

POLICY # A4-4.1

DOMESTIC VIOLENCE LEAVE ACT POLICY ALL EMPLOYEES

It is the policy of the Town of Wayland to provide leave to employees who meet the established legal threshold as being a victim of domestic violence. The Town is committed to the protection of those eligible employees by making available the necessary benefits consistent with the Act Relative to Domestic Violence passed by the Massachusetts legislature.

Leave Status

This policy applies to any Town of Wayland employee, who is not the perpetrator of abusive behavior (as defined below). Said employee may take leave under this policy if the employee or a family member (as defined below) is a victim of Abusive Behavior. Specifically, an employee may take up to 15 days of leave from work in any rolling 12 month period for any of the following reasons:

- to seek or obtain medical attention, counseling, victim services or legal assistance;
- to secure housing;
- to obtain a protective order from a court;
- to appear in court or before a grand jury;
- to meet with a district attorney or other law enforcement official; or
- to attend child custody proceedings or address other issues directly related to the abusive behavior against the employee or a family member of the employee.

All leave under this policy requires the use of accrued Vacation Leave and Personal Leave. The use of accrued Sick Leave may be authorized with the appropriate supporting medical documentation. Should an employee not have sufficient accrued leave, the absence will be an unpaid leave.

Notification

In general, an eligible employee is required to notify either the Asst. Town Administrator/HR Director or the Town Administrator as far in advance as possible of his or her decision to take domestic violence leave under this policy. Public Safety employees may notify their respective Chief.

No advance notice is required where there is a threat of imminent danger to the health or safety of the employee or the employee's family member. Under such circumstances, an employee is required to notify either the Asst. Town Administrator/HR Director or Town Administrator, within three business days that leave was taken or is being taken under this policy. Public Safety employees may notify their respective Chief.

Whenever possible, this notice should be in writing. Notification may be made either by the employee or by one of the following representatives of the employee: a family member of the employee or the employee's counselor, social worker, health care worker, member of the clergy,

shelter worker, legal advocate or other professional who has assisted the employee in addressing the effects of the abusive behavior on the employee or the employee's family member.

Documentation

An employee taking leave under this policy is required to submit to [his or her supervisor or to the Human Resources Director] documentation supporting the need for leave to either the Asst. Town Administrator/HR Director or Town Administrator. Public Safety employees may submit documentation to their respective Chief. Such documentation shall be submitted within a reasonable period of time. The following documents will fulfill this requirement:

- a protective order, order of equitable relief or other documentation issued by a court of competent jurisdiction as a result of abusive behavior against the employee or employee's family member;
- a document under the letterhead of the court, provider or public agency which the employee attended for the purposes of acquiring assistance as it relates to the abusive behavior against the employee or the employee's family member;
- a police report or statement of a victim or witness provided to police, including a police incident report, documenting the abusive behavior complained of by the employee or the employee's family member;
- documentation that the perpetrator of the abusive behavior against the employee or family member of the employee has: admitted to sufficient facts to support a finding of guilt of abusive behavior; or has been convicted of, or has been adjudicated a juvenile delinquent by reason of, any offense constituting abusive behavior and which is related to the abusive behavior that necessitated the leave;
- medical documentation of treatment as a result of the abusive behavior complained of the employee or employee's family member;
- a sworn statement, signed under the penalties of perjury, provided by a counselor, social worker, health care worker, member of the clergy, shelter worker, legal advocate or other professional who has assisted the employee or the employee's family member in addressing the effects of the abusive behavior;
- a sworn statement, signed under the penalties of perjury, from the employee attesting that the employee has been the victim of abusive behavior or is the family member of a victim of abusive behavior.

Confidentiality

All documentation and other information related to an employee's leave under this policy shall be kept confidential and shall not be disclosed by the Town, except to the extent that disclosure is:

- requested or consented to, in writing, by the employee;
- ordered to be released by a court;
- otherwise required by federal or state law;
- required in the course of an investigation authorized by law enforcement; or

- necessary to protect the safety of anyone employed at the workplace.

Any documentation provided to the Town to support the request for leave under this policy shall be kept by the Town in the employee's employment record only for so long as it is necessary for the Town to make a determination that an employee is eligible for leave.

Employment Protections

Upon returning from leave under this policy, an employee will be returned to the same position that he or she held when leave began, or to an equivalent position. The employee will be reinstated without loss of employment rights or benefits that the employee had earned or accrued prior to the beginning of the leave, except to the extent such benefits were used or paid during the leave. If the leave is paid, the employee's portion of insurance premiums will continue to be deducted from the employee's pay. If the leave is unpaid, the employee will remain responsible for their share of insurance premiums and will be billed accordingly.

An employee shall not be discharged or discriminated against for exercising his or her rights under this policy. Employees should report immediately any concerns relating to this policy to the Asst. Town Administrator/HR Director or Town Administrator.

Definitions

For purposes of this policy, the terms below are defined as follows:

"Abuse" means (i) attempting to cause physical harm; (ii) placing another in fear of imminent serious physical harm; (iii) causing another to engage involuntarily in sexual relations by force, threat or duress or engaging or threatening to engage in sexual activity with a dependent child; (iv) engaging in mental abuse, which includes threats, intimidation or acts designed to induce terror; (v) depriving another of medical care, housing, food or other necessities of life; or (vi) restraining the liberty of another.

"Abusive behavior" means (i) any behavior constituting domestic violence (as defined below); (ii) stalking; (iii) sexual assault; and (iv) kidnapping.

"Domestic violence" means abuse (as defined above) against an employee or the employee's family member (as defined below) by: (i) a current or former spouse of the employee or the employee's family member; (ii) a person with whom the employee or the employee's family member shares a child in common; (iii) a person who is cohabitating with or has cohabitated with the employee or the employee's family member; (iv) a person who is related by blood or marriage to the employee; (v) a person with whom the employee or employee's family member has or had a dating or engagement relationship.

"Family member" means (i) persons who are married to one another; (ii) persons in a substantive dating or engagement relationship and who reside together; (iii) persons having a child in common regardless of whether they have ever married or resided together; (iv) a parent, step-parent, child, step-child, sibling, grandparent or grandchild; or (v) persons in a guardianship relationship.

Nothing in this policy is intended to conflict with the "Act Relative to Domestic Violence", the provisions of any collective bargaining agreement or the provisions of Civil Service Law.