

ENROLLED

COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND

LEGISLATIVE SESSION, 2018

LEGISLATIVE BILL 2018 - 07

Introduced: June 5, 2018

By: The Council President at the request of the County Executive.

AN ACT TO AMEND THE WICOMICO COUNTY PERSONNEL MANUAL CHAPTER 9 ENTITLED "WORK RULES;" CHAPTER 10 ENTITLED "EMPLOYEE BENEFITS;" AND CHAPTER 15 ENTITLED "LEAVE AND HOLIDAY BENEFITS," TO COMPLY WITH THE MARYLAND HEALTHY WORKING FAMILIES ACT.

WHEREAS, with the passage of the Maryland Healthy Working Families Act in 2018, Wicomico County has determined that Chapter 9, Chapter 10 and Chapter 15 should be amended to comply with the provisions of that State Law.

SECTION I: BE IT ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND, IN LEGISLATIVE SESSION, that an act to amend the Wicomico County Personnel Manual, Chapter 9 entitled "Work Rules," Chapter 10 entitled "Employee Benefits," and Chapter 15, entitled "Leave and Holiday Benefits," as set forth below:

CHAPTER 9

WORK RULES

Section 0918(g) shall be amended to read as follows:

(g) Sick AND SAFE LEAVE or Family Leave. Employees will not engage in secondary employment while on Sick OR SAFE LEAVE or Family leave unless their supervisor has given prior written approval.

CHAPTER 10

EMPLOYEE BENEFITS

Section 1006 shall be amended to read as follows:

1006 Leave. All regular full time and regular part time employees earn Personal, Annual, and Sick AND SAFE Leave per Chapter 15. Employees may also be eligible for other leave entitlements such as: jury duty leave, military duty leave, advance leave, bereavement leave, blood donor leave, court witness leave, etc. See Chapter 15.

Section 1507 and 1512 shall be amended to read as follows:

CHAPTER 15

LEAVE AND HOLIDAY BENEFITS

1507 Sick AND SAFE Leave. Sick AND SAFE leave is an extremely valuable employee privilege which should be conserved and used only when absolutely necessary. It should not be thought of as leave to be used in lieu of annual or personal leave, but rather as a health insurance program which increases in value as leave is accumulated.

(a) DEFINITIONS. AS USED IN THIS SECTION 1507,

(1) "FAMILY MEMBER" MEANS:

a. A BIOLOGICAL CHILD, AN ADOPTED CHILD, A FOSTER CHILD, OR A STEPCCHILD OF THE EMPLOYEE;

b. A CHILD FOR WHOM THE EMPLOYEE HAS LEGAL OR PHYSICAL CUSTODY OR GUARDIANSHIP;

c. A CHILD FOR WHOM THE EMPLOYEE STANDS IN LOCO PARENTIS, REGARDLESS OF THE CHILD'S AGE;

d. A BIOLOGICAL PARENT, AN ADOPTIVE PARENT, A FOSTER PARENT, OR A STEPPARENT OF THE EMPLOYEE OR OF THE EMPLOYEE'S SPOUSE;

e. THE LEGAL GUARDIAN OF THE EMPLOYEE;

f. AN INDIVIDUAL WHO ACTED AS A PARENT OR STOOD IN LOCO PARENTIS TO THE EMPLOYEE OR THE EMPLOYEE'S

SPOUSE WHEN THE EMPLOYEE OR THE EMPLOYEE'S SPOUSE WAS A MINOR;

g. THE SPOUSE OF THE EMPLOYEE;

h. A BIOLOGICAL GRANDPARENT, AN ADOPTED GRANDPARENT, A FOSTER GRANDPARENT, OR A STEPGRANDPARENT OF THE EMPLOYEE;

i. A BIOLOGICAL GRANDCHILD, AN ADOPTED GRANDCHILD, A FOSTER GRANDCHILD, OR A STEPGRANDCHILD OF THE EMPLOYEE;

j. A BIOLOGICAL SIBLING, AN ADOPTED SIBLING, A FOSTER SIBLING, OR A STEPSIBLING OF THE EMPLOYEE OR THE EMPLOYEE'S SPOUSE; OR

k. OTHER RELATIVE LIVING AS A MEMBER OF THE EMPLOYEE'S HOUSEHOLD.

(2) "ABUSE" HAS THE MEANING STATED IN SECTION 4-501 OF THE FAMILY LAW ARTICLE.

(3) "DOMESTIC VIOLENCE" MEANS ABUSE AGAINST AN INDIVIDUAL ELIGIBLE FOR RELIEF.

(4) "SEXUAL ASSAULT" MEANS:

a. RAPE, SEXUAL OFFENSE, OR ANY OTHER ACT THAT IS A SEXUAL CRIME UNDER TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE;

b. CHILD SEXUAL ABUSE UNDER SECTION 3-602 OF THE CRIMINAL LAW ARTICLE; OR

c. SEXUAL ABUSE OF A VULNERABLE ADULT UNDER SECTION 3-604 OF THE CRIMINAL LAW ARTICLE;

(5) "STALKING" HAS THE MEANING STATED IN SECTION 8-802 OF THE CRIMINAL LAW ARTICLE.

(b) Accrual. Regular full time and regular part time employees may accrue a maximum of 1040 hours (130 days) sick AND SAFE leave.

(1) Catastrophic Sick AND SAFE Leave. Accumulated sick AND SAFE leave hours, in excess of the 130 workdays of normal sick AND SAFE leave, will be granted to eligible full time employees and will be placed in their individual "Catastrophic Pool" for use by them in the event of catastrophic (severe) medical circumstances. The employee's "catastrophic pool" shall be used by the employee only after the employee's normal sick AND SAFE leave is exhausted and then only if the use of the "catastrophic pool" is requested in writing by the employee, or his legal representative if the employee is incapacitated, and approved by the responsible Department Head and Administrative Director of the County.

(bc) Earning Rate. Sick AND SAFE leave is earned at a rate of 1 day per ~~full~~ month worked, 12 days per year. Leave for regular part time employees will be prorated according to the number of hours worked.

(ed) Use of Sick AND SAFE Leave.

(a) ~~Employees Own Use.~~ Employees may use sick leave for their doctor and dentist appointments as well as for their illnesses.

~~For Family Member.~~ Up to 5 days per calendar year (prorated for regular part time employees) may be utilized so that the AN employee may care ~~USE SICK AND SAFE LEAVE~~ for any of the following family members that may be sick ~~PURPOSES:~~

(a) ~~Spouse~~

(b) ~~Children~~

(c) ~~Parent of employee or spouse, or others who took place of parents~~

(d) ~~Brothers or sisters of employee or spouse~~

~~Other relative living as member of~~ (1) TO CARE FOR OR TREAT the employee's household. MENTAL OR PHYSICAL ILLNESS, INJURY, OR CONDITION;

(2) TO OBTAIN PREVENTIVE MEDICAL CARE FOR THE EMPLOYEE OR EMPLOYEE'S FAMILY MEMBER;

(3) TO CARE FOR A FAMILY MEMBER WITH A MENTAL OR PHYSICAL ILLNESS, INJURY, OR CONDITION;

(4) FOR MATERNITY OR PATERNITY LEAVE; OR

(5) IF:

(a) THE ABSENCE FROM WORK IS NECESSARY DUE TO DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING COMMITTED AGAINST THE EMPLOYEE OR THE EMPLOYEE'S FAMILY MEMBER; AND

(b) THE LEAVE IS BEING USED:

(1) BY THE EMPLOYEE TO OBTAIN FOR THE EMPLOYEE OR THE EMPLOYEE'S FAMILY MEMBER:

(a) MEDICAL OR MENTAL HEALTH ATTENTION THAT IS RELATED TO THE DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING;

(b) SERVICES FROM A VICTIM SERVICES ORGANIZATION RELATED TO THE DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING; OR

(c) LEGAL SERVICES OR PROCEEDINGS RELATED TO OR RESULTING FROM THE DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING; OR

(2) DURING THE TIME THAT THE EMPLOYEE HAS TEMPORARILY RELOCATED DUE TO THE DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING.

(6) For Bereavement Leave. See paragraph 1510.

(d) Other Employment. If an employee engages in any work for compensation. ~~Sick Leave~~ DURING A SICK AND SAFE LEAVE, THEN THE SICK AND SAFE LEAVE may be terminated and the employee subject to disciplinary action under Chapter 9.

(e) Approval. The use of sick AND SAFE leave does not require advance approval, but it must be used for a bona fide reason. Sick leave can be denied when medical documentation that is VERIFICATION MAY BE required cannot be produced or is insufficient to justify the amount of sick leave taken. IN ACCORDANCE WITH SECTION 1507(l).

(f) (1) NOTICE.

(a) IF THE NEED TO USE EARNED SICK AND SAFE LEAVE IS FORESEEABLE, THE EMPLOYEE SHOULD PROVIDE REASONABLE ADVANCE NOTICE OF AT LEAST SEVEN DAYS BEFORE THE DATE SUCH LEAVE WOULD BEGIN.

(b) IF THE NEED TO USE EARNED SICK AND SAFE LEAVE IS NOT FORESEEABLE, THEN EMPLOYEE SHALL PROVIDE NOTICE OF THE NEED TO USE SUCH LEAVE AS SOON AS PRACTICABLE AND GENERALLY FOLLOW THE PROCEDURAL REQUIREMENTS FOR REQUESTING SICK AND SAFE LEAVE OR REPORTING A SICK AND SAFE LEAVE ABSENCE.

(2) A REQUEST FOR SICK AND SAFE LEAVE MAY BE DENIED IF:

(a) AN EMPLOYEE FAILS TO PROVIDE THE NOTICE REQUIRED UNDER SUBPARAGRAPH (1)(a) OR (b) ABOVE; AND

(b) THE EMPLOYEE'S ABSENCE WILL CAUSE A DISRUPTION TO THE EMPLOYER.

(g) Changes to. If an employee becomes ill or injured while on HAS RECEIVED APPROVAL TO TAKE annual, compensatory, or other leave, the AND THE EMPLOYEE BECOMES ILL OR INJURED DURING SUCH LEAVE, SICK AND SAFE LEAVE MAY BE SUBSTITUTED FOR SUCH ANNUAL, COMPENSATORY OR OTHER LEAVE FOR SUCH period of such incapacity may be changed to sick leave LEAVE ONLY if the employee so requests and submits written certification from a physician. PROVIDES VERIFICATION IN THE MANNER AND TO THE EXTENT SET OUT IN SECTION 1507(l).

~~(e)~~

- (h) Advanced Sick Leave. In the case of serious illness or accident, and with the certificate of a doctor, up to 12 days, (prorated for regular part time employees), advanced sick AND SAFE leave may be approved by the Administrative Director. Before advanced sick AND SAFE leave can be requested/approved, an employee must have exhausted all available earned paid leave, holidays, etc.
- (hi) Carry Over. Up to 130 days OF accrued sick AND SAFE leave can be carried over into the next calendar year.
- (ij) Retirement Credit. Employees may receive service credit at retirement for unused sick AND SAFE leave depending on the provision of the retirement plan.
- (jk) Reinstatement. Persons who are reinstated to active duty in the County service within one (1) year from the time of separation shall receive reinstatement of their unused sick AND SAFE leave balance maintained upon separation, PROVIDED HOWEVER, IF THE EMPLOYEE HAS RECEIVED PAYMENT FOR SICK AND SAFE LEAVE AT SEPARATION PURSUANT TO SECTION 1507(m)(1), THEN THE EMPLOYEE MUST REPAY THE AMOUNT RECEIVED AT THE TIME OF SEPARATION.

~~(k) — Doctor's Certificate (1)~~ VERIFICATION.

- (1) Absences. Leave requested for absences of more than three consecutive working days for any of the reasons listed within paragraph 1507(~~ed~~)(1)-(4) above must be accompanied by a doctor's certificate. LEAVE REQUESTED FOR ABSENCES OF MORE THAN THREE CONSECUTIVE WORKING DAYS FOR SAFE LEAVE WILL, AT THE REQUEST OF THE HUMAN RESOURCES DEPARTMENT, BE SUBJECT TO SUCH VERIFICATION AS MAY BE REASONABLY REQUESTED UNDER THE CIRCUMSTANCES. In addition, a supervisor may require that an employee provide a doctor's certificate OR OTHER VERIFICATION for ~~lesser~~ periods of absence OF MORE THAN TWO CONSECUTIVE SHIFTS when in the opinion of the ~~supervisor~~ HUMAN RESOURCES DEPARTMENT, the circumstances warrant such action. Such circumstances may include, but are not limited to, frequent absences in excess of three days per month, or recurring absences preceding, or following, weekends and holidays.

~~(i) Health Care Appointments. When an employee uses sick leave for a health care appointment.~~

~~a supervisor may require the employee to submit an appointment certification signed by the physician indicating the date, time, (m) SICK AND length of the appointment.~~

~~(l) — SickSAFE Leave Buy Back and Contribution.~~

- (1) Retirement, Resignation, Layoff, and Termination. Eligible employees with at least ten (10) years of continuous service with the County will at retirement, resignation or layoff receive one (1) hour's pay for every four (4) hours of normal sick AND SAFE leave accumulated, not to exceed 260 hours ("catastrophic pool" hours and hours contributed to the "County Sick Leave Pool" are not included). Eligible employees terminated for cause (fired) are ineligible for this buy back.
- (2) Annual Buy Back and Contribution. Effective January 1, of each year, eligible employees who have at least seventy (70) days of normal sick AND SAFE leave accumulated and have used no more than five (5) non physician documented working days of sick leave during the preceding twelve (12) months will have the opportunity to elect one or more of the following:

(a) Accumulate all sick AND SAFE leave as granted.

~~(e)- (b) Contribute one workday's sick AND SAFE leave (not to exceed eight (8) hours) to the "County Sick Leave Pool" and accumulate the remainder as granted.~~

~~(e) —~~

(c) Buy annual leave using five (5) workdays of sick AND SAFE leave (not to exceed 40 hours) using the following schedule and then accumulating the remainder as granted.

(ii)(i) Eligible employees with 130 workdays of normal sick AND SAFE leave accumulation may buy three (3) workdays of annual leave (not to exceed 24 hours).

(ii)(ii) Eligible employees with 100 workdays of normal sick AND SAFE leave may buy two (2) workdays of annual leave (not to exceed 16 hours).

(ii)(iii) Eligible employees with 70 workdays of normal sick AND SAFE leave may buy one (1) workday of annual leave (not to exceed 8 hours).

(nn) Sick Leave Pool. A "County Sick Leave Pool" will be developed through the voluntary contribution of one (1) workday's sick AND SAFE leave hours by eligible employees electing to do so on January 1, of each year.

(1) The "County Sick Leave Pool" may be used by eligible employees who have contributed to it and:

~~(b)~~(a) Have successfully completed their initial six month probation;

~~(c)~~(b) Have a legitimate illness, disability or condition, as determined by the "County Sick Leave Pool" Committee made up of County employees who are members of the pool;

~~(d)~~(c) Have exhausted their normal sick AND SAFE leave, catastrophic pool, annual leave, holiday leave and compensatory time (if any);

~~(e)~~(d) Have submitted Form HR-16 and HR-16a, with their Department Head's comments to the "County Pool Committee" requesting the pool's use, the reason for the request, and the amount of time requested, and medical certification;

~~(f)~~(e) Have had the request approved by the committee.

(2) The "County Sick Leave Pool" committee members will be randomly selected by the Human Resources Director from the voluntary contributors. On receipt of requests for use of the "County Sick Pool"; the "committee" may approve, deny, or modify the request and so advise the requesting employee and his Department Head.

(3) On January 1, of each year those eligible employees who have successfully completed their initial six (6) month probation and have used no more than five (5) non-physician documented working days of sick AND SAFE leave (not to exceed 40 hours) during the preceding six (6) to twelve (12) months depending on hire date may:

~~(f)~~(a) Accumulate their sick leave in a normal manner, or

~~(g)~~(b) Contribute one workday's hours of sick AND SAFE time (not to exceed eight [8] hours) to the "County Sick Leave Pool" and accumulate the rest in a normal manner.

(4) When a member of the "Pool" does not qualify, he may petition the "Committee" for consideration. The "Committee" will then consider the facts of the petition and will allow or disallow participation and so inform the petitioner.

(#) ~~o~~ o Payment for Sick Leave. Eligible employees with at least ten (10) years of continuous

service with the County will at retirement, resignation, or layoff receive one (1) hour's pay for every four (4) hours of normal sick AND SAFE leave accumulated, not to exceed 260 hours ("catastrophic pool" hours and hours contributed to the "County Sick Leave Pool" are not included). Eligible employees terminated for cause are ineligible for this buyback.

(p) THIS SICK AND SAFE LEAVE POLICY IS INTENDED TO COMPLY WITH THE MARYLAND HEALTHY WORKING FAMILIES ACT AND SHALL BE INTERPRETED IN A MANNER CONSISTENT WITH IT.

Section 1512 shall be amended to read as follows:

1512 Advance Leave. Leave may not ordinarily be used before it is earned; however, in cases of emergency and with appropriate documentation of need, leave may be advanced as follows:

Type	Amount	Approval	Reference
Annual*	40 hrs.	Administrative Director	1505(d)
Sick*	96 hrs.	Administrative Director	1507(gh)

*Advance leave will be prorated for the regular part time employees and will not exceed the amount they would earn in a year.

SECTION II: BE IT ENACTED that this Legislative Bill shall be known 2018 - 07 of Wicomico County, Maryland, and shall take effect sixty (60) days after its final passage, unless a proper Petition for Referendum thereof shall be filed prior to said date; in which event, the Bill shall not take effect until the expiration of thirty (30) days following the approval of this Bill by a majority of the qualified voters of the County voting in any such referendum.

Certified correct as passed and adopted by the County Council of Wicomico County, Maryland this 3rd day of July, 2018.

WICOMICO COUNTY, MARYLAND

 (SEAL)

By: John T. Cannon, President

 (SEAL)

By: Laura Hurley, Secretary

I HEREBY CERTIFY that copies of the above Bill are available to the public, the press and other news media at the time of its introduction.

 (SEAL)

By: Laura Hurley, Secretary

Explanation:

~~Strike Out indicates matters deleted from existing law.~~

CAPITALS INDICATE MATTERS ADDED TO EXISTING LAW.

~~CAPITAL STRIKE OUT~~ indicates matter stricken from Bill by Amendment.
Underlining indicates Amendments to Bill

COUNTY COUNCIL
OF
WICOMICO COUNTY, MARYLAND

BILL NO. 2018 - 07

INTRODUCED BY: Council at Request of Executive Legislative Day No. 12

Date: June 5, 2018


Introduced, read first time, ordered posted and public hearing scheduled on: July 3, 2018.

TIME: 6:00 p.m.

LOCATION: Council Chambers

AN ACT TO AMEND THE WICOMICO COUNTY PERSONNEL MANUAL CHAPTER 9 ENTITLED "WORK RULES;" CHAPTER 10 ENTITLED "EMPLOYEE BENEFITS;" AND CHAPTER 15 ENTITLED "LEAVE AND HOLIDAY BENEFITS," TO COMPLY WITH THE MARYLAND HEALTHY WORKING FAMILIES ACT.

PUBLIC HEARING: Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on July 3, 2018, and concluded on July 3, 2018.



Laura Hurley, Council Administrator

CERTIFICATION

The undersigned hereby certifies that this Bill was Approved and Adopted by the County Council of Wicomico County, Maryland, on the 3rd day of July, 2018.


Laura Hurley, Council Administrator

Presented to the County Executive for approval this 5th day of July, 2018, at 8:10 a.m. p.m. (5 days §411)


Lynn Sande, Executive Office Associate

BY THE EXECUTIVE:

APPROVED

Date: 7/5/18 2018
(2 days §411)

VETOED

Date: _____ 2018

County Executive


EFFECTIVE DATE:

This Bill having been approved by the County Executive and returned to the Council becomes law on July 5, 2018, and effective on Sept. 3, 2018 (60 days §311).


ENROLLMENT:

Legislative Bill No. 2018 - 07 is herewith submitted to the County Council of Wicomico County for enrollment as being the text as finally passed

CERTIFIED TRUE AND CORRECT


Council Administrator
Date: July 9, 2018

ENROLLED


Council President
Date: July 9, 2018