

Analysis and Sample Policies

Peace Officer Mental Health Leave (SB 1359) and Employee Paid Quarantine Leave (HB 2073)

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I. SB 1359

SB 1359 relating to adoption by law enforcement agencies of a mental health leave policy for peace officers.

Effective Date: September 1, 2021.

Enrolled Version: The text version of the enrolled bill can be found [here](#).

Applies to: Law enforcement agencies who employ peace officers as defined by Government Code Chapter 614.

Summary: Chapter 614, Government Code, is amended by adding Subchapter A-1, Section 614.015 to require a law enforcement agency to have a mental health leave policy in place for their peace officers.

Notes:

Policy. Though there is a requirement that a policy be made, it is up to the discretion of the law enforcement agency to develop and adopt a policy allowing the use of mental health leave by the peace officers employed by the agency who experience a traumatic event in the scope of their employment.

Basic Provisions. The mental health leave policy created by an agency must clearly state the following:

- clear and objective guidelines for circumstances that lead to the leave;
- grant a peace officer this leave without deduction in salary/compensation;
- enumerate the number of mental health leave days available to a peace officer; and
- detail how much anonymity the peace officer has when the leave is taken.

The law enforcement agency may provide a list of mental health services in their area that a peace officer may use.

“Traumatic Event.” The law does not define traumatic event and common psychology and medical sources use slightly different definition. Therefore, despite the requirement to provide “clear and objective guidelines,” an agency will have discretion as to what constitutes a traumatic event.

End date. None listed.

II. HB 2073

HB 2073 relating to quarantine leave for fire fighters, police officers, detention officers, and emergency medical technicians employed by, appointed by, or elected for a political subdivision.

Effective Date: June 15, 2021.

Enrolled Version: The text version of the enrolled bill can be found [here](#).

Applies to: Political subdivisions that employ fire fighters, peace officers, detention officers or emergency medical technicians.

Summary: Chapter 180, Local Government Code is amended by adding Section 180.008 to require a political subdivision to develop and implement a paid quarantine leave policy for fire fighters, peace officers, detention officers, and emergency medical technicians who are employed by, appointed by, or elected for the political subdivision and ordered to quarantine or isolate due to a possible or known exposure to a communicable disease while on duty.

Notes:

Policy. Though there is a requirement that a policy be made, it is up to the discretion of the political subdivision to develop and adopt a policy that it deems appropriate.

“Communicable Disease.” Section 180.008 does not only apply to quarantine for COVID-19, but rather applies to exposure to a “communicable disease.” Neither it nor Chapter 81 of the Texas Health & Safety Code outline what constitutes a communicable disease although the Department of State Health Services does maintain a list for communicable diseases related to reporting requirements for schools. The list contains the flu, the common cold, and other more serious diseases.

Supervisor or Public Health Authority. A policy does have to require that the leave be ordered by the employee’s supervisor or the political subdivision’s health authority. Leave ordered by other medical professionals is not included.

Reimbursement for reasonable costs. The policy must provide for reimbursement of reasonable lodging, medical and transportation costs related to the quarantine. A year ago this may have been a greater impact, but it could be difficult for local governments to budget for such expenses. At the least, it would be wise to require proof and an approval process.

End date. None listed.

SAMPLE

PEACE OFFICER MENTAL HEALTH LEAVE POLICY

and

EMPLOYEE PAID QUARANTINE LEAVE POLICY

SAMPLE¹

Peace Officer Mental Health Leave Policy

Section 1. Purpose.

The purpose of this policy is to allow the use of mental health leave by the peace officers employed by the agency who experience a traumatic event while on duty.

Section 2. Applicability.

This policy applies to licensed peace officers employed by the agency.

Section 3. Conditions².

An officer shall be allowed up to (X) days³ or (X) hours of paid mental health leave per calendar year, subject to the following conditions:

1. the leave is
 - a. approved by the employees supervisor or the [highest Administrative Officer of the agency]; or
 - b. ordered by a mental health professional; and
2. the leave is taken as a result of a traumatic event that occurred while on duty.

Section 4. Anonymity.

The agency will keep requests to take mental health leave and any medical information related to mental health leave under this policy confidential to the extent allowed by law and separate from the employee's general personnel file. The agency cannot guarantee anonymity of information that is otherwise public or necessary to carry out the agency's duties under the law.

Section 5. Effect on Paid Leave Balances.

The agency will not reduce an eligible employee's sick leave, vacation leave, holiday, or other paid leave balance for mental health leave taken under this policy.

Section 6⁴. List of Mental Health Services in [Area]

¹ This policy is designed to be a sample policy for political subdivisions that contains all of the elements required by SB 1359 (eff. 9/1/21). It may be modified or revised in any way for use by a particular entity and does not take into account the specific benefits provided or procedures used by the entity.

² The bill requires clear and objective guidelines.

³ The amount of leave is completely at the discretion of the agency.

⁴ This section is optional and unique to the benefits of the agency and where it is located.

SAMPLE⁵

Employee Paid Quarantine Leave Policy

Section 1. Purpose.

The purpose of this policy is to provide for and maintain employment benefits for certain employees who are ordered to quarantine or isolate due to a possible or known exposure to a communicable disease⁶ while on duty.

Section 2. Applicability.

This policy applies to the following employees of the [political subdivision]⁷:

- A. Detention Officers⁸;
- B. Certified Emergency Medical Technicians⁹;
- C. Fire Fighters¹⁰;
- D. Police Officers¹¹;

Section 3. Conditions.

The paid leave and benefits provided by this policy are only available to an employee who is ordered to quarantine or isolate due to a possible or known exposure to a communicable disease while on duty by his or her supervisor or the [political subdivision's health authority]. An employee may be required to provide proof of an order to quarantine and may be denied paid leave or benefits if the employee fails to provide proof within a reasonable time.

Section 4. Benefits.

If an employee is ordered to quarantine under the conditions in Section 3 above, the employee will receive all employment benefits and compensation for the duration of the leave, including paid leave accrual, pension benefits, and health benefit plan benefits that the employee would customarily be provided on paid leave.

Section 5. Reimbursement for Expenses.

⁵ This policy is designed to be a sample policy for political subdivisions that contains all of the elements required by HB 2073 (eff. 6/15/21). It may be modified or revised in any way for use by a particular entity and does not take into account the specific benefits provided or procedures used by the entity.

⁶ "Communicable Disease" is defined by Texas Health & Safety Code Section 81.003(1) as an illness that occurs through the transmission of an infectious agent or its toxic products from a reservoir to a susceptible host, either directly, as from an infected person or animal, or indirectly through an intermediate plant or animal host, a vector, or the inanimate environment. *This includes diseases other than COVID-19, including the flu, common cold, tuberculosis and others. See the Department of State Health Services website for a current list of recognized "communicable diseases."

⁷ Editor's Note – These are the eligible employees by HB 2073. An entity could expand this group to include all employees.

⁸ "Detention officer" means an individual appointed or employed by a political subdivision as a county jailer or other individual responsible for the care and custody of individuals incarcerated in a county or municipal jail.

⁹ "Emergency medical technician" means an individual who is: (A) certified as an emergency medical technician under Chapter 773, Health and Safety Code; and (B) employed by a political subdivision.

¹⁰ "Fire fighter" means a paid employee of a municipal fire department or emergency services district who: (A) holds a position that requires substantial knowledge of fire fighting; (B) has met the requirements for certification by the Texas Commission on Fire Protection under Chapter 419, Government Code; and (C) performs a function listed in Section 143.003(4)(A).

¹¹ "Peace officer" means an individual described by Article 2.12, Code of Criminal Procedure, who is elected for, employed by, or appointed by a political subdivision.

If an employee is ordered to quarantine under the conditions in Section 3 above, the employee may request reimbursement for reasonable costs related to the quarantine, including lodging, medical treatment and transportation by submitting a reimbursement request to [Contact] within five (5) days after returning from the leave ordered under this policy. An employee may be required to provide receipts or proof of payment with the request and reserves and may be denied reimbursement that the [political subdivision] deems unreasonable or unrelated to quarantine.

Section 6. Effect on Paid Leave Balances.

The [political subdivision] will not reduce an eligible employee's sick leave, vacation leave, holiday, or other paid leave balance for quarantine under this policy.