



**Sheriff's Office  
COOK COUNTY, ILLINOIS  
SHERIFF'S ORDER**

SUBJECT	ISSUANCE DATE	EFFECTIVE DATE	NO.
<b>FAMILY AND MEDICAL LEAVE OF ABSENCE</b>	<b>04 DEC 07</b>	<b>09 DEC 07</b>	<b>07-3</b>
RELATED DIRECTIVES	DISTRIBUTION	RESCINDS	AMENDS
	<b>G</b>		

### I. PURPOSE

This order establishes the Family and Medical Leave of Absence (FMLA) policy and procedure for all employees requesting Family and Medical Leave and the return to duty after any Family and Medical Leave Absences.

### II. POLICY

The Sheriff Office shall provide its employees with the procedures to be followed when requesting Family and Medical Leave and returning to duty from a Family and Medical Leave of Absence.

### III. ENCLOSURE

- A. Family and Medical Leave of Absence Request (FCN-5)(Dec.07)
- B. Certification of Health Care Provider (FCN-6)(Dec.07)

### IV. RESPONSIBILITY

- A. It shall be the responsibility of the Cook County Sheriff's Office to provide the Family and Medical Leave of Absence Request Packet to employees requesting the Family and Medical Leave of Absence. Employee must complete and submit all documentation required to apply for the Family and Medical Leave of Absence. Any employee not returning to their position following the granted leave, or failing to request and be granted an Authorized Status before the expiration of the Family and Medical Leave will be disciplined up to and including termination.
- B. It shall be the responsibility of the Cook County Sheriff's Office employee to obtain the current Family and Medical Leave of Absence Packet from their respective Personnel Office. Employees must complete and submit all documentation required to apply for the Family and Medical Leave of Absence. Any employee not returning to their position following the granted leave, or failing to request and be granted an Authorized Status before the expiration of the Family and Medical Leave will be disciplined up to and including termination.

Defendant Exh. 1



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**V. PROCEDURE**

The procedures for requesting an FMLA leave are as follows:

1. Obtain Family and Medical Leave of Absence Request Packet from employee's respective Personnel Department, consisting of the General Order, FMLA Request and the Certification of Health Care Provider form.
2. Employee must complete the FMLA Request form and submit the Certification of Health Care Provider form to the Health Care Provider for completion.
3. Employee must submit all original FMLA forms, including the Family and Medical Leave of Absence Request form and the Certification of Health Care Provider Form to their respective Personnel Department or Divisional/Facility Timekeeper in a sealed envelope within fifteen (15) calendar days of the request date and /or Health Care Provider signature date. For purposes of confirmation of family relationship employees will need to provide reasonable documentation (e.g. birth certificate, marriage certificate and/or legal documentation).

**FEDERAL REGULATION 825.113(d)**

4. The Personnel Departments will forward the original forms to the Sheriff's Personnel Office, Richard J. Daley Center, Room 702. The Director of Personnel or designee will verify eligibility requirements of the leave request and notify the Department Head and the employee of the status of the FMLA Request as soon as practicable (i.e., two (2) business days absent any extenuating circumstances). It should be noted the Employee's Department Head will ensure the Employee's Chain of Supervision is aware of the employee's FMLA status.
5. The employee will be provided with a confidential copy of the notification, along with a Confirmation of Receipt Form. The employee is responsible for returning the Confirmation of Receipt Form, signed and dated, to the Sheriff's Office Director of Personnel.

**VI. REQUIREMENTS**

**A. The Family and Medical Leave Act of 1993**

The United States Department of Labor's Employment Standards Administration, Wage and Hour Division, administers and enforces the Family and Medical Leave Act (FMLA) for all private, state and local government employees, and some federal employees. Most Federal and certain congressional employees are also covered by the law and are subject to the jurisdiction of the United States Office of Personnel Management or the Congress.

FMLA became effective on August 5, 1993, for most employers. If a collective bargaining agreement (CBA) was in effect on that date, FMLA became effective on the expiration date of the CBA or February 5, 1994, whichever was earlier.

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FMLA entitles eligible employees to take up to twelve (12) weeks of unpaid, job-protected leave in a twelve (12) month period for specified family and medical reasons. The employer may elect to use the calendar year, a fixed twelve (12) month leave or fiscal year, or a twelve (12) month period prior to or after the commencement of leave as the twelve (12) month period.

The law contains provisions on employer coverage; employee eligibility for the law's benefits; entitlement to leave, maintenance of health benefits during leave, and job restoration after leave; notice and certification of the need of the FMLA leave; and, protection for employees who request or take FMLA leave. The law also requires employers to keep certain records. **FMLA Fact Sheet #28**

B. Employer Coverage

The Cook County Sheriff's Office is a covered employer, and is on a twelve (12) month period measured forward from the date any employee's first FMLA begins. **FEDERAL REGULATION 825.200 (b)**

C. Employee Eligibility

To be eligible for FMLA benefits, an employee **must**:

1. Work for a covered employer;
2. Have worked for the employer for a total of twelve (12) months\*;
3. Have worked at least 1,250 hours over previous twelve (12) months\*\*; and
4. Work at a location in the United States or in any territory or possession of the United States where the employer within seventy-five (75) miles employs at least fifty (50) employees.

\* Uniformed Services Employment and Reemployment Rights Act entitles returning National Guard and Reservists to all the benefits of employment that they would have obtained if they had been continuously employed, therefore the months and hours that the employee would have worked, but for his/her military service, shall be combined with the months employed and the actual hours worked to meet the twelve (12) months and 1,250 hours requirement to be eligible for FMLA.

\*\* The Cook County Sheriff's Office calculates eligibility using a twelve (12) month period immediately proceeding commencement of FMLA Leave. For example, if an employee applies for an FMLA on December 1, 2007, their eligibility requirement of 1,250 hours worked is calculated by looking at their actual hours worked from

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**December 1, 2006 to December 1, 2007. Employees may reapply for FMLA when they have accrued the required 1,250 hours.**

When calculating hours worked, only those hours where the employee was **physically at work** can be used; benefit (vacation, personal, medical), holiday, compensatory time and ordinary disability and duty disability time cannot be used for the calculation.

**D. Leave Entitlement**

A covered employer must grant an eligible employee up to a total of twelve (12) workweeks of unpaid leave during any twelve (12) month period. The Cook County Sheriff's Office has chosen a twelve (12) month period measured forward from the date of any employee's first FMLA approved status. The FMLA leave is for one or more of the following reasons:

1. For the birth and care of the newborn child of the employee, the employer will require a copy of the birth certificate.
2. For placement with the employee of a son or daughter for adoption or foster care, the employer will require a copy of the adoption paperwork or foster care legal documentation.

Leave for birth and care, or placement for adoption or foster care must conclude within twelve (12) months of the birth or placement. If FMLA leave is for the birth and care, or placement for adoption or foster care, use of intermittent leave is subject to the employer's approval.

**FEDERAL REGULATION 825.203(b)**

3. To care for an immediate family member (spouse, child, or parent) with a serious health condition\*\*;

"Son or Daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age eighteen (18), or age eighteen (18) or older and "incapable of self-care because of a mental or physical disability" requiring active assistance or supervision to provide daily self-care in three or more of the activities of daily living such as grooming, eating, bathing, maintaining a residence, etc.

For purposes of confirmation of family relationship, the employer will require the employee to provide documentation (examples, but not limited to: marriage certificate, birth certificate, guardianship documentation). **FEDERAL REGULATION 825.113 (d)**

Medical documentation will be required for children over the age of eighteen (18) incapable of self-care.

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4. To take medical leave when the employee is unable to work because of his/her own serious health condition.

E. Certification of Health care Provider Categories

\*\* **Serious Health Condition** means an illness, injury, impairment, or physical or mental condition that involves either:

1. **Hospital Care** – Any period of incapacity or treatment connected with inpatient care (i.e., 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; or
2. **Absence Plus Treatment** – A period of incapacity (including treatment therefore, or recovery there from) lasting more than three (3) consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also includes:
  - a. Treatment two (2) or more times by or under the supervision of a health care provider; or
  - b. One (1) treatment by a health care provider with a continuing regimen of treatment; or
3. **Pregnancy** – Any period of incapacity due to pregnancy, or for prenatal care. A visit to the health care provider is not necessary for each absence; or
4. **Chronic Conditions Requiring Treatments** – A chronic condition continues over an extended period of time, requires periodic visits to a health care provider, and may involve occasional episodes of incapacity (e.g., asthma, diabetes). A visit to a health care provider is not necessary for each absence; or
5. **Permanent/Long-term Conditions Requiring Supervision** – A condition for which treatment may not be effective (e.g., Alzheimer's, a severe stroke, terminal cancer). Only supervision by a health care