

ORDINANCE NO. _____, SERIES 2020

AN ORDINANCE CREATING A NEW SECTION OF CHAPTER 35 OF THE LOUISVILLE METRO CODE OF ORDINANCES REQUIRING THE IMPLEMENTATION OF PAID FAMILY LEAVE. (AMENDMENT BY SUBSTITUTION)

SPONSORED BY: COUNCIL MEMBERS CHAMBERS ARMSTRONG, DORSEY, GEORGE, GREEN, HOLTON STEWART, PIAGENTINI, PEDEN, AND PRESIDENT JAMES

WHEREAS, Louisville/Jefferson County seeks to constantly improve and update benefits for Louisville Metro Government employees in order to recruit talented people who are successful in their fields to join the Louisville Metro Government and to encourage existing employees to continue working for the city;

WHEREAS, the Family Medical Leave Act while providing job protection in a paid or unpaid status, does not address the lack of income experienced by many employees during periods of necessary leave;

WHEREAS, the purpose of paid parental leave is to allow up to twelve (12) weeks of paid leave to employees who have worked for Louisville Metro Government for at least twelve (12) months; and the paid parental leave will be in addition to an employee's accrued annual and sick leave;

WHEREAS, paid parental leave attracts young professionals;

WHEREAS, paid parental leave improves workplace morale and increases productivity;

WHEREAS, paid maternal leave can increase female labor force participation by making it easier for women to stay in the workforce after giving birth, contributing to economic growth; paid maternal leave also increases employee retention, saving employers significant costs associated with replacing employees;

WHEREAS, parents supported by work benefits, such as paid parental leave, are less likely to rely on public assistance benefits;

WHEREAS, in twenty-first century America, many private and public companies and institutions allow their employees to take significant time off when they have children; many of these companies and institutions offer the same amount of time off for both male and female employees in recognition of the shared duties of parenting a newborn or newly adopted child;

WHEREAS, family leave also has significant benefits for the health of individual family members and for the well-being of the family overall;

WHEREAS, paid maternity leave positively affects breastfeeding rates, infant mortality, vaccination rates, maternal health, and paternal caregiving.

WHEREAS, paid paternal leave results in increased father-infant bonding, more equitable division of household labor, increased child-engagement and improved health and development outcomes for children;

WHEREAS, according to the Organization for Economic Cooperation and Development, of 41 countries examined, only the United States does not mandate paid leave for new parents;

WHEREAS, an increasing number of U.S. states and cities are implementing their own paid parental leave policies;

WHEREAS, Louisville Metro Government has a compelling and important interest in providing paid parental leave due to the overwhelming economic and health benefits it provides to the city and its citizens;

WHEREAS, Louisville Metro Government recognizes that the goal of foster care is to temporarily care for a child, keep them safe, and meet their ongoing needs until it is safe to reunify them with their birth parents or other family members;

WHEREAS, Louisville Metro Government recognizes that employees providing temporary care face certain obstacles during that time that can be alleviated by providing paid leave.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

SECTION I: A new section of Title II Chapter 35 is added to and amends the Louisville Metro Code of Ordinances to read as follows:

TITLE II: ADMINISTRATION

CHAPTER 35: PERSONNEL POLICIES

§ 35.014 PAID FAMILY LEAVE

(A) *Paid Parental Leave.* All regular and appointed Louisville Metro Government (“Metro”) employees shall be granted paid parental leave due to the birth of the employee’s child or the placement within the employee’s home of an adopted child in accordance with the following provisions:

(1) To be eligible for parental leave, employees must be full-time or part-time employees who have been employed for at least twelve (12) months by the date the leave is to commence and have worked at least 1,250 hours during the twelve (12) month period immediately preceding the beginning of the leave.

(2) Employees must be the biological parent of a newly born child, fostering a child while pending adoption or the legal guardian/adoptive parent of an adopted child and reside in the same household as the adopted child.

(3) An eligible employee will receive up to twelve (12) weeks of pay at 100% of the employee's base pay per birth or adoption event.

(4) Multiple births or adoptions do not increase the length of leave granted for the birth or adoption event.

(5) Leave will be based on the employee's certified normal rate of pay, not including premiums or overtime.

(6) If both parents work for Metro, both parents are eligible for parental leave, and such leave may be taken either concurrently or consecutively.

(7) Parental leave under the policy must be utilized within six (6) months following the birth or adoption of a child. If the leave is not used by the employee before the end of the six (6) month period, it shall not accumulate for any subsequent use. Paid parental leave will not reduce eligibility for other types of paid and unpaid leaves such as sick leave, vacation, personal leave, holiday and short-term disability. An employee may be eligible for this benefit no more than one time in a twelve (12) month period

(8) An eligible employee must submit a completed Employee Request for Family and Medical Leave Form, requesting FML leave to the Human Resources Benefits Office at least thirty (30) days prior to the anticipated date of the leave. To the extent the thirty (30) day notice is not possible, the employee must submit a completed Employee Request for Family and Medical Leave Form to the Human Resources Benefits Office as soon as possible.

(9) An eligible employee will be required to furnish appropriate medical documentation for the birth of a child. If applicable, the medical certification requirements

for FML leave will govern. The medical documentation must be completed and signed by the individual's health care provider.

(10) An eligible employee will be required to furnish appropriate adoption documentation, such as a letter from an adoption agency, or from the attorney in cases of private adoptions.

(11) An eligible employee may not take leave under this paragraph unless the employee agrees (in writing), before the commencement of such leave, to work for the applicable employing agency for not less than a period of 12 week beginning on the date such leave concludes.

a. The head of the agency shall waive this requirement in any instance where the employee is unable to return to work because of the continuation, recurrence, or onset of a serious health condition (including mental health), related to the applicable birth or placement of a child, of the employee or the child.

b. The head of the employing agency may require that an employee who claims to be unable to return to work because of a health condition provide certification supporting such claim by the health care provider of the employee or the child. The employee shall provide such certification to the head in a timely manner.

c. If an employee fails to return from paid leave provided under this Act after the date such leave concludes, the employing agency may recover from the employee an amount equal to the total amount of Metro's contributions paid on behalf of the employee for maintaining such employee's health coverage during the period of such leave.

d. Subparagraph 11(c) shall not apply to any employee who fails to return from such leave due to:

i. the continuation, recurrence, or onset of a serious health condition as described under, and consistent with the requirements of, subparagraphs 11(a) and (b).

ii. any other circumstance beyond the control of the employee.

(12) Sperm donors are excluded from coverage under this policy. Surrogate mothers and biological parents who elect to place their newborn child/children for adoption are covered under this policy for as long as the newly born child resides in their household. Stepparent adoptions are excluded from coverage under this policy.

(13) A fraudulent request for paid parental leave shall be grounds for serious disciplinary action, up to and including termination of employment.

(14) During any leave taken under the provisions of this Ordinance, the employer shall maintain any health care benefits the covered individual had prior to taking such leave for the duration of the leave as if the covered individual had continued in employment continuously from the date they commenced the leave until the date the leave benefits terminate; provided, however, that the covered individual shall continue to pay the covered individual's share of the cost of health benefits as required prior to the commencement of the leave.

(B) Paid Leave for Families of Circumstance

(1) *Definitions.* For purposes of this section, the following definitions shall apply: **FOSTER CARE.** Foster Care means a new, temporary living arrangement in the employee's home for a minor child provided through a state-certified Foster Care

program. Placement in the employee's home is made by or with the agreement of the State and involves a minor child who is in the legal or physical custody and care of the State. Although Foster Care may be with relatives of the child, State action is involved in the removal of the child from parental custody.

KINSHIP PLACEMENT. Kinship placement means the temporary placement of a minor with a relative or fictive kin by a court order.

(2) Upon placement of a child in foster care or kinship placement, an employee is entitled to two weeks paid leave to provide the necessary support. An employee is only entitled to this type of leave once per employment cycle regardless of the number of placements within the employee's home during that cycle.

(3) An eligible employee is required to furnish appropriate foster care or kinship placement documentation, such as a court order or a letter from a state-certified Foster Care Program.

(4) All other provisions of this Section apply.

(5) The policy described herein shall be fully implemented by July 1, 2021.

SECTION II: This Ordinance shall take effect upon its passage and approval.

Sonya Harward
Metro Council Clerk

David James
President of the Council

Greg Fischer
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

BY: _____

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