

Chapter 7 of the General Manual

07.06.00 LEAVES WITH PAY

06.01 State statutes and Department policies provide for various types of leaves for employees. These leaves with pay are described herein. [All requests for foreseeable leave must be submitted in writing through the immediate supervisor and through the chain of command as appropriate.](#)

06.02 Sick Leave. Members of this Department are entitled to the use of sick leave as set forth in this section; however, employees falsely claiming their entitlements will be subject to severe disciplinary action. Employees shall, without deduction in salary, be entitled to sick leave subject to the following conditions:

1. An employee will earn sick leave entitlement beginning on the first day of employment with the state and terminating on the last duty day. In this subsection, “duty day” means an employee’s last physical day on the job.

2. Sick leave entitlement shall be earned at the rate of eight (8) hours for each month or fraction of a month employment and shall accumulate with the unused amount of such leave carried forward each month. Sick leave accrual shall terminate on the last day of duty.

a. Credit for each month’s or fraction of a month’s accrual will be entered automatically on the Employee Time Detail Listing sheet on the first day of employment and on the first of each succeeding month of employment thereafter. If an employee is not at work on the first day of the month when accruals are posted, sick leave will not be available for use until the employee actually returns to duty. Under no circumstances will employees be allowed to carry negative sick leave balances.

b. Temporary, part-time, and hourly state employees accrue sick leave on a proportionate time-worked basis to that of full-time employees.

c. If an employee is not at work on the first of the month when accruals are posted, the sick leave will not be available for use until the employee actually returns to duty.

3. Sick leave with pay may be taken when sickness, injury, or pregnancy and confinement prevent the employee’s performance of duty or when the employee is needed to care and assist a member of his or her immediate family who is actually ill. An employee who has children who are students attending grades from pre-kindergarten through 12th grade may use up to eight hours of sick leave each fiscal year to attend parent-teacher conference sessions for these children. It is the responsibility of the supervisor to maintain adequate records to ensure that no more than eight hours are taken for parent-teacher conference sessions in a fiscal year.

a. For purposes relating to regular sick leave, immediate family is defined as those individuals who reside in the same household and are related by kinship, adoption, or marriage, as well as foster children certified by the Texas Department of Protective and Regulatory Services. Minor children of the employee, whether or not living in the same household, will be considered immediate family for purposes of regular sick leave.

b. An employee’s use of sick leave for family members not residing in that employee’s household is strictly limited to the time necessary to provide care and assistance to a spouse, child, or parent of the employee who needs such care and assistance as a direct result of a documented medical condition.

4. An employee who must be absent from duty because of illness, or the illness of a member of the immediate family, shall notify his/her supervisor or cause the supervisor to be notified of that fact at the earliest practicable time.

The employee shall inform the supervisor if the absence is due to an FMLA-qualifying event. The employee shall also inform the supervisor if the leave is being taken to care for an immediate family member and the name, address, and

06.09 Emergency Leave

1. Per Texas Govt. Code 661.902 (a), the death of an employee's spouse or the employee's or spouse's parents, brothers, sisters, grandparents, grandchildren, great-grandparents, great-grandchildren, or children shall constitute adequate need for emergency leave. Such emergency leave shall be granted for a period not to exceed three (3) working days.

An employee seeking an emergency leave due to a death of those listed above shall submit the request through proper channels for approval by the employee's chain of command.

2. The Director shall grant an emergency leave for other reasons when in his or her determination, the employee shows good cause. An illustration of good cause would be an employee who must transact urgent business related to a natural disaster such as a flood, tornado, fire, etc. Such leave when granted shall not exceed three (3) working days. Requests for this leave shall be submitted by memorandum for approval through supervisory channels to the office of the appropriate Deputy Director [and approval by the Director](#).

3. Department employees whose official actions result in death or in serious injury to another person are often subjected to psychological trauma. Personnel directly involved in incidents of this nature while acting within the scope of their DPS employment may be granted emergency leave for a period not to exceed three (3) working days. Employees on emergency leave as provided here will not perform law enforcement duties in any capacity unless unusual circumstances demand deviation from this requirement.

This type of emergency leave may be granted by the affected employee's immediate supervisor subject to final approval by the Director. Requests shall be submitted by memorandum through supervisory channels to the appropriate Deputy Director [for submission to the Director of the Department](#).

As provided by 05.62.00 of this manual, the appropriate Deputy Director may require that an employee on emergency leave submit to physical examinations prior to returning to normal duties.

4. Requests for emergency leave in excess of three (3) working days must be submitted by memorandum to the office of the appropriate Deputy Director through supervisory channels [for approval by the Director of the Department](#). Only in rare instances will more than three (3) working days be approved.

5. The Director may grant emergency injury leave to an employee who suffers a catastrophic injury while in the performance of a law enforcement duty of an inherently hazardous nature when in the Director's determination an actual need or emergency exists.

For purposes of this section, a catastrophic injury is defined as an extreme, incapacitating injury usually considered life-threatening or which may result in serious residual disability which affects the employee's physical health requiring immediate medical attention by a health care provider. Not included as catastrophic injury are injuries that are the result of cumulative trauma or cumulative injury. Officers with these types of injuries may be eligible for Assaultive Injury Leave if the injury was the result of an assault. See section 07.06.17.

To be eligible for emergency injury leave, an employee must suffer a catastrophic injury, be subject to loss of compensation from the state, and not be eligible for a modified duty or alternative duty position under the departmental Return to Work policy which is explained in Chapter 8 of this General Manual.

Requests for emergency injury leave under this section may be initiated by the employee or the employee's supervisor and submitted to Human Resources. The request must be made on the HR-173 form. The request must include the Employee's Election Regarding Utilization of Sick and Annual Leave (SORM-80) and the Supervisor's First Report of Injury (TWCC-1S). Additionally, the request must include a statement from the employee's health care provider containing sufficient detail regarding the employee's current medical status to allow the appropriate Deputy Director to make a decision regarding eligibility for Emergency Leave [which must be approved by the Director the Department.](#)

The payment for emergency leave is not a replacement for Workers' Compensation income benefits and may not exceed the amount computed by subtracting the amount of workers' compensation income benefits received for the month from the basic monthly wage of the employee. Emergency injury leave benefits will not be paid for a period longer than the six months after the date on which workers' compensation benefits begin. The initial grant of emergency leave will not exceed four weeks.

The employee may request a continuation of emergency injury leave by submitting a completed HR-173 form to Human Resources. This request must be made prior to the exhaustion of the initial grant of emergency injury leave. In addition to the HR-173, the employee is required to submit a completed medical release and a detailed statement from their health care provider regarding their medical status so that a determination can be made regarding the continued need and eligibility for additional emergency injury leave. At a minimum, the report from the health care provider must include:

- a. the beginning date of the physical condition;
- b. diagnosis with details of the condition, probable duration of the employee's present incapacity and the prognosis for recovery;
- c. dates of hospitalization, surgeries and other treatment relative to the current catastrophic injury;
- d. details concerning any other complicating health conditions which may have a major impact on or relevance to the current injury;
- e. treatment plans; physical functional status;
- f. the anticipated date the employee will be able to return to work; and
- g. the health care provider's opinion on whether the employee may be able to return to work sooner than anticipated if alternate, light, or part-time duty were an option;

Employees may be required to submit reports on their medical status and intent to return to work every thirty (30) days following exhaustion of the initial grant of emergency injury leave. This information is necessary to determine the continued need and eligibility for emergency injury leave. This status report must be accompanied by a letter from the employee's treating health care provider, on the health care provider's letterhead. The statement from the health care provider must include the same information required in items (a) through (g) listed above. If there is insufficient medical information provided by the employee, the Human Resources Bureau may contact the health care provider requesting further documentation.

The maximum duration of the Emergency Leave benefit to which a person is entitled under this subsection for all injuries occurring from a single episodic event is six months after the date on which workers' compensation benefits began.

These provisions are not retroactive and individuals who have suffered qualifying injuries prior to the enactment of this policy provision are not eligible for grants of emergency leave.

6. Emergency leave time granted with proper approval will not be charged to the employee's sick leave, vacation entitlement, compensatory time earned, or any other time off normally due the employee.

06.10 Emergency/Special Leave. The Director shall grant emergency/ special leave when in his determination an actual need or emergency situation exists and the Director believes in good faith that the employee being granted the emergency leave intends to return to the employee's position with the Department on expiration of the emergency leave Illustrations of actual need or emergency situation include the granting of leave not specifically authorized by the Appropriations Act, hazardous weather or road conditions or any other hazardous condition existing in a particular geographical area. In the field offices, the regional commander should coordinate with the Deputy Director of Law Enforcement to determine if emergency/administrative leave should be granted in a given geographical area due to existing conditions or actual need. The amount of time employees will be granted leave under these conditions will be determined by the Director. Employees who are required to work for the duration of the hazardous condition, actual need, or leave not specifically authorized by the Appropriations Act in a geographical area will be granted emergency/administrative leave in an amount equal to that granted to other Department employees in the same geographical area. Emergency/administrative leave granted to employees who are required to work will be taken within 30 days, on a date mutually agreed upon by the employee and his supervisor. Any time accrued under this provision and to be taken off at a later date should be reported only to the first-line supervisor and not entered into the automated system.

06.11 Special Paid Leave and Restricted Duty. A commissioned member of the Department may be assigned to administrative leave or specifically restricted duties with a recommendation by the Assistant Director and approval by the appropriate Deputy Director with final approval by the Director of the Department as a result of allegations of misconduct or because it is in the best interest of the Department or the individual that the individual be removed from contact with the public. Situations include, but are not limited to, the following:

1. When the member is or has been involved in civil or criminal litigation and the Department or the member could be exposed to substantial and significant liability should the member be permitted to continue on routine duty assignments during the pendency of such litigation.

2. When the member has exhibited an inability to either physically or mentally continue to perform his/her duties.

3. In situations wherein the best interests of the Department are served by such an assignment.

4. When a member is involved in the discharge or use of a weapon that results in death or serious bodily injury to a person, pending resolution of the matter internally, the member shall be removed from enforcement activities and placed in a nonpublic contact status and/or placed on special leave with pay.

5. When a member is involved in a fleet accident that results in serious injury or death to a person, the member shall be removed from enforcement activities and placed in a nonpublic contact status and/or placed on leave with pay pending the resolution of the matter internally.

For audit purposes, supervisors shall submit this type of leave through the automated leave system, showing the leave code as Special Leave for the days that members are placed on- paid leave pursuant to this section.

If a member is placed on paid leave or restricted duty, the Assistant Director, after approval by the appropriate Deputy Director, shall inform the member in writing. [This leave must be considered as emergency leave as required by the Government Code and can only be approved by the Director.](#)

Action taken under the authority of this section shall not be considered as disciplinary or as positive or negative comment upon the event(s) that resulted in the change of duty status. The change in status is not appealable under the disciplinary process. [Special](#) leave or restricted duty status remains in effect until modified or rescinded by the appropriate Deputy Director with [approval from the Director of the Department](#). Such status will be reviewed on a periodic basis. Any change in status will be communicated in writing to the member by the Assistant Director.

A member may exercise his/her rights under the non-disciplinary chain of command review procedure with regard to a change of duty status under this section. See DPS General Manual, Chapter 7A, Section 07.52.00.

06.12 Jury Duty. An employee is permitted to serve on a jury without any deduction from wages. Any fee or compensation for jury service need not be accounted for by the employee to the state. The employee shall submit a copy of the jury summons to the supervisor and shall record the jury service in the automated leave system.

06.13 Other Types of Leave. [All requests for leave under this subsection must be submitted in writing to the immediate supervisor and through the Chain of Command, as appropriate. Documents supporting or verifying eligibility for leave must also be included with the submission for approval.](#)

1. State employees who are volunteer firefighters or emergency medical services volunteers shall be granted a leave of absence with full pay to attend training schools conducted by state agencies or institutions of higher education provided such leave does not exceed five (5) working days in any one fiscal year. State employees who are volunteer firefighters or emergency medical services volunteers shall also be granted a leave of absence with full pay to respond to emergency fire or medical situations provided such leave does not exceed five (5) working days in any one fiscal year and does not cause a shortage of personnel to conduct essential Department functions in the opinion of the employee's supervisor. Such leave shall in no way be charged against the employee's vacation or sick leave privileges.

2. Any state employee who is a certified disaster service volunteer of the American Red Cross or who is in training to become such a volunteer, with the authorization of the employee's supervisor, may be granted a leave not to exceed ten (10) days each year to participate in specialized disaster relief services for the American Red Cross, upon the request of the American Red Cross and with the approval of the Governor's office, without loss of pay, vacation time, sick leave or earned overtime, and/or compensatory time.

3. A state employee who is disabled (as defined by the Human Resources Code) is entitled to a leave of absence with full pay for the purpose of receiving training with an assistance dog. The leave of absence may not exceed ten (10) working days in a fiscal year. The leave of absence provided is in addition to other leave to which an employee is entitled, and an employee continues to accrue vacation and sick leave while on this leave. For the purposes of definition, "visually impaired" means a person having not more than 20/200 visual acuity in the better eye with corrective lenses or visual acuity greater than 20/200 but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

4. A state employee, who is a foster parent to a child under the conservatorship of the Department of Protective and Regulatory Services, is entitled to a leave of absence with full pay for the purpose of attending staffing meetings held by the Texas Department of Protective and Regulatory Services regarding the child under the foster care of the employee, or to attend the Admission, Review and Dismissal (ARD) meeting held by a school district regarding the child under the foster care of the employee.

5. An employee is entitled to a leave of absence without a deduction in salary for the time necessary to permit the employee to serve as a bone marrow or organ donor. The leave of absence provided by this section may not exceed:

- a. five working days in a fiscal year to serve as a bone marrow donor; or
- b. 30 working days in a fiscal year to serve as an organ donor.

6. An employee is entitled to a leave of absence without a deduction in salary or accrued leave to donate blood. An employee may not receive time off under this section unless the employee obtains approval from the employee's supervisor before taking time off. On returning to work after taking time off under this section, an employee shall provide the employee's supervisor with proof that the employee donated blood during the time off. If an employee fails to provide proof that the employee donated blood during the time off, the Department shall deduct the period for which the employee was granted time off from the employee's salary or accrued leave, whichever the employee chooses. An employee may receive time off under this section not more than four times in a fiscal year.

7. A state employee who holds an amateur radio station license issued by the Federal Communications Commission may be granted leave not to exceed 10 days each fiscal year to participate in specialized disaster relief services without a deduction in salary or loss of vacation time, sick leave, earned overtime credit, or state compensatory time if the leave is taken.

- a. with the authorization of the employee's supervisor; and
- b. with the approval of the governor.

The number of amateur radio operators who are eligible for leave under this section may not exceed 350 state employees at any one time during a state fiscal year. The Division of Emergency Management in the Governor's Office shall coordinate the establishment and maintenance of the list of eligible employees.

8. A state employee may be granted leave not to exceed five hours each month to participate in mandatory training or perform volunteer services for Court Appointed Special Advocates without a deduction in salary or loss of vacation time, sick leave, earned overtime credit, or state compensatory time.

9. State Compensatory Time for Emergency Services Personnel

An exception for the use of state compensatory time exists for selected emergency services personnel who provide services during emergency situations. For purposes of the Texas Department of Public Safety, emergency services personnel includes peace officers and emergency management personnel and other individuals whose duties require them to provide services for the benefit of the general public during emergency situations.

State employees not subject to the overtime provisions of the federal Fair Labor Standards Act and who qualify as emergency services personnel may be allowed to take state compensatory time during the 18-month period following the end of the workweek in which the compensatory time was accrued.

In those situations in which an emergency personnel employee provides services during emergency situations, the employee may be paid overtime at the employee's regular hourly salary rate for all or part of the compensatory hours accrued during the disaster in the preceding 18 months. The employee's compensatory time balance shall be reduced by one hour for each hour for which the employee is paid overtime.

06.14 Legislative Leave and Legislative Leave Pool.

1. **Legislative Leave.** Employees of this Department are entitled to legislative leave in order to serve in or appear before or petition the State Legislature or Federal Congress subject to the following provisions:

a. Only employees commissioned as peace officers with this Department are eligible to request legislative leave.

b. Employees must request the legislative leave at least thirty (30) days prior to the beginning date of the leave. The request must indicate the length of the requested leave and state that the employee, or an association or organization designated by the employee, will reimburse the Department for any wages, pension, or other costs the Department will incur as a result of the leave. A sworn statement identifying the source of the funds used to reimburse the Department must accompany the legislative leave request. The request must also contain a brief, explicit overview of the duties the employee will be performing while on this type leave.

c. Legislative leave requested to attend a regular or special session of the Texas Legislature will not exceed the length of the regular or special session. Legislative leave to attend a session of the Federal Congress will not exceed thirty percent (30%) of the employee's total annual working days during each calendar year.

d. The request for legislative leave will be submitted by memorandum through in-line supervisors to the appropriate Deputy Director for approval or disapproval. The Assistant Director will refer the request to Human Resources before it is sent to the appropriate Deputy Director or his designee. The employee will be notified immediately of the appropriate Deputy Director's or his designee's action.

e. Anytime employees take approved legislative leave they shall, without delay, enter the leave in the automated leave system, indicating legislative leave and submit it through proper channels to the appropriate approving authority.

f. The Department may disapprove the legislative leave request of an employee during an emergency situation or if approval would result in an insufficient number of employees to carry out the normal functions of the Department.

Legislative leave will not be considered a break in service for any purpose, including the determination of seniority, promotions, sick leave, vacation, or retirement and shall be treated as any other paid leave.

2. Legislative Leave Pool.

a. **Administration of the Pool.** The administrator of the legislative leave pool shall be the Human Resource Director. The pool administrator shall credit the legislative leave pool with the amount of time contributed by an employee and deduct a corresponding amount of time from the employee's earned compensatory time or annual leave as if the employee had used the time for personal purposes. The pool administrator shall process requests for time from the pool in accordance with policy. The pool administrator will notify the employee and the employee's supervisor of any grant of time from the pool.

b. Donations of Time.

1) A Department employee may donate state compensatory time or annual leave to the Legislative Leave Pool up to eight hours per year. Once an employee has donated time to the Legislative Leave Pool he/she cannot get it back unless he/she is eligible to use time from the Legislative Leave Pool.

2) In order to contribute time to the Legislative Leave Pool, the employee will submit form HR-8 in duplicate to the first line supervisor, who will forward the original to the Legislative Leave Pool Administrator.

c. Requesting Time from the Legislative Leave Pool.

1) Eligible employees will submit requests on form HR-8. All requests for Legislative Leave Pool time must be accompanied by a letter granting consent to use Legislative Leave Pool time on behalf of a law enforcement association of at least 1,000 active or retired members governed by a board of directors that is signed by the president or designee of the law enforcement association.

2) An eligible employee may not draw more than 80 hours of time from the pool in a 160-hours work cycle with the maximum time taken not to exceed 480 hours per fiscal year.

3) The pool administrator shall transfer time from the pool to the employee and credit the time to the employee. All requests will be handled on a first come basis and will be granted only if the pool has a positive balance.

4) Any unused pool hours will need to be returned to the pool by memo to the Pool Administrator at the end of each fiscal year.

06.15 Parental Leave. Those employees with less than 12 months of state service or who have worked less than 1,250 hours in the 12-month period immediately preceding the commencement of leave are eligible to take a parental leave of absence, not to exceed 12 weeks, provided that the employee utilizes all available paid vacation and authorized sick leave while taking parental leave of absence. Parental leave is limited to, and begins with the date of, the birth of a natural child or the adoption or foster care placement of a child under three years of age. This leave must be taken consecutively beginning with the birth or placement of the child. Employees who exhaust all applicable accruals while on parental leave will be placed on Leave Without Pay (LWOP) status and must remain on LWOP for the duration of the leave.

06.16 Voting by State Employees. A state agency shall allow each agency employee sufficient time off, without a deduction in salary or accrued leave, to vote in each national, state, or local election.

06.17 Injury Leave for Peace Officers. A commissioned employee is entitled to injury leave, without a deduction in salary, without being required to use compensatory time, and without being required to use any other type of leave, for an injury sustained due to the nature of the employee's duties and that occurs during the course of the employee's performance of duty, except an officer is not entitled to injury leave under this subsection if the employee's own gross negligence contributed to the employee's injury; or the injury was related to the performance of routine office duties.

1. To be eligible for injury leave under this section, an employee must submit to the department evidence of a medical examination and a recommendation for a specific period of leave from a physician licensed to practice in this state.

2. The maximum amount of leave available under this section for all injuries occurring at one time is one year.

3. An employee may simultaneously be on injury leave under this section and receive workers' compensation medical benefits under Title 5, Labor Code, but is not eligible for disability retirement benefits under Chapter 814 during the leave period. An employee is entitled to workers' compensation indemnity benefits which accrue pursuant to Title 5, Labor Code, after the discontinuation or exhaustion of injury leave under this section and may be eligible for supplemental Emergency Leave under section 07.06.09(5).

2. Employees who qualify for Injury Leave are required to comply with the Department's Return to Work Policy as outlined in Chapter 8 of the General Manual.

[06.18 Medical and Mental Health Care Leave For Certain Veterans.](#)

- a) This section applies to a state employee who is:
 - 1) A veteran, as defined in Texas Government Code section 434.023 (a); and
 - 2) Eligible for health benefits under a program administered by the Veterans Health Administration of the United States Department of Veterans Affairs.
- b) A state employee described by this section (a) may be granted leave without a deduction in salary or loss of vacation time, sick leave, earned overtime credit, or state compensatory time to obtain medical or mental health care administered by the Veterans Health Administration of the United States Department of Veterans Affairs, including physical rehabilitation.
- c) This leave may not exceed 15 days each fiscal year.
- d) The Director of the Department may annually grant additional days of leave under this section as the Director determines appropriate.

06.19 Leave During Agency Investigation

Pursuant to Government Code, Section 661.923, the Director may grant leave without a deduction in salary to an employee who is:

- 1. The subject of an investigation being conducted by the agency; or
- 2. A victim of, or witness to, an act or event that is the subject of an investigation being conducted by the agency.
- 3. A state employee who is the subject of an investigation being conducted by the agency is ineligible to receive leave for the reasons stated above under any other provision of this chapter.

06.20 Leave Reporting Requirements

- 1. Effective September 1, 2017, pursuant to Texas Government Code, Section 661.251, the Department is required to post the Department leave policy on the public agency website to be easily accessible by Department employees and the public.
- 2. Not later than October 1 of each year, the Director shall report to the Comptroller the name and position of each employee of the agency who was granted more than 32 hours of emergency leave during the previous state fiscal year, the reason for which the employee was granted the emergency leave, and the total number of hours of emergency leave granted to the employee in that state fiscal year.
- 3. Not later than the last day of each quarter of a state fiscal year, the Department shall submit a report to the State Auditor's Office and the Legislative Budget Board that includes the name of each Department employee described in 07.06.19(a) who has been granted 168 hours or more of leave under that section during that fiscal quarter. The report must include a brief statement, for each employee, as to the reason said employee remains on leave.
- 4. As part of the Comptroller CAPPs system, the Comptroller will implement a group of standardize accounting codes for each type of leave authorized under the Leave Code Chapter 661. The Department shall use the system adopted by the Comptroller for reporting leave.