

Warren County Board of Supervisors

RESOLUTION NO. 142 OF 2021

RESOLUTION INTRODUCED BY SUPERVISORS BRAYMER, GERAGHTY, DRISCOLL, CONOVER AND MAGOWAN

ADOPTING CORRECTION DIVISION DIRECTIVE 003 (REQUESTS FOR LEAVE) POLICY FOR THE WARREN COUNTY SHERIFF'S OFFICE

WHEREAS, the Sheriff presented to the Personnel, Administration & Higher Education Committee a Correction Division Directive 003 (Requests for Leave) Policy for the Warren County Sheriff's Office, and

WHEREAS, the Personnel, Administration & Higher Education Committee has reviewed the policy and has recommended that the same be advanced to the full Board of Supervisors for consideration, now, therefore, be it

RESOLVED, that the Correction Division Directive 003 (Requests for Leave) Policy annexed hereto, be and the same hereby is, adopted as the official Policy for the Warren County Sheriff's Office.

CORRECTION DIVISION

	WARREN COUNTY SHERIFF'S OFFICE	
DIRECTIVE 003: REQUESTS FOR LEAVE		EFFECTIVE DATE: 02/05/21
AUTHORITY: SHERIFF JIM LAFARR		PRIOR REVISION: 01/01/20
ACCREDITATION STANDARDS:		REVIEW DATE: 02/05/21

The responsibility for the preparation of agency schedules and processing of leave requests is as follows. All leave requests, except sick leave as outlined in this manual, shall be submitted to these authorized members in the order outlined below:

Correction Sergeant	Correction Officer	CD Kitchen Staff	CD Support Staff
Correction Lieutenant	Designated Sergeant	Designated Sergeant	Correction Lieutenant
Correction Captain	Correction Lieutenant	Correction Lieutenant	Correction Captain
Undersheriff	Correction Captain	Correction Captain	Undersheriff

GENERAL RULES

1. Leave shall be administered in accordance with this directive and pursuant to the provisions outlined in each member's applicable collective bargaining agreement.
2. Absent exigent circumstances, all Regular leave requests shall be submitted using the "WCSO Leave Request Program". Early leave requests shall be submitted on a "Leave Request Form".
3. Leave may only be granted for time that has been accrued by the member, with the exception of a DLO which may be used on the day it is earned.
4. Members submitting leave requests to the "Designated Sergeant", as directed above, must ensure this Sergeant will be on-duty prior to the date of leave. Members should submit leave requests to an available "Correction Lieutenant" when the "Designated Sergeant" will not be on-duty prior to the requested leave date, and therefore will not be available to review their request in a timely manner.
5. The authorized members responsible for preparing schedules may, at their discretion, waive or amplify any restriction or requirement when necessary to ensure adequate staffing and to promote a fair and equitable granting of leave time for all employees. Such decisions may take into consideration, but not be limited to the following:
 - A. Minimum staffing;
 - B. Special events, details, and assignments;
 - C. Training;
 - D. Holidays;
 - E. Seniority, experience, and rank levels of staff;
 - F. Any incident that might justify an increase or decrease in staffing; or
 - G. Any emergency which impacts on agency services.

LEAVE REQUESTS

Early Requests

CORRECTION DIVISION

Members may submit Early leave requests to the appropriate authorizing members above, no later than January 15th, for dates in the current calendar year. All early leave requests will be reviewed after January 15th and granted based upon seniority.

NOTE: Members submitting leave requests for time off between January 1st and January 15th shall submit a Regular Leave Request in accordance with this directive.

Regular Requests

1. Members may submit Regular leave requests after January 15th for dates in the current calendar year. Regular leave requests will be granted based upon the following criteria in the order provided:

- A. Date and Time of Submission
- B. Availability/Staffing Levels
- C. Seniority

2. Regular leave requests should be submitted no later than 48 hours prior to the commencement of the intended leave. This restriction may be waived at the discretion of a member authorized above.

NOTE: Correction Officers requesting leave for the remainder of a current shift, the next oncoming shift and/or the shift immediately following (no more than 16 hours prior to the commencement of the intended leave) shall submit such request to the Tour Supervisor when the Designated Sergeant is unavailable.

LEAVE CATEGORIES

1. Eligible members earn DLO's for shifts worked on County approved holidays. All DLO's must be taken within six (6) months of the date they are earned. DLO's not taken within this time period shall be forfeited with no compensation to the member, unless such leave was not taken at no fault of the member.

2. Vacation leave shall be used in the calendar year earned and may not be carried over from calendar year to the next, unless such leave was earned and not otherwise taken through no fault of the member.

3. Personal leave is utilized for personal business and may be taken in hourly increments. Personal leave is not cumulative and no part shall be carried over from one calendar year to the next, unless such leave was not taken through no fault of the member.

4. Military leave entitles a members serving in the military to be absent from work without loss of pay to fulfill necessary military obligations. Military leave shall be administered in strict accordance with the provisions of the member's collective bargaining agreement

5. Bereavement leave entitles a member to be absent from work without loss of pay by reason of death of an immediate family member. Bereavement leave shall be administered in strict accordance with the provisions of the member's collective bargaining agreement.

6. Paid administrative leave is a temporary administrative action that entitles an employee to be absent from work, without loss of pay, following approval from the Sheriff or Undersheriff. The leave may be due to an employee's physical or physiological fitness for duty, pending disciplinary action, or a circumstance where the health and/or safety of any member or other person is in question or at risk.

7. It shall the member's responsibility to demonstrate that leave was earned and not otherwise taken through no fault of such member. Any request to carry over unused leave from one year to the next must be submitted to the Sheriff for review and approval.

FAMILY AND MEDICAL LEAVE ACT (FMLA)

The Family and Medical Leave Act of 1993 (FMLA) entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken such leave. Employees are also entitled to return to their same or an equivalent position at the end of the leave.

CORRECTION DIVISION

POLICY

It is the policy of the Warren County Sheriff's Office to grant up to 12 weeks (480 hours) of family and medical leave during any rolling 12-month period to eligible employees, in accordance with the Family and Medical Leave Act (FMLA), and/or up to 26 weeks of leave in any rolling 12-month period in compliance with the expansion of FMLA under The Support for Injured Servicemembers Act of 2007. The FMLA leave may be paid, unpaid, or a combination of paid and unpaid leave, depending on the circumstances of the leave and as specified in this directive.

The Code of Federal Regulations, 29 CFR Part 825, The Family and Medical Leave Act of 1993 shall serve as the Sheriff's Office compliance guide for eligibility, entitlements and definitions relating to FMLA.

ELIGIBILITY

In order to take leave under the FMLA, an employee must:

1. Have worked for the Warren County Sheriff's Office for 12 months or 52 weeks, and the 12 months or 52 weeks are not required to be consecutive; and
2. Have worked at least 1,250 hours during the 12 months prior to the start of leave, and the 1,250 hours includes only those hours actually worked, not time spent on paid or unpaid leave.

QUALIFYING CONDITIONS

Leave under the FMLA shall be granted for one or more of the following reasons:

1. Birth of a child and to care for/bond with the newborn child;
2. Placement of a child for adoption or foster care and to care for/bond with the newly placed child;
3. Care for spouse, child, or parent (not "parent in-law") with a serious health condition;
4. Serious health condition of the employee;
5. A qualifying military exigency arising out of the fact that the employee's spouse, child, or parent is on covered active duty status as a member of the National Guard, Reserves, or Active Armed Forces; and/or
6. To care for an injured or ill Servicemember.

CALCULATION OF LEAVE

Eligible employees can take up to 12 weeks (26 weeks to care for injured or ill Servicemembers) during a 12 month period under the FMLA. The leave may be in consecutive weeks or intermittently, but it may not exceed 12 weeks (26 weeks to care for injured or ill Servicemembers) over a rolling 12-month period. The 12-month period shall be measured starting from the date an employee first uses FMLA leave in accordance with this directive.

FMLA LEAVE PROCEDURES

1. Employees wishing to use FMLA leave must submit a completed Warren County Sheriff's Office Family and Medical Leave Request Form (A-14) to the Sheriff.
2. Employees requesting FMLA leave due to a serious health condition, or to care for an immediate family member with a serious health condition, must submit the appropriate U.S. Department of Labor Certification form. This form should be completed by a physician and returned to the Sheriff within 15 calendar days. U.S. Department of Labor FMLA forms are available in Administration.
3. Periodic reports and additional physician certifications may also be required during leave relating to serious health conditions. The Sheriff's Office may, at its own expense, require a second (or third) opinion regarding a medical certification. Employees failing to provide timely certification may risk having leave benefits delayed or denied.
4. Employees requesting FMLA leave for reasons other than a serious health condition, or to care for an immediate family member with a serious health condition, must submit the appropriate U.S. Department of Labor Certification form. U.S. Department of Labor FMLA forms are available in Administration.

CORRECTION DIVISION

5. Employees must use all accrued leave prior to the approval of unpaid FMLA leave for requests due to the employee's own serious health condition. When paid leave is used for an approved FMLA covered reason, the leave is FMLA protected.
6. Employees must use all accrued vacation leave, personal leave, holiday leave, and benefit day leave prior to the approval of unpaid FMLA leave for requests due to a reason, other than, the employee's own serious health condition. When paid leave is used for an approved FMLA covered reason, the leave is FMLA protected.
7. Employees do not automatically receive FMLA leave during a leave of absence from employment. FMLA leave must be requested in writing in accordance with this directive.
8. Employees will receive notification from the Sheriff within five business days of receiving completed certifications. The notification will specify whether the FMLA leave was approved, or reason for denial, as applicable.
9. Employees may be subject to disciplinary sanctions, up to and including termination, if the employee knowingly provides false information to receive, or continue, benefits under FMLA.

EMPLOYEE STATUS AND BENEFITS

1. The County will continue an employee's health benefits during the period of FMLA leave, at the same level and under the same conditions, as if the employee had continued to work, provided the employee continues to pay his or her portion of the health care premiums.
2. While on paid leave (i.e. using sick leave in conjunction with FMLA leave), the County will continue to complete payroll deductions to collect the employee's share of health insurance premiums. While on unpaid FMLA leave, the employee must make payments for their portion of health insurance premiums to the Warren County Treasurer. The payments must be received by the 15th day of each month. Health insurance coverage will be terminated if these payments are not received by the 30th of each month.

NOTE: The County's Benefit Broker will provide 15 days' notice prior to the employee's loss of coverage.

3. The County will require the employee reimburse the amount the County paid for the employee's health insurance premiums during the period of unpaid leave if the employee chooses not to return to work for reasons other than; a continued serious health condition of the employee, continued care of an immediate family member with a serious health condition, or a circumstance beyond the employee's control.

RETURNING TO WORK

1. Employment restoration is guaranteed for up to 12 weeks of approved FMLA leave, except under certain circumstances as provided by law.
2. Employees returning to work following FMLA leave will return to their original position, on the same shift/work schedule, retaining salary, benefits, and all other terms of employment.
3. Employees returning to work following FMLA leave relating to their own serious health condition must submit documentation from a physician affirming their ability to perform all essential functions for their position and adequate fitness for duty.
4. Proceedings under New York State Civil Service Law Sections 71 or 73 may be initiated if an employee fails to return to work following the expiration of FMLA leave.