

BILL NO. _____

RESOLUTION NO. _____

A RESOLUTION AMENDING THE PERSONNEL POLICIES AND PROCEDURES
OF THE CITY OF INDEPENDENCE, MISSOURI ADDING LEAVE TIME FOR
VICTIMS OF DOMESTIC AND SEXUAL VIOLENCE.

WHEREAS, in 2021, the Missouri Legislature adopted regulations to provide unpaid leave from work for victims of domestic or sexual violence; and,

WHEREAS, the City wishes to incorporate those regulations into the City's Personnel Policies and Procedures.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI, AS FOLLOWS:

SECTION 1. That the Personnel Policies and Procedures of the City of Independence, Missouri is hereby amended to add the following section:

ARTICLE V. HOURS OF WORK AND LEAVE

T. Victims of Domestic and Sexual Violence

(a) **An employee who is a victim of domestic or sexual violence or a family or household member who is a victim of domestic or sexual violence whose interests are not adverse to the employee as it relates to the domestic or sexual violence may take unpaid leave from work to address such violence by:**

- (1) Seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic or sexual violence to the employee or the employee's family or household member;**
- (2) Obtaining services from a victim services organization for the employee or the employee's family or household member;**
- (3) Obtaining psychological or other counseling for the employee or the employee's family or household member;**
- (4) Participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the employee or the employee's family or household member from future domestic or sexual violence or to ensure economic security; or**
- (5) Seeking legal assistance or remedies to ensure the health and safety of the employee or the employee's family or household member, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic or sexual violence.**

(b) **Definitions:**

- (1) **“Abuse” means any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by those responsible for the child's care, custody, and control, except that discipline including spanking, administered in a reasonable manner, shall not be construed to be abuse. Victims of abuse shall also include any victims of sex trafficking or severe forms of trafficking as those terms are defined in 22 U.S.C. 78 Section 7102(9)-(10).**
- (2) **“Domestic violence” means abuse or stalking committed by a family or household member.**
- (3) **“Employee” means any person performing work or service of any kind or character for hire within the state of Missouri.**
- (4) **“Family or household member” means for employees with a family or household member who is a victim of domestic or sexual violence, a spouse, parent, son, daughter, other person related by blood or by present or prior marriage, other person who shares a relationship through a son or daughter, and persons jointly residing in the same household.**
- (5) **“Reasonable safety accommodation” means an adjustment to a job structure, workplace facility, or work requirement, including a transfer, reassignment, modified schedule, leave, a changed telephone number or seating assignment, installation of a lock, implementation of a safety procedure, or assistance in documenting domestic violence that occurs at the workplace or in work-related settings, in response to actual or threatened domestic violence. Any exigent circumstances or danger facing the employee or his or her family or household member shall be considered in determining whether the accommodation is reasonable.**
- (6) **“Sexual assault” means causing or attempting to cause another to engage involuntarily in any sexual act by force, threat of force, duress, or without that person's consent.**
- (7) **“Sexual violence” means a sexual assault and trafficking for the purposes of sexual exploitation.**
- (8) **“Trafficking for the purposes of sexual exploitation” means when a person knowingly recruits, entices, harbors, transports, provides, advertises the availability of or obtains by any means, including but not limited to through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm, another person for the use or employment of such person in a commercial sex act, sexual conduct, a**

sexual performance, or the production of explicit sexual material as defined in Section 573.010, RSMo, without his or her consent, or benefits, financially or by receiving anything of value, from participation in such activities.

(9) “Victim of domestic or sexual violence” means an individual who has been subjected to domestic violence, sexual violence, or abuse.

(10) “Workweek” means an individual employee’s standard workweek.

(c) Leave Time:

(1) Employees are eligible to take unpaid leave if: (1) they are victims of domestic or sexual violence; or (2) they have a family or household member who is a victim of domestic or sexual violence. Employee will be required to provide notice of the need to take leave under this policy to employee’s supervisor and the HR department. Employee will be required to provide the HR department with certification (described in subsection (e) below) of the need to take leave under this section. The amount an eligible employee may take of unpaid leave is two (2) workweeks in a twelve-month period.

(2) Eligible employees may choose to use accrued paid leave (such as sick leave, vacation, and personal business days) concurrently with some or all of an employee’s victims of domestic and sexual violence leave.

(3) The leave time stated above cannot extend the 12 workweeks allowed under the Family Medical Leave Act.

(4) Leave time can be taken intermittently or on a reduced work schedule basis.

(5) City shall maintain coverage for the employee and any family or household member under any group health plan for the duration of the leave and at the level and under the conditions coverage would have been provided if the employee had not taken leave. If the employee fails to return from leave after the period of leave has expired for a reason other than the continuation, recurrence, or onset of domestic violence, sexual violence, abuse, sexual assault, or human trafficking, the City may recover from the employee the premium that the City paid for maintaining any group health plan while employee was on leave. If the employee fails to return to work for the reasons listed above, employee is required to provide the HR department with a certification and documentation as set forth in subsection (e) below.

(6) Employee is entitled, on return from the leave, to be restored to the position employee held prior to when the leave commenced or an equivalent position

with equivalent employment benefits, pay and other terms and conditions of employment.

- (7) The City may require that employee provide periodic updates to the employee's supervisor and HR department on the status and intention of the employee to return to work while on leave.

(d) Process to Take Leave:

- (1) Employee shall provide employee's supervisor and the HR department with at least 48 hours advance notice of the employee's intent to take leave under this section, unless providing such notice is not practicable.
- (2) If an unscheduled absence occurs, the City will not take action against the employee if the employee provides certification pursuant to subsection (e) below within 48 hours of the unscheduled absence or such other time period that the City deems reasonable.
- (e) Certification – The employee must provide the HR department with a sworn statement that either: (1) employee is a victim of domestic or sexual violence; or (2) employee's family or household member is a victim of domestic or sexual violence. The sworn statement must be accompanied by one or more of the following:
- (1) Documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional from whom the employee or the employee's family or household member has sought assistance in addressing domestic violence or sexual violence and the effects of such violence;
- (2) A police or court record of the domestic or sexual violence; or
- (3) Other corroborating evidence.
- (f) Confidentiality – All information provided to the City, including the employee's sworn statement and certification documents, and the fact that the employee requested leave under this section shall be retained by the City in the strictest confidence, except to the extent that disclosure is requested or consented to in writing by the employee or by applicable federal or state law.
- (g) Reasonable Accommodations – The City shall make reasonable safety accommodations, in a timely manner, to the known limitations resulting from circumstances relating to being a victim of domestic or sexual violence or a family or household member being a victim of domestic or sexual violence. If the accommodation would impose an undue hardship on the operation of the

City, then the City shall not be required to provide said accommodation upon demonstrating the undue hardship.

(h) Fraud - Providing false or misleading information or omitting material information in connection with Victims of Domestic and Sexual Violence Leave will result in disciplinary action, up to and including discharge.

PASSED THIS ____ DAY OF _____, 2021, BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI.

Presiding Officer of the City Council of the
City of Independence, Missouri

ATTEST:

City Clerk

APPROVED – FORM AND LEGALITY:

City Counselor

REVIEWED BY:

City Manager

NOTE: Words struck through and bolded are being removed by this resolution and words underscored and bolded are being added by this resolution.