

Warren County Board of Supervisors

RESOLUTION NO. 160 OF 2026

RESOLUTION INTRODUCED BY SUPERVISORS RUNYON, CROCITTO, DRISCOLL, ETU, MADAY, TURNER AND CONOVER

ADOPTING THE WARREN COUNTY FAMILY AND MEDICAL LEAVE (FMLA) POLICY

WHEREAS, the Risk and Safety Committee recommended, and the Personnel Committee agreed, to approve the Warren County Family and Medical Leave (FMLA) Policy and recommended that the same be advanced to the Board of Supervisors for consideration and adoption, now, therefore, be it

RESOLVED, that the Warren County Family and Medical Leave (FMLA) Policy, annexed hereto as Schedule "A," be and the same is hereby adopted as the official policy for Warren County, and be it further

RESOLVED, that any and all prior Warren County Family and Medical Leave (FMLA) Policies, Resolutions or parts thereof inconsistent with the annexed Warren County Family and Medical Leave (FMLA) Policy are hereby repealed effective April 17, 2026, and be it further

RESOLVED, that the Warren County Family and Medical Leave (FMLA) Policy will automatically be incorporated into the Warren County Risk and Safety Manual which was adopted by the Warren County Board of Supervisors on January 16, 2026.

“SCHEDULE A”

WARREN COUNTY FAMILY AND MEDICAL LEAVE (FMLA) POLICY

Warren County recognizes the importance of family and medical responsibilities. Accordingly, the County provides time away from work for eligible employees to recover from an injury, illness or condition or to care for a family member in accordance with the Family and Medical Leave Act of 1993 (“FMLA”) and the National Defense Authorization Act for FY 2008 (“NDAA”).

The NDAA amended the FMLA to provide two types of military-related family leave for employees who are otherwise FMLA-eligible - “Qualifying Exigency Leave” and “Military Caregiver Leave.”

I. Are You Eligible for FMLA Leave?

To be eligible to apply for FMLA leave under this policy:

1. You must have worked for the County:
 - a. for a total of at least twelve (12) months prior to the commencement of leave; **and**
 - b. for at least one thousand two hundred and fifty (1,250) hours during the twelve (12) months immediately preceding the start of the leave; **and**
2. You have not used all the FMLA leave to which you are entitled during a rolling twelve (12) month period.

If you do not meet this eligibility test, you are not eligible for any type of FMLA leave.

II. Qualifying Reasons for FMLA Leave

If you are eligible under the criteria set forth in Section I of this Policy, the County will grant you FMLA leave if you experience one (1) of the six (6) Qualifying Reasons for leave and follow the procedures set forth in this policy.

The six (6) Qualifying Reasons are as follows;

1. The birth of your child if the leave is completed within twelve (12) months of the date of birth of the child;
2. The placement for adoption or foster care of a child with you if the leave is completed within twelve (12) months of the date of placement of the child;
3. To care for an Eligible Family Member if that individual has a Serious Health Condition;
4. For your own Serious Health Condition that renders you unable to perform the essential functions of your job;
5. Qualifying Exigency Leave - this leave is taken because of Qualifying Exigency arising out of the fact that a Military Member in your family is on Covered Active Duty Status (or has been notified of an impending call or order to such covered Active Duty) in the Armed Forces; or
6. Military Caregiver Leave - this leave is taken because a Covered Servicemember in your family has a Serious Illness or Injury and needs your care.

III. How Long is the Leave Benefit?

You are entitled to a maximum of twelve (12) weeks of unpaid leave during a rolling twelve (12) month period. If you take Qualifying Exigency Leave, you are entitled to a maximum of twelve (12) weeks of Qualifying Exigency Leave during a rolling twelve (12) month period. While you may qualify for leave for more than one (1) Qualifying Reason, your total cumulative FMLA leave cannot exceed twelve (12) total weeks.

If you take Military Caregiver Leave, you are entitled to a maximum of twenty-six (26) weeks within the twelve (12) months following the first day of Military Caregiver Leave, regardless of the rolling twelve (12) month period used by the County for other FMLA leave reasons. The twenty-six (26) weeks are calculated on a per service member, per injury basis.

FMLA leave will run concurrently with accrued paid leave. When FMLA leave is requested due to an employee's own serious health condition, the employee must use any accrued sick leave prior to approval for non-paid leave. When FMLA is requested due to any of the remaining five (5) types of qualifying reasons for FMLA, the employee must comply with the Sick Leave and/or Medical Leave provisions of their collective Bargaining Agreement once accrued leave is exhausted, remaining FMLA leave will be unpaid.

If an employee would otherwise be required to work overtime - including mandatory overtime, but cannot do so because of the FMLA leave, the overtime hours the employee would have worked may also count as FMLA leave. If overtime is voluntary, the overtime an employee is not able to work because of the FMLA leave does not count as FMLA leave.

County adopted holidays are counted within the eligible FMLA leave if you are on FMLA leave the entire week in which the holiday falls. If you take FMLA for less than a full workweek in which the holiday falls, the holiday does not count as FMLA leave and is paid as a holiday.

IV. Spouses' Combined Leave

If you and your spouse are both eligible and employed by the County, you are jointly entitled to a combined total of twelve (12) weeks of leave for the birth of your child or for placement for adoption or foster care of a child with you or for the care of a qualifying family member with a Serious Health Condition. Likewise, spouses who are both employed by the County are jointly entitled to a combined total of twenty-six (26) weeks of Military Caregiver Leave to care for a Covered Servicemember.

V. Definitions

To help you better understand if you have an FMLA Qualifying Reason for leave, the following definitions are provided:

Eligible Family Member: An Eligible Family Member is your spouse, child, or parent (but not a parent "in-law").

Child: Any child under the age of eighteen (18) who is your biological, adopted, stepchild, legal ward, or foster child; or a child whom you supervise on a day-to-day basis (*in loco parentis*). A *Child* is also any

child over the age of eighteen (18) who is incapable of self-care because of a mental or physical disability. For purposes of Qualifying Exigency Leave or Military Caregiver Leave, the age of the child is not limited.

Parent: Your biological parent, or one who stood in place of (*in loco parentis*) your biological parent when you were a child.

Spouse: A husband or wife as defined and recognized under state law for the purposes of marriage under the state where the employee resides, including same-sex marriages.

Serious Health Condition: A Serious Health Condition is an illness, injury, impairment or physical or mental condition that requires in-patient care in a hospital, hospice or residential medical care facility or that require Continuing Treatment by a health care provider. It does not mean short-term conditions in which treatment and recovery are brief; routine physical exams; or voluntary or cosmetic treatments that are not medically necessary, unless in-patient hospital care is required.

Continuing Treatment means:

1. a period of incapacity of more than three (3) consecutive, full calendar days plus treatment by a health care provider twice, or once with a continuing regimen of treatment;
2. any period of incapacity related to pregnancy or for prenatal care;
3. any period of incapacity or treatment for a Chronic Serious Health Condition;
4. a period of incapacity for permanent or long-term conditions for which treatment may not be effective; or
5. any period of incapacity to receive multiple treatment (including recovery for those treatments) for restorative surgery, or for a condition which would likely result in an incapacity of more than three (3) consecutive, full calendar days absent medical treatment.

If the Serious Health Condition is under the period of incapacity of more than three consecutive, full calendar days and any subsequent treatment or period of incapacity relating to the same condition, your first treatment visit (or only visit, if coupled with a regimen of continuing treatment) must take place within seven days of the first day of incapacity.

If the Serious Health Condition involves treatment of two (2) or more times, the two (2) visits to a health care provider must occur within thirty (30) days of the first day of incapacity.

A Chronic Serious Health Condition is one that:

1. requires Periodic Visits for treatment by a health care provider or nurse under the supervision of the health care provider;
2. continues over an extended period of time; and
3. may cause episodic rather than continuing periods of incapacity.

Periodic Visits for treatment of a Chronic Serious Health Condition means at least twice a year visits.

Qualified Exigency Leave: This is leave that may be taken by you for any Qualifying Exigency arising out of the fact that a Military Member is on Active Duty Status or on call to that status.

Qualifying Exigency: The most common types of events considered a Qualifying Exigency are attending

military-sponsored functions, making appropriate financial and legal arrangements, arranging for alternative childcare, and attending counseling. The child need not be the child of the employee requesting leave (ex. employee's grandchild). This includes certain post-deployment exigencies, including reintegration activities for a period of ninety (90) days following the termination of a Military Member's Active Duty Status.

Qualifying Exigency also means eligible employees may take leave to care for a Military Member's parent who is incapable of self-care when the care is necessitated by the member's Covered Active Duty. Such care may include arranging for alternative care, providing care on an immediate need basis, admitting or transferring the parent to a care facility or attending meetings with staff at a care facility.

Qualifying Exigency also means Rest and Recuperation time an eligible employee can spend with a Military Member. This is available for a maximum of fifteen (15) calendar days.

Military Member: A Military Member for purposes of Qualifying Exigency Leave is your Spouse, Child, or Parent who is on Active Duty Status or on call to that status in the National Guard, Reserves, and the Regular Armed Forces.

Covered Active Duty Status: Covered Active Duty Status for purposes of Qualifying Exigency Leave means when a Military Member is under a call or order to active duty (or has been notified of an upcoming call or order) in support of a contingency operation and will be deployed to a foreign country. Family members or service members in the Regular Armed Forces are not entitled to Qualified Exigency Leave.

Military Caregiver Leave: This is leave that may be taken by you to care for a Covered Servicemember with a Serious Injury or Illness. This care means providing physical or psychological care, transportation for care and/or time to make arrangements for care.

Covered Servicemember: For purposes of Military Caregiver Leave, a Covered Servicemember is your Spouse, Child, Parent, or next of kin (your nearest blood relative) who has a Serious injury or illness. This leave applies to those servicemembers, including Covered Veterans, of the Regular Armed Forces and the National Guard or Reserves, who are undergoing medical treatment, recuperation, or therapy, including outpatient status or being on the temporary disability retired list for a Serious Injury or Illness incurred in the line of duty on active duty.

Covered Veteran: For purposes of Military Caregiver Leave, a Covered Veteran is an individual who was discharged or released under conditions other than dishonorable at any time during the five (5) year period prior to the first date the eligible employee takes FMLA leave to care for the Covered Veteran. The period of time between October 28, 2009 and March 8, 2013 is excluded in the determination of the five (5) year period for Covered Veteran status.

Serious Injury or Illness: For purposes of Military Caregiver Leave, Serious injury or illness means an injury or illness that was incurred by the servicemember in the line of duty on active duty in the Armed Forces (or that existed before the beginning of the servicemember's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the servicemember medically unfit to perform the duties of the servicemember's office, grade, rank, or rating; and

For Covered Veterans, it means an injury or illness that was incurred by the member in line of duty on

Active Duty in the Armed Forces (or that existed before the beginning of the Active Duty and was aggravated by service in line of duty on Active Duty in the Armed Forces) and that manifested itself before or after the member became a Covered Veteran, and is:

1. A continuation of a serious injury or illness that was incurred or aggravated when the Covered Veteran was a member of the Armed Forces and rendered the service member unable to perform the duties of the servicemember's office, grade, rank, or ranking; OR
2. A physical or mental condition for which the Covered Veteran has received a VA Service Related Disability Rating (VASRD) of 50 percent (50%) or greater and such VASRD rating is based, in whole or in part, on the condition precipitating the need for caregiver leave; OR
3. A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service or would do so absent treatment; OR
4. An injury, including a psychological injury, on the basis of which the Covered Veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

You or Your: The terms "you" or "your" as used in this Policy shall mean the Warren County employee who this Policy governs.

VI. Notice Requirements

When the need for leave is foreseeable, you must provide the Department of Human Resources with a written request for leave at least thirty (30) days prior to the commencement of FMLA leave. For planned medical treatment you must attempt to schedule the leave to minimize the effect on the County.

When the leave is not foreseeable, you must provide notice to the Department of Human Resources as soon as practicable after you determine you need the leave. You must comply with the County's normal call-in procedures.

You may take leave intermittently (in periods of days or partial days) when medically necessary, occasioned by a Qualified Exigency, or if authorized by the County. Any intermittent leave that is not medically necessary or a Qualified Exigency must be approved by Warren County in advance of the commencement of the leave. If you seek approval for intermittent leave, you shall coordinate an intermittent leave schedule with your Department Head or designee, which shall be provided to the Director of Human Resources. You must report each absence in advance by the County's standard time off request procedures. Failure to report all absences may result in disciplinary action.

If an employee takes Paid Time Off (PTO), defined as sick, vacation, personal time or a floating holiday, for a condition that progresses into a serious health condition and the employee requests FMLA leave for the same condition as provided under this policy, the County may designate all or some portion of related leave taken as leave under this policy to the extent that the earlier leave meets the necessary qualifications.

VII. Certification

You must provide certification for your own serious health condition under FMLA to Human Resources when requested. The certification must be received within fifteen (15) days of the requested leave start date or you will need to provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.

Human Resources may also require you to obtain a medical certification from the health care provider who is treating you or your family member.

You may obtain the necessary forms from the Department of Human Resources.

Human Resources may directly contact your health care provider for verification or clarification purposes. Human Resources will not use your direct supervisor for this contact. Before such direct contact with the health care provider, you will be given an opportunity to resolve any deficiencies in the medical certification. Failure to resolve any deficiencies may result in delay or denial of leave.

To verify your Serious Health Condition, the County may, at its discretion and expense, require you to obtain the opinion of a second health care provider designated or approved by the Human Resources Department. If there is a conflict between the first and second opinions, the County may, at its discretion and expense, require a third opinion from a different provider chose jointly by you and Human Resources. The third opinion will be binding.

Within five (5) business days after you have submitted the appropriate certification form, the Department of Human Resources shall complete and provide you with a written response to your request for FMLA leave.

VIII. Certification for Qualifying Exigency Leave

The County will require certification of Qualifying Exigency leave. As is required for other types of FMLA leave, you must respond to such a request within fifteen (15) days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.

IX. Certification for Military Caregiver Leave

The County will require certification for the Serious Injury or Illness of the Covered Servicemember. As is required for other types of FMLA leave, you must respond to such a request within fifteen (15) days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.

X. Intermittent Leave Certification

If Human Resources requests certification, you will have at least fifteen (15) calendar days to submit the paperwork to Human Resources. If your medical certification is incomplete or insufficient, Human Resources will specify in writing what information is lacking and allow you seven (7) days to cure the deficiency. Human Resources may insist on a health care provider's estimate of how often you will need

time off. Human Resources may wait until that estimate is received to approve intermittent leave.

The County may temporarily transfer you to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule, in instances of when you or your family member's leave is foreseeable and for planned medical treatment, including recovery from a Serious Health Condition or to care for your child after birth, or placement with you of a child for adoption or foster care.

In the case of intermittent Military Caregiver Leave, the County may transfer you, with equivalent pay and benefits, if you need leave on an intermittent or reduced leave schedule to care for a Covered Servicemember that is foreseeable based on planned medical treatment for the servicemember.

XI. Recertification

Human Resources may request recertification for you or your family member's Serious Health Condition every thirty (30) days when circumstances have changed significantly, or if you receive information casting doubt on the reason given for the absence, or if you seek an extension of your leave. Otherwise, Human Resources may only request recertification for your family member's Serious Health Condition every six (6) months in connection with an FMLA absence. Human Resources may provide your health care provider with your attendance records and ask whether the need for leave is consistent with your Serious Health Condition.

Certification/recertification must be returned within fifteen (15) days. Failure to provide certification in the requested time period may result in the delay or denial of leave.

XII. Fitness for Duty

The Human Resources Department may require a "fitness for duty" certification upon your return to work, if leave was taken for your own Serious Health Condition. The "fitness for duty" certification must be completed by your health care provider and certify that you are able to return to work and perform the essential functions of your position. A copy of your job description will be supplied with the designation notice.

XIII. GINA Information

To comply with the Genetic Information Nondiscrimination Act of 2008 (GINA), the County will ask your health care provider/s to not provide any genetic information as defined by GINA when responding to a request for your or your family member's medical information, except as allowed by specific GINA exceptions.

XIV. While on Family and Medical Leave

A. Periodic Reporting:

The County may require you to report periodically to the Department of Human Resources as to your leave status and your return to work, once known.

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B. Employment While Out on Leave:

An employee's inability to perform job duties while out on FMLA or any other authorized leave of absence for the County, is assumed to extend to any other job duties the employee may have outside of the County's employment as indicated in the employee's medical certification. If an employee is not on an approved FMLA Leave or provides a false or non-validated reason for a leave of absence, termination of employment will be pursued through the New York State Civil Service Law Section 75.

C. Health Insurance Plans:

During leave the County will continue providing health care coverage at the same level of any health benefit plans you are enrolled in at the time you take leave. While on paid leave (i.e. using sick time in conjunction with FMLA), the County will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid leave, the employee must continue to make these payments to the Warren County Treasurer. The payments must be received no later than the 1st day of each month. Failure to receive payment may result in termination of coverage.

If you choose not to return to work for reasons other than you or your family member's continued Serious Health Condition or a circumstance beyond your control, you must reimburse the County the amount it paid for your premiums during the leave period.

Paid Time Off Benefits: When you are on unpaid leave under this policy, accrual of paid time off benefits such as vacation, sick, and personal is determined by applicable County policy or collective bargaining unit.

D. Life or Disability Insurance:

If you contribute to a life insurance or disability plan, while on leave under this policy, you must request continuation of such benefits and make your portion of the premium payments. If you do not continue these payments, the County may discontinue coverage during the leave.

The County, in the alternative, may choose to maintain such benefits during the leave and pay your share of the premiums. The County may recover the premium costs incurred for paying your share, whether or not you return to work.

E. Leave Taken Under Disability Leave:

Leave taken under a disability leave plan, a workers' compensation plan program, General Municipal Law §207-c leave, or Civil Service Law §72 leave, which may also qualify as FMLA leave, shall be taken concurrently and count toward the twelve (12) or twenty-six (26) weeks of protected leave.

XV. When You Return from Leave - Reinstatement

Generally, when you return from FMLA leave, you will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms unless business circumstances have affected the position. The position will be the same or one which is virtually identical in terms of pay, benefits and working conditions.

XVI. Exhaustion of Leave

If an employee fails to return at the expiration of FMLA leave, applicable provisions of New York Civil Service Law §§ 71 or 73 may be initiated.

The protections afforded by USERRA extend to all Military Members (active duty and reserve), and all periods of absence from work due to or necessitated by USERRA-covered services are counted in determining an employee's eligibility for FMLA leave.

XVII. Reporting Violations of this Policy

If you are experiencing any violation of this policy, or if you know of or suspect a violation of the policy by another employee or workplace participant, you must report it immediately to the Department of Human Resources. If you do not feel comfortable reporting as listed above or if you did report and are not satisfied with the response, then you should direct your report or dissatisfaction to the County Attorney's Office.

Please note that you are not required to confront the person or persons who have given you reason to report. However, if you experience any violation of this policy, or if you know of or suspect violation of the policy by another employee or workplace participant, you must make a reasonable effort to make the violation known as soon as you experience or discover it. Discussing or reporting policy violations to any person not listed above does not constitute a report.

XVIII. Retaliation Prohibited

Retaliation can include, but is not limited to harassment, discrimination, bullying or any other unfair treatment or abuse of power. If you believe you are subjected to retaliation for reporting a violation of this policy, or participating in an investigation of this policy, you should report the retaliation immediately in the manner provided above, regardless of the accused's identity or position. Please note that you do not have to confront the person who is the source of the retaliation before reporting it, but to help prevent retaliation from continuing, you must report it.

Any employee or workplace participant who retaliates against another employee or workplace participant for making a good faith complaint of a violation of this policy, or for assisting in an investigation of a complaint of a violation of this policy, is subject to discipline or termination.

XIX. Workplace Investigations

A report of retaliation for reporting a violation of this policy or a report of a violation of this policy that is made to those listed above will result in an appropriate investigation by the Human Resources Office and/or the County Attorney's Office of the allegations. The County may use third parties to investigate allegations. All employees and workplace participants have a responsibility to cooperate fully with any investigation. The interviews, allegations, statements, and identities will be kept confidential, on a need-to-know basis, consistent with the law and the investigation process and goals. Unreasonable refusal to participate in an investigation may lead to discipline, including termination.

Those found to have violated this policy or to have retaliated against another in violation of this policy are

subject to discipline including, but not limited to, termination, consistent with the law, the results of the investigation, the severity of the conduct, and the person's employment history, including any similar reports of prior violations and/or retaliation.

Any employee or workplace participant who makes a knowingly false report of a violation of this policy or retaliation will be subject to discipline, including termination.

XX. Questions About This Policy

If you have questions, suggestions or concerns about this policy, you should direct them to the Department of Human Resources.

ADOPTED BY A UNANIMOUS VOTE OF THOSE PRESENT