

**M-E-M-O-R-A-N-D-U-M**

TO: Incident Command  
FROM: James P. Woodson, III, Deputy City Attorney  
RE: Emergency Family and Medical Leave Expansion Act and Emergency Paid Sick Leave Act.  
File No.: A20-0402  
DATE: March 26, 2020

**Emergency Family and Medical Leave Expansion Act.**

Effective April 1, 2020 through December 31, 2020. (During Declared Public Health Emergency)

The Act is applicable to the City of Tuscaloosa and expands The Family Medical Leave Act by adding Public Health Emergency Leave because of a qualifying need related to a Public Health emergency and applies to any employee of the City that has been employed for thirty days. Employees under Emergency Family and Medical Leave are entitled to 12 weeks of leave some of which may be paid as set out below.

Public Health Emergency means an emergency with respect to COVID-19 declared by Federal, State and Local Authority. The expanded Family Medical Leave is available for a qualifying need related to a Public Health Emergency when an employee is unable to work (or telework) due to a need for leave to care for their son or daughter under 18 years of age if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to the public health emergency.

**Unpaid leave for initial 10 days of leave.** In general the first 10 days may consist of unpaid leave. The Employee may elect to substitute any accrued paid time off for unpaid leave. The City shall provide paid leave to the employee after 10 days subject to the Paid Leave Calculation.

**Paid leave calculation.** An amount not less than two-thirds of employee's regular rate of pay for the number of hours employee would be normally scheduled to work. The cap for employee pay is \$200.00 per day and \$10,000.00 in the aggregate.

The City as an employer of emergency responders may elect to exclude such employees from the application of the Emergency Family and Medical Leave Expansion Act.

## Emergency Paid Sick Leave Act.

Effective April 1st through December 31, 2020.

This is a new provision applicable to the City for **all** of its employees.

The City shall provide to each employee paid sick time to the extent that the employee is unable to work (or telework) due to a need for leave because.

1. Employee is subject to a Federal, State, or local quarantine or isolation order related COVID-19.
2. Employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
3. Employee is experiencing symptoms of COVID-19 and seeking medical diagnosis.
4. Employee is caring for an individual who is subject to an order as described in paragraph (1) or who has been advised as described in paragraph (2).
5. The employee is caring for their son or daughter if the school or place of care of the son or daughter has been closed, or the childcare provider of such son or daughter is unavailable, due to COVID-19 precautions.
6. Employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

The City as an employer of emergency responders may elect to exclude such employees from the application of Emergency Paid sick leave.

**Amount of Pay.** Full pay unless for reasons 4,5 or 6 and then 2/3 pay.

### **Caps on Emergency Paid Sick Leave.**

Reasons 1,2 or 3 - \$511. per day and \$5,110 per employee.

Reasons 4,5, or 6 - \$200. Per day and \$2000. Per employee.

**Duration of paid sick time.** For full time employees, eighty (80) hours and for part time employees, a number of hours, equal to the number of hours that such employee works, on average, over a two (2) week period.

**Prohibited acts.** It shall be unlawful for any employer to discharge, discipline or in any other manner discriminate against any employee who takes leave in accordance with the Act or has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act.

## **Administrative Leave Pursuant to Executive Order 2020-002**

Effective until terminated by the Mayor or the Ending of the Declaration of Emergency related to COVID-19 and applicable to all City employees.

Employees who are suspected or who have been confirmed to have COVID-19, or those with a household family member with suspected or confirmed COVID-19, shall be placed on paid administrative leave after a request of the Department Head and approval by Incident Command.

Employees on paid administrative leave pursuant to the Executive Order shall not have AVAIL, SAIL or any other leave balances deducted and shall continue to accrue benefit as if they were at work. Any employee on paid administrative leave pursuant to the Executive Order should, when medically able, utilize telecommunicating whenever possible.

Employees who have child care coordination issues that result in an absence based upon school or daycare closure as the result of COVID-19 who could not be accommodated through telecommunicating must utilize AVAIL for absences attributed to child care issues as a result of COVID-19 and shall not be eligible for Administrative Leave. The eighty (80) hours of paid sick leave may benefit some employees who are not covered by the Mayor's Executive Order because the absence is contributed to childcare issues as a result of COVID-19.

### **AVAIL and SAIL**

AVAIL and SAIL continue to remain available to City employees. Caregiver SAIL may be utilized as follows:

- (3) Utilization of SAIL hours (caregiver) subject to the limitations of subsection (1) (*utilization of 40 hours of AVAIL at the beginning of the leave*). An employee caring for their spouse, dependent child, or parent with a qualifying serious illness or injury may qualify for caregiver SAIL. In order for employees to utilize SAIL hours as a caregiver, the employee must be a caregiver providing assistance with the activities of daily living for a qualifying individual and complete the city's FMLA application with physician certifications. Provided however, that an employee as an eligible caregiver for a spouse may upon the death of the spouse during eligible caregiver SAIL leave continue caregiver SAIL for up to eighty (80) hours to provide primary care of the spouse's minor children. Continuous caregiver SAIL is limited to two hundred forty (240) hours during any twelve (12) month period. Intermittent caregiver SAIL is limited to one hundred twenty (120) hours during any twelve (12) month period. The combined use of continuous and intermittent caregiver SAIL may not exceed two hundred forty (240) hours in a calendar year.

