other similar activities
- (2) Chronic conditions. Even if the absence does not last more than three consecutive, full calendar days and even though the person affected does not receive treatment from a health care provider during that absence, a Serious Health Condition is one that:
 - (A) Requires at least two periodic in-person visits a year for treatment by a health care provider, or professional under their direct supervision;
 - (B) Continues over an extended period of time and includes recurring episodes of a single underlying condition; and
 - (C) May cause episodic rather than continuing Incapacity, like asthma, diabetes, or epilepsy.
 - (D) Example: An employee may be unable to report for work because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level.
- (3) Permanent or long-term conditions. Incapacity which is permanent or long-term due to a condition for which treatment may not be effective if the affected person is under the continuing supervision of a health care provider, even if not receiving active treatment. Examples:
 - (A) Alzheimer's disease,
 - (B) severe stroke, or
 - (C) the terminal stages of a disease.
- (4) Conditions requiring multiple treatments. Absence for multiple treatments by a health care provider or professional under their orders for:
 - (A) Restorative surgery after an accident or other injury; or
 - (B) Treatment for a condition that would likely result in incapacity of more than three consecutive, full calendar days without treatment,
 - (C) Examples:
 - (i) chemotherapy or radiation for cancer,
 - (ii) physical therapy for severe arthritis, or
 - (iii) dialysis for kidney disease.
- (5) Pregnancy or prenatal care. Pregnancy or prenatal care. Any period of incapacity due to pregnancy, or for prenatal care.

- (c) “Covered Service Member” does NOT include members on the **permanent** disability retired list and means a person who is either:
- (1) a veteran who:
 - (A) is undergoing medical Treatment, recuperation, or therapy for a Serious Injury or Illness and
 - (B) was a member of the Armed Forces, including the Regular Armed Forces, the National Guard and the Reserves, at any time during the five years before they begin undergoing that medical Treatment, recuperation, or therapy or
 - (2) a current member of the Armed Forces, including members of the Regular Armed Forces, the National Guard and the Reserves who is:
 - (A) currently on active duty or call to active duty status **or** on the temporary disability retired list, **and**
 - (B) has a Serious Injury or Illness incurred in the line of duty on active duty for which they are
 - (i) undergoing medical Treatment, recuperation, or therapy, or
 - (ii) on Outpatient Status, or
 - (iii) on the temporary disability retired list.
- (d) “Family Leave Requirements” means the Family and Medical Leave Act of 1993, as amended, and its several Final Regulations as amended at the time of the request.
- (e) “FMLA Leave” means an Eligible Employee’s absence from work for one or more Qualifying Events described in 116.011.
- (f) “FMLA Leave Administrator” means Human Resources Management Department (HRMD), HRMD Designee or other individual designed by an Elected or Appointed Official to process and track FMLA Leave requests.
- (g) “Intermittent Leave” means that an employee takes leave in separate blocks of time because of a single condition. This may be from one hour at a time to several weeks at a time. Examples include leave taken for medical appointments, or several days at a time for six months for chemotherapy, or for prenatal examinations or for periods of severe morning sickness.
- (h) “Official” means any elected official, any appointed official, and any role reporting to the Commissioners Court in an executive capacity like County Executives.
- (i) “Parent” means a biological, adoptive, step or foster father or mother, or any other individual who has or had day-to-day responsibilities to care for or financially supported the employee when a Child but does not include parents “in law.”

- (j) Reduced Schedule Leave means that an employee works fewer than the normally scheduled hours each week or each workday and is a change in schedule for a period of time, normally from full-time to part-time.
 - (1) Example 1: An employee is recovering from a Serious Health Condition and is not strong enough to work a full-time schedule.
 - (2) Example 2: An employee is caring for another on a shared basis.
- (k) “Serious Health Condition” means an illness, injury, impairment or physical or mental condition that involves:
 - (1) Inpatient Care – an overnight stay in a hospital, hospice, or residential medical care facility, and any period of incapacity or subsequent treatment in connection with such inpatient care.
 - (2) Continuing treatment by a health care provider (HCP) which may include some mental illnesses and some allergies as well as restorative dental or plastic surgery after an injury or removal of cancerous growths if inpatient care is required or complications develop. Unless Inpatient Care is required or complications arise, the following are **not** Serious Health Conditions: common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, and conditions for which cosmetic treatments are administered
- (l) “Serious Injury or Illness” for:
 - (1) a Covered Service Member who is a veteran means a qualifying injury or illness (as defined by the Secretary of Labor) that was incurred or, if existing before active duty, was aggravated by the Covered Service Member in line of duty on active duty in the Armed Forces and
 - (2) a Covered Service Member who is a current member of the Armed Forces means an injury or illness that was incurred or, if existing before active duty, was aggravated by a Covered Service Member in the line of duty on active duty in the Armed Forces that may render the Covered Service Member medically unfit to perform the duties of their office, grade, rank, or rating.
- (m) “Spouse” means an individual who has entered into a marriage that is valid in the place where it was entered into and includes an individual in a same-sex or common law marriage.
- (n) “Treatment” includes examinations to determine if a Serious Health Condition exists and evaluations of the condition but does **not** include routine physical, eye, or dental examinations.

[116.006 – 116.009 Reserved for Expansion]

Subchapter B. FMLA Overview

116.010 Benefits of FMLA

- (a) The benefits of FMLA Leave are:
 - (1) the right to take unpaid leave,
 - (2) the right to return to the same or an equivalent position, pay, shift, schedule and benefits at the end of the leave and
 - (3) the continuation of County paid health care coverage to the extent paid by County while working.
- (b) The unpaid leave may be up to 12 weeks for Basic FMLA Leave and up to 26 weeks for Military Caregiver Leave to care for a Covered Service Member with a Serious Injury or Illness during the applicable 12-month rolling period. While on FMLA Leave the Eligible Employee must use any accrued paid leave (sick, vacation, etc.,) until all accrued paid leave is exhausted.

116.011 Types of Leave Covered

- (a) There two types of FMLA Leave: Basic FMLA Leave and Military Care Giver Leave.
- (b) Basic FMLA Leave provides Eligible Employees up to a combined total of 12 weeks of unpaid leave in each 12 month period when there is a Qualifying Event. The 12 month period begins 12 months before the first day of requested FMLA Leave for the following Qualifying Events:
 - (1) the birth of a Child to an Eligible Employee, and to care for or bond with the newborn Child, or the placement of or bonding with a Child with an Eligible Employee for adoption or foster care; or
 - (2) the Need to Care for a Spouse, Child, or Parent who has a Serious Health Condition that involves Inpatient Care or Continuing Treatment by a health care provider;
 - (3) the Eligible Employee has a Serious Health Condition that involves Inpatient Care or Continuing Treatment by a health care provider no matter how caused and that condition makes the employee Unable to Perform the Essential Functions of their Position. Employees with questions about what illnesses qualify are encouraged to consult with the FMLA Administrator.
 - (4) Exigency Leave when Deployment of the Spouse, Child regardless of age, or Parent of an Eligible Employee by the Armed Forces causes an urgent need to which the Eligible Employee must attend.
 - (A) Leave to attend to these urgent needs may begin as soon as the Covered Military Member receives the call-up notice. The urgent need must be one of the following:

- (i) Deployment on short-notice
 - (ii) Military events and activities
 - (iii) Changes to Child care and school activities caused by Deployment
 - (iv) Financial and legal arrangements
 - (v) Counseling needed for adjustment to Deployment
 - (vi) When rest and recuperation is granted to the Covered Military Member (up to 15 calendar days)
 - (vii) Post-deployment activities, and
 - (viii) Additional activities that arise out of active duty, if the employee and the County agree on purpose, timing and duration of leave.
- (B) “Covered Military Member” in the case of a member of a regular component of the Armed Forces means a person who has been notified of Deployment or is Deployed and in the case of a member of a reserve component of the Armed Forces means a person who has been notified of Deployment or is Deployed under a provision of the law referred to in section 101(a)(13)(B) of title 10 United States Code.
- (C) “Deploy” and “Deployment” mean duty under a Federal call or order to **active duty in a foreign country** (or notification of an impending call or order to active duty).
- (c) Military Care Giver Leave provides Eligible Employees up to a combined total of 26 weeks of unpaid leave in the period that ends 12 months after the first day of Military Care Giver Leave when the Eligible Employee is the Spouse, Child, Parent, or Next of Kin who is Needed to Care for a Covered Service Member. (The combined total includes all Basic FMLA Leave and Military Care Giver Leave taken during this period but any basic FMLA must also comply with 116.011(b).)
- (1) Eligible Employees may take FMLA Leave to care for:
 - (A) a current member of the Armed Forces, including a member of the National Guard or Reserves, or
 - (B) a member of the Armed Forces, the National Guard or Reserves who is on the temporary disability retired list, who has a Serious Injury or Illness incurred in the line of duty of active duty for which they are undergoing medical treatment, recuperation, or therapy; or otherwise in outpatient status; or otherwise on the temporary disability retired list.
 - (2) Eligible employees may not take FMLA Leave to care for former members of the Armed Forces, former members of the National Guard and Reserves, or members on the permanent disability retired list.

- (3) “Next of Kin” means the **nearest** blood relative other than Spouse, Parent, or Child in the following order of priority:
 - (A) The blood relative specifically designated by the Covered Service Member in writing as “Next of Kin” for Military Care Giver Leave is legally deemed to be the only “Next of Kin.”
 - (B) Blood relatives who have been granted legal custody by court decree or statute,
 - (C) Brothers and sisters,
 - (D) Grandparents,
 - (E) Aunts and uncles, and
 - (F) First cousins. If no one has been designated and there are multiple blood relatives in the level of relationship in which the nearest blood relative exists, all blood relatives at that level are considered “Next of Kin” and may take Medical Care Giver Leave, either consecutively or simultaneously, if needed to provide care.
- (4) “Outpatient Status” of a Covered Service Member means a member of the Armed Forces assigned to either
 - (A) a military medical treatment facility as an outpatient; or
 - (B) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

116.012 Amount of Leave

- (a) Each time an Eligible Employee takes Basic FMLA Leave the remaining FMLA-coded leave entitlement is the balance, if any, of the 12 weeks which has not been used during the applicable 12 month period.
- (b) During the applicable 12-month period, if both Spouses work for County and wish to take leave to care for the same individual, then
 - (1) they are entitled to a **combined total** of up to 12 weeks in the 12 months for all FMLA Qualifying Events of Basic FMLA Leave for arrival of a Child (birth or placement for adoption or foster care) unless they are each entitled to leave under Subchapter E, then they are each entitled to up to 8 weeks of Basic FMLA Leave in the 12 months for arrival of a Child, or
 - (2) they are **each** entitled to up to 12 weeks of Basic FMLA Leave to:
 - (A) care for a seriously sick Spouse or a Child or Parent
 - (B) take care of their own serious health condition.
- (c) During the applicable 12-month period, if both Spouses work for County, and each wishes to take Military Care Giver Leave to care for the same Covered Service Member, the Spouses are entitled to a combined total of 26 weeks of

Military Care Giver Leave. This combined total includes any Basic FMLA Leave used during this period.

116.013 Employee Status and Benefits during Leave

- (a) While an Eligible Employee is on FMLA Leave, County continues the employee's health benefits during the leave period at the same level and under the same conditions as if the employee were continuing to work.
- (b) The Eligible Employee is responsible for paying the same healthcare costs as when the employee is at work unless the employee drops the coverage for which payment is required. If the Eligible Employee is not on paid leave, the employee must pay these healthcare costs and other benefit costs like all other employees on "leave without pay." County may discontinue dependent health care coverage when an Eligible Employee's required share of the cost is more than 30 days late. County provides written notice to an employee that the payment has not been received and allows at least 15 days after the date of this notification before County stops coverage.
- (c) To alleviate the financial strain of paying for benefits during an unpaid leave, the Eligible Employee may choose to drop any coverage temporarily (such as dependent coverage or additional life insurance). If an Eligible Employee drops coverage during FMLA Leave, upon return the employee may reinstate the coverage existing before the FMLA Leave began unless that coverage has been discontinued for all employees.
- (d) If an employee on FMLA Leave gives unequivocal notice of their intent not to return to work, County's obligations to maintain health benefits cease (subject to COBRA requirements) unless the employee indicates they may be unable to return to work but expresses a continuing desire to do so.
- (e) If the employee does not return to work following FMLA Leave, County may recover its share of the premiums paid during any unpaid portion of the FMLA Leave unless the failure to return is due to circumstances beyond the employee's control like the continuation, recurrence or onset of a Serious Health Condition of the employee or of a Spouse, Child or Parent.
- (f) An employee who returns to work for at least 30 calendar days is considered to have "returned" to work. An employee who transfers directly from FMLA Leave to retirement, or who retires during the first 30 days after the employee returns to work, is considered to have returned to work.
- (g) For the purposes of retirement, FMLA Leave is not considered a break in service but contributions are not made to the Texas County and District Retirement System if the leave is unpaid.

116.014 Return to Work

- (a) When the employee seeks reinstatement at the end of FMLA Leave for their own Serious Health Condition, the employee's health care provider must

provide certification that the employee is fit for duty and able to return to work that specifically addresses the employee's ability to perform the Essential Functions of the employee's job if:

- (1) this requirement is stated in the Designation Notice and
 - (2) all similarly-situated employees (like employees in the same occupation, or with the same Serious Health Condition or Serious Illness or Injury) are required to do so.
- (b) The employee's return to work may be delayed until the certification is provided.
- (c) If the employee is still qualified for the position, the employee returns from FMLA Leave to either:
- (1) the same position the employee held when FMLA Leave began, or
 - (2) an equivalent position with equivalent benefits and working conditions, equivalent pay and other terms of employment, and with similar duties and responsibilities that entail substantially equivalent skill, effort, responsibility, and authority.
- (d) If the employee is no longer qualified for the same position as a result of the FMLA Leave, the employee must be given a reasonable opportunity to requalify upon return to work.
- (e) If the employee is unable to perform an Essential Function of their former position because of a physical or mental condition, the employee has no right to another position under the FMLA. The employer's obligations may, however, be governed by the Americans with Disabilities Act (ADA), as amended, Worker's Compensation laws, or other applicable federal, state and local laws.
- (f) During FMLA Leave, an employee may be required to report on their status and intent to return to work periodically.
- (g) County may refuse to reinstate a Key Employee if the refusal is necessary to prevent substantial and grievous economic injury to County operations. A "Key Employee" is an Eligible Employee paid on a salary basis who:
- (1) qualifies as exempt such as an executive, administrative, professional, or computer employee, and
 - (2) is among the highest paid 10 percent of **all** County employees.

116.015 Use of Paid and Unpaid Leave

- (a) An employee who is taking FMLA Leave must use all appropriate accrued leave prior to using other accrued paid leave (i.e. sick leave first in instances of illness, paid parental leave whenever there is a Parental Event, etc.). All accrued paid leave must be exhausted before being eligible for leave without pay. Guidelines with leave use may apply.

- (b) If all accrued paid leave is exhausted and an employee is still taking FMLA Leave, FMLA-Leave without Pay is used for timekeeping.
- (c) If workers' compensation leave also qualifies as FMLA Leave it is also designated as FMLA Leave and runs concurrently with FMLA.
- (d) For timekeeping purposes, FMLA is coded concurrently with the designated leave (i.e. FMLA-Sick, FMLA-Worker's Comp, FMLA-Vacation, etc.)

116.016 Intermittent or Reduced Schedule Leave

- (a) Intermittent Leave or Reduced Schedule Leave may be taken for absences by an employee due to a Serious Health Condition or to care for a Spouse, Child or Parent with a Serious Health Condition even if there is no treatment by a health care provider during these absences.
- (b) In addition, if Medically Necessary, FMLA Leave for an employee's Serious Health Condition or Serious Injury or Illness may be Intermittent Leave or Reduced Schedule Leave for any of the following:
 - (1) planned medical treatment,
 - (2) unanticipated medical treatment, or
 - (3) recovery from treatment.
- (c) "Medical necessity" means that the health care provider has certified that the medical need for leave can be best accommodated through an Intermittent Leave or Reduced Schedule Leave. Upon request, an employee must explain why the Intermittent or Reduced Schedule Leave is Medically Necessary.
- (d) The employee must make a reasonable effort to schedule medical Treatment outside of their working hours or with consideration to the needs of their department so as not to disrupt unduly County's operations.
- (e) The Eligible Employee may be temporarily transferred to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the Intermittent or Reduced Schedule Leave.
- (f) If the Eligible Employee is taking FMLA Leave Intermittent or as Reduced Schedule Leave for a Serious Health Condition or because of the Serious Health Condition of a Spouse, Child or Parent, the employee must make a reasonable effort to schedule Intermittent Leave or a reduced hour schedule with consideration to the needs of their department so as not to disrupt unduly County's operations.
- (g) An Eligible Employee taking Military Care Giver Leave as Intermittent Leave or a Reduced Schedule Leave may take absences where the Covered Service Member is Incapacitated or Unable to Perform the Essential Functions of the Position, even if they do not receive treatment by a health care provider.

- (h) Leave to attend to Qualifying Exigencies may be taken as Intermittent Leave or Reduced Schedule Leave without medical necessity.

[116.017 – 116.020 Reserved for Expansion]

Subchapter C. Rights and Obligations

116.021 Employee Responsibilities

- (a) An employee must notify a County supervisor or manager of the need for leave and provide enough information about the purpose of the leave to allow the County supervisor or manager to recognize that the leave may qualify as FMLA Leave.

If the need for leave is foreseeable, the employee must provide notice 30 days before FMLA Leave is to begin.

If the need for leave is not foreseeable 30 days in advance, the employee must provide notice as soon as possible and practical. This is usually either the same day or the next business day after the employee is aware of the need. If there are no unusual circumstances, employees must comply with the County's guidelines for notice when requesting leave.

- (b) An employee must provide either complete and sufficient certification or evidence of a FMLA Qualifying Event within 15 calendar days of County's request for documentation or a reasonable explanation for the delay. The employee provides certification or evidence based on the type of Qualifying Event for which leave is requested by using one of the following forms:
 - (1) Department of Labor (DOL) Certification for health Care Providers for Employee's Serious Health Condition
 - (2) DOL Certification of health Care Provider for Family Member's Serious Health Condition or
 - (3) DOL Certification of Qualifying Exigency for Military Family Leave DOL Certification for Serious Injury or Illness of a Current Servicemember – for Military Family Leave or
 - (4) Other DOL FMLA compliant form
- (c) For Serious Health Condition, Illness, or Injury, the employee may be required to provide medical certification (including second and third opinions and recertifications for self or Spouse, Child or Parent, consistent with Family Leave Requirements).
- (d) In instances of Worker's Compensation, the County may use designated Department of Worker's Compensation form(s) for FMLA medical certification.
- (e) For a Qualifying Exigency for Military Family Leave, the employee may be required to provide a copy of the Covered Military Member's orders or other

documentation issued by the military which indicates that the Covered Military Member is being Deployed, and dates of service each time the documentation for the need changes.

- (f) The employee must respond to questions about the purpose of leave to determine whether it is potentially FMLA Leave. Not responding to reasonable questions about the purpose of the leave may result in loss of the benefits of FMLA Leave.
- (g) The employee must provide a complete and sufficient medical certification. A certification is not complete if information about a question has not been provided. A certification is not insufficient if the information provided is vague, ambiguous or non-responsive. The FMLA Administrator must notify the employee in writing what additional information is necessary to make the medical certification complete and sufficient. The employee is given an opportunity to resolve these deficiencies in the medical certification. The employee must be given seven calendar days to provide the additional information and unless additional time is needed because it is not practicable under the circumstances despite the employee's diligent good faith efforts. If the resubmitted certification is not complete and sufficient, the FMLA Administrator may deny the employee FMLA Leave.
- (h) The supervisor may not request additional information from the health care provider but may ask the FMLA Administrator for clarification and authentication of the medical certification from the health care provider. HIPAA Medical Privacy Rules and obtaining the appropriate permission for clarification of individually identifiable health information apply.
- (i) If there is reason to doubt the validity of a medical certification, the FMLA Administrator may require the employee to provide a second medical opinion for FMLA Leave, at the County's expense via HRMD, from a health care provider who is selected by County but not regularly employed by County.
- (j) The County may request a second or third opinion of a current servicemember's serious injury or illness only when a certification is provided by a non-military-affiliated health care provider.
- (k) If the first and second opinions differ, County may require the employee to obtain a third opinion at County's expense from a health care provider upon whom both County and the employee agree. The third opinion is binding.
- (l) If the certifications do not ultimately establish the employee's entitlement to FMLA Leave, leave is not FMLA Leave.
- (m) An employee must provide recertification using the same required form as certification within 15 calendar days after a FMLA Administrator requests it, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.
- (n) For FMLA Leave for the Serious Health Condition of the employee, or the Spouse, Child or Parent, recertification may be required. This may occur

when the most recent certification states an expected duration for the health condition and that time has elapsed. At that time, a FMLA Administrator may request recertification. If the expected duration is longer than six months, the FMLA Administrator may also request recertification after six months. If the employee is still absent from work and the expected duration has elapsed, a FMLA Administrator may request recertification every 30 days. A FMLA Administrator may also request a re-certification sooner than 30 days if:

- (1) conditions described in the previous certification have changed significantly, or
 - (2) the employee requests an extension of leave,
 - (3) when the County receives information that casts doubt on the employee's stated reason for leave, or
 - (4) when the County receives information that casts doubt on the continuing validity of the certification, or
 - (5) annually if the Serious Health Condition for the employee, Spouse, Child or Parent, or Covered Service members lasts for more than one year.
- (o) For FMLA Leave for Military Caregiver Leave for which the Covered Servicemember provided a military related determination, a FMLA Administrator may not request re-certification.

116.022 Employer Responsibilities

- (a) Evaluations for FMLA Leave must be done in coordination with the FMLA Administrator.
- (b) After an absence of more than three consecutive days on sick leave and/or if the employee requires time off work due to a Serious Health Condition for self or to care for a Spouse, Child, or Parent with a Serious Health Condition, specific information from the employee may be obtained to determine if the absence qualifies as FMLA Leave.

In addition, when an employee asks for leave that may relate to a Qualifying Event for FMLA Leave and the County does not have enough information about the reason for the leave to determine whether a Qualifying Event exists, the employee may be asked for more information about the reason for the leave even if the employee has not specifically mentioned FMLA Leave or a Qualifying Event by name. Calling in "sick" without providing more information is not sufficient to invoke FMLA Leave.

- (c) To further comply with FMLA, County offices and departments must keep a notice that explains the FMLA regulations and the procedures for filing complaints both in the county and with the Department of Labor posted in a conspicuous place. The County also includes this policy in employee policy manuals.

[116.023 – 116.029 Reserved for Expansion]

Subchapter D. Procedure for FMLA Leave

116.030 Requesting FMLA Leave

Employees should use the following procedures to request Family and Medical Leave. These procedures can also be used when the supervisor believes that an event or illness might qualify for Family and Medical Leave.

- (1) Employee complete a Request for Family Medical Leave obtained from HRMD, their HR liaison, their supervisor, via County's online portal or other designee of HRMD.
- (2) Employees request this leave in advance, or explain the reason for the delay. This request is acknowledged by the supervisor/department and forwarded to the FMLA Administrator.
- (3) The FMLA Administrator provides the leave certification, Employee Rights & Responsibilities and any other leave procedures to the employee.
- (4) Employees are responsible for reading the Employee Rights & Responsibilities provided by their FMLA Administrator.
- (5) Employees complete or have completed the appropriate forms to certify leave. Information is returned to the FMLA designated contact or the FMLA administrator within 15 days of the leave request. The employee must communicate to the FMLA administrator immediately if the forms will be returned later than 15 days of the request, and the reason for the delay.
- (6) If an employee is unable to return to work on the agreed upon date, or date originally specified by the health care provider, the employee should contact the supervisor at least two days ahead of time. The employee should be prepared to bring required documentation to support any change in the return date as well as communicate with the supervisor/Department during the time of leave.
- (7) Employees placed on family medical leave without pay for more than a pay period may contact HRMD to cancel the appropriate benefit coverages. Employees contact the County Auditor about making arrangements to pay for insurance premiums.

[116.031 – 116.039 Reserved for Expansion]

Subchapter E. Paid Parental Leave

116.040 Definitions for Subchapter E. Paid Parental Leave

- (a) “Parental Event” means the addition of a new child to the household of a PPL Eligible Employee due to any of the following:
 - (1) the birth of a child to a PPL Eligible Employee,
 - (2) the adoption by a PPL Eligible Employee of a child who is not a stepchild of the PPL Eligible Employee and is 17 years of age or less,
 - (3) the foster-to-adopt placement of a child who is 17 years of age or less with a PPL Eligible Employee, or
 - (4) a court-ordered kinship placement of a child who is 17 years of age or less with a PPL Eligible Employee who is a relative of the child or a person with whom the child or the family has a significant relationship.
- (b) “PPL Eligible Employees” are Regular employees and Special Project regular employees who have been employed by County for at least 182 consecutive days (6 months) on the date when the Parental Event occurs.
- (c) “Regular employee” means an employee hired without limitation as to the duration of their employment and who may be either Full-time or Part-time.
- (d) “Special Project regular employee” means an employee hired for any position that is designated as a Special Project position by the Commissioners Court approval and may be either Full-time, or Part-time.

116.041 Benefit of Paid Parental Leave

- (a) The benefits of Paid Parental Leave are:
 - (1) the right to take paid leave after a PPL Eligible Employee experiences a Parental Event, and
 - (2) the right to return to the same or an equivalent position, pay, shift, schedule and benefits at the end of the leave.
- (b) If an employee uses Paid Parental Leave before they are eligible for Basic FMLA or Basic Military Caregiver leave, that may delay completion of the 1250 hours of time actually worked that is necessary to become eligible for Basic FMLA and Basic Military Caregiver leave. As a result, the date the employee is eligible for Basic FMLA and Basic Military Caregiver leave may also be delayed.

116.042 Amount of Leave²

- (a) Each Full-time PPL Eligible Employee is entitled to a total of 320 hours of Paid Parental Leave in a 12-month period. Paid Parental Leave for Part-time PPL Eligible Employees is prorated based on the number of hours that they are regularly scheduled to work.
- (b) Each time a PPL Eligible Employee takes Paid Parental Leave, the remaining Paid Parental-coded leave entitlement is the balance, if any, of the total hours to which that employee is entitled in a 12-month period which have not been used.
- (c) PPL Eligible Employees may use Paid Parental Leave for up to 12 months after the Parental Event. Paid Parental Leave cannot be used or extended beyond 12 months after the Parental Event.
- (d) If up to two parents work for the County and both want to take leave to care for or bond with the same child, then they are each entitled to use up to 320 hours of Paid Parental Leave if they are both Full-time employees. Paid Parental Leave for Part-time PPL Eligible Employees is prorated based on the number of hours that they are regularly scheduled to work.
- (e) A PPL Eligible Employee may not receive more than a combined total of 320 hours of Paid Parental Leave within the 12-month period that begins on the day of the Parental Event. The amount of Paid Parental Leave is not increased if multiple births, adoptions, or placements occur during that 12-month period.
- (f) Employees who have not been employed for 182 consecutive days before the Parental Event may use other accrued leave time for parental support and bonding purposes with supervisor approval.

116.043 Employee Status and Benefits During Leave

- (a) While a PPL Eligible Employee is on Paid Parental Leave, County continues:
 - (1) the employee's compensation at 100% of their regular straight-time scheduled hours at the rate of pay applicable on the date the Paid Parental Leave begins
 - (2) accrual of leave time, like vacation and sick leave, as if the employee were continuing to work, and
 - (3) health benefits during the leave period at the same level and under the same conditions as if the employee were continuing to work.

² Note: Commissioners Court changed to the number of weeks of leave on September 12, 2023. However, the County Code was not amended to reflect that change. See minutes of Commissioners Court item #30, 9/12/2023.

- (b) The PPL Eligible Employee is responsible for paying the same healthcare costs as when the employee is at work unless the employee drops a coverage for which payment is required. The employee must pay these healthcare costs and other benefit costs like all other employees on leave with pay.

116.044 Use of Paid Parental Leave

- (a) Paid Parental Leave must be used only for caring for or bonding with the new child. The County may take disciplinary action if an employee uses time while on Paid Parental Leave for any other purpose. Employees must not engage in any non-Travis County employment while using Paid Parental Leave.
- (b) Employees must use Paid Parental Leave in one continuous period of leave unless the employee's County Executive or Elected Official authorizes the employee to use the Paid Parental Leave intermittently. If intermittent leave is authorized, the leave schedule must be consistent with the Department's operational needs and approved in writing before the Paid Parental Leave begins.
- (c) Employees may use Paid Parental Leave before, after, or instead of using any disability coverage available to them.
- (d) Use of Paid Parental Leave is not subject to restrictions based on marital status, gender orientation or gender identity.
- (e) Paid Parental Leave is not a leave accrual, but a benefit an Eligible Employee may use when a Parental Event occurs. It does not carry over and is not paid out if it has not been used. Accordingly, if it has not been used within 12 months after the Parental Event, it is forfeited at the earliest of the following:
 - (1) the end of the 12 month period, or
 - (2) the employee's last day of employment, or
 - (3) the day the employee transfers to a position that is not eligible for Paid Parental Leave.

116.045 Use of Paid and Unpaid Leave

- (a) If a County holiday occurs while the employee is using Paid Parental Leave, that day is recorded as holiday time.
- (b) An employee, who has exhausted all Paid Parental Leave and is an Eligible Employee for FMLA Leave purposes, may use other leave until the FMLA entitlement is exhausted.
- (c) If the employee also qualifies for FMLA Leave, the Paid Parental Leave is also designated as FMLA Leave and both Paid Parental Leave and FMLA leave balances are reduced by the number of hours of Paid Parental Leave taken (FMLA-PPL) until all FMLA leave is exhausted.

116.046 Employee Responsibilities

- (a) An employee must notify their supervisor or manager of the need for Paid Parental Leave and provide enough information about the timing of the leave for the County to plan for operational needs. If the timing of the need for leave is foreseeable, the employee must provide notice 30 days before the leave is to begin. If the timing of the need for leave is not foreseeable 30 days in advance, the employee must provide notice as soon as possible and practical. This is usually either the same day or the next business day after the employee is aware of the need.
- (b) The employee must respond to questions about the purpose of leave to determine whether it is potentially FMLA Leave as well as Paid Parental Leave.
- (c) The employee must provide complete, sufficient, and applicable documentation of the Parental Event. Documentation is not sufficient if the information provided is vague, ambiguous, or non-responsive. Documentation for a birth should include the birth certificate with the employee's name shown as a parent or another document that establishes paternity. Documentation for adoptions and placements should include a court order identifying both the child and the parents.
- (d) Documentation should be submitted as soon as it becomes available and no later than 30 days after the Parental Event occurs. If sufficient and applicable documentation is not submitted, the County may require the leave to be reclassified as leave without pay or another form of paid leave that the employee has accrued.
- (e) If there is reason to doubt the validity of any documentation, the County Executive or Elected or Appointed Official may require the employee to provide additional information.

116.047 Return to Work

- (a) If an employee who has used Paid Parental Leave does not return to work immediately after the exhaustion of that leave and continue to work at Travis County for at least 182 consecutive days (6 months), the employee must reimburse the County for the costs of all compensation, accrued leave and health benefits paid by County during the Paid Parental Leave unless
 - (1) the return to work is delayed by other FMLA-Leave or
 - (2) the employee is a Special Project regular employee whose intended term of employment has been completed before completion of 182 days after return to work.
- (b) The requirement to remain employed for 6 months after return to work does not extend the time for which a Special Project regular employee is employed.