

WORK AND LEAVE TIME POLICIES FOR THE COURT OF CRIMINAL APPEALS*

*This section outlines work time requirements and leave benefits for Court of Criminal Appeals (Court) employees. Leave allowances and policies are subject to change to conform with the law and policy of the State. More detailed information about state law and policy is available at <http://www.hr.sao.texas.gov/>.

1. Regular Work Hours

Location

The Court and all Court employees' offices are located in the capitol complex in Austin. An employee's work shall be conducted at the Court. See TEX. GOV'T CODE § 658.010. Travel to and from the Court offices is not considered work time. TEX. GOV'T CODE § 605.002. With prior written authorization from the Presiding Judge of the Court, an employee may work elsewhere or from home. See TEX. GOV'T CODE § 658.010. With prior authorization of an employee's supervisor, attendance at an approved continuing legal education (MCLE) course or other approved education course during regular work hours is considered hours worked. See State Bar Rules, Article XII (governing requirement of MCLE for attorneys).

Supervisor

For the purpose of these policies, the term "supervisor" refers to the person who is authorized to sign or approve an employee's time sheet.

Work Hours

The Court Clerk's Office shall be open to the public and maintain work hours from 8:00 a.m. to 5:00 p.m., Monday through Friday, unless the Court is closed for a holiday or emergency situation. See TEX. GOV'T CODE § 658.005. Each judge may establish regular work hours for his or her chambers. Regular work hours for staff members not assigned to a particular chambers are 8:00 a.m. to 5:00 p.m., Monday through Friday, unless the Court is closed. With prior authorization of an employee's supervisor, an employee may work on flex-time and may receive time credit for working through lunch. Flex-time is a system allowing flexibility of working hours at the beginning and end of the day. Such variations in schedules are privileges, subject to revision or modification for any reason and at any time, at the discretion of the employee's supervisor.

All employees paid a full-time salary shall work not less than forty (40) hours per week. TEX. GOV'T CODE § 658.002. The work week begins at 12:00 a.m. on Sunday and ends at 11:59 p.m. on the following Saturday.

Documentation

Employees will complete a monthly time sheet accounting for all leave taken and forward it to their supervisor for approval. Approved timesheets will be entered by the Court accountant

into the official system adopted by the comptroller for documenting and tracking employee leave (currently the CAPPS system). *See* TEX. GOV'T CODE § 2101.042.

Lunch and Breaks

One hour is allowed for lunch. Generally, a lunch break is taken from noon to 1:00 p.m. However, the employees of the Clerk's Office are to coordinate their schedules so that at least one person is on duty to accept calls, receive visitors, and transact business from noon to 1:00 p.m. *See* TEX. GOV'T CODE § 658.005. Without prior approval from an employee's supervisor, an employee should not take the lunch hour at the start or the end of the day. Also, employees should not take a lunch hour that is less than one hour as a justification for an unauthorized tardiness or an unauthorized early departure from the workplace.

Employees may take a 15-minute break in the morning and a 15-minute break in the afternoon. Rest breaks cannot be accrued or accumulated to justify an unauthorized tardiness, extend a lunch break, or shorten the work day.

2. Overtime and Compensatory Time

Most of the employees of the Court are either excluded from the Fair Labor Standards Act of 1938 (FLSA) or are Exempt Employees under its provisions. *See* 29 U.S.C. § 201, *et seq.* If an employee has a question about his or her status under the FLSA, he or she should contact the Court accountant.

Excluded and Exempt Employees

Employees will be allowed compensatory time off for any hours recorded in excess of 40 during a work week, which excess hours were authorized in advance by the employee's supervisor. Work hours may be a combination of paid leave, holidays, and actual hours worked. The compensatory time earned must be taken within the 12-month period following the end of the work week in which the excess hours were accrued or it expires. TEX. GOV'T CODE § 659.016. Compensatory time is accrued at a rate of one hour for each hour worked. *Id.* Employees will not be paid for any unused, unexpired compensatory time.

Employees must give reasonable advance notice to their supervisor before taking compensatory time off.

Non-Exempt Employees

Overtime eligibility for non-exempt employees is governed by the provisions of the FLSA. *See* TEX. GOV'T CODE §§ 659.015; *see also* 29 U.S.C. § 201, *et seq.* Time worked in addition to an employee's regular 40-hour work schedule may be credited as overtime or compensatory time depending on whether the employee:

1. is designated as non-exempt; and
2. has actually worked 40 hours during the week or has taken any leave during the week.

Non-exempt employees must obtain approval from the Presiding Judge prior to working over 40 hours in a week. If such time is approved, then the compensatory time must be taken within the 12-month period following the end of the work week in which the excess hours were accrued or it expires. TEX. GOV'T CODE § 659.015. Working over 40 hours without prior approval from the Presiding Judge may be grounds for disciplinary action, up to and including termination.

3. Holidays

The State recognizes three types of holidays: national, state, and optional. *See* TEX. GOV'T CODE § 662.003. Eligible employees are entitled to a paid day off from work on national and state holidays as specified by the Legislature. *See* TEX. GOV'T CODE § 662.005. That is, employees are entitled to a paid day off from work on a specified holiday if the holiday does not fall on a Saturday or Sunday, and the employee is not on leave without pay.

The Court will have a sufficient number of employees on duty during a state holiday (skeleton crew day) to conduct the public business of the agency except for those state holidays which fall on a Saturday or Sunday, the Friday after Thanksgiving Day, or December 24th and 26th. TEX. GOV'T CODE § 662.004. Employees who must work on a skeleton crew day will accrue holiday compensatory time, which they may take during the 12-month period following the date of the holiday worked. TEX. GOV'T CODE § 662.007. Holiday compensatory time not taken within that 12-month period will expire.

An eligible employee is also entitled to a paid day off from work on an optional holiday if the employee agrees to give up (*i.e.*, to work on) a state holiday (skeleton crew day) during the same fiscal year. *See* TEX. GOV'T CODE § 662.006. Before taking an optional holiday, an employee must notify in writing his or her supervisor and the Court accountant of the optional holiday he or she intends to take and the state holiday he or she intends to work. This notice should be given before either holiday occurs. If the employee thereafter fails to work the skeleton crew day, the employee will be charged a day of vacation leave. If vacation leave is not available, he or she will be charged a day of leave without pay.

4. Bad Weather Policy

Employees of the Court of Criminal Appeals are not expected to come to work when weather and road conditions between their home and the Court present a direct threat to life and personal property.

If the Austin Independent School District (AISD) closes its schools due to extreme weather, all Court employees should work regular hours from home. If AISD starts later in the day due to weather conditions, all Court employees should work regular Court hours from home with the exception that a skeleton crew will be required in the Clerk's office, starting at that later time. That is, if AISD starts two hours late, then the Clerk's office skeleton crew will be expected to be at the office and physically open the Court two hours late.

If AISD schools remain open during extreme weather, then the Court will be considered to be open and employees will be expected to report to work. Employees who are unable to report to work because of extreme weather conditions in the area in which they live will be expected to use leave time for the time they are out unless other arrangements are made with the employee's supervisor. The Presiding Judge may excuse the time an employee is out under these conditions upon presentation of sufficient documentation of the conditions prompting the absence. *See* TEX. GOV'T CODE § 658.005(c).

If AISD schools are not in session, then employees should listen to the weather broadcast of the U.S. Weather Service or an Austin weather station. If the weather service issues an "extreme travel advisory" for the Austin area and employees cannot reach work due to poor road conditions, they will be expected to use leave time for the time they are out unless other arrangements are made with the employee's supervisor. The Presiding Judge may excuse the time that an employee is out under these conditions upon presentation of sufficient documentation of the conditions prompting the absence. *See id.* However, employees are expected to report to work as soon as the travel advisory is canceled.

Only the Presiding Judge is authorized to close the Court of Criminal Appeals for all or part of the day. Employees are instructed to verify when the office will be open and to report to work promptly.

Employees should not submit leave forms and need not request emergency leave for absences due to official closings (inclement weather, fire, flood, toxic fumes, etc.). *See* TEX. GOV'T CODE § 661.902(c). If an employee cannot confirm an office closing, and reports to work and remains on duty, the employee may be granted compensatory leave to use at a later date, at his or her supervisor's discretion.

5. Absences from Work

Court employees should obtain prior approval from their supervisor for all leave requested. Leave approval is not automatic. While every attempt is made to accommodate an employee's timely request, supervisors have the authority and responsibility to use their discretion to ensure that adequate staff remains on duty to perform the Court's work. When an employee is unable to report for work and prior approval for the absence has not been obtained, the employee is to, at the earliest practicable time, notify (or have someone else notify) his or her supervisor that the employee is unable to report for duty. Absenteeism or tardiness is excessive when an employee is unable to adequately perform his or her job or when the normal work activities of the Court or a section of the Court are disrupted because of the excessive and/or unscheduled absences or tardiness of the employee. Absenteeism or tardiness may be grounds for disciplinary action, up to and including termination.

6. Leave Increments

Leave will be charged in fifteen minute increments. Absences of less than fifteen minutes will be made up by mutual agreement between an employee and his or her supervisor.

7. Annual Vacation Leave

Vacation leave is accumulated monthly at a rate set by the Legislature. The Legislature also sets the maximum number of hours of vacation leave that may be carried from the end of one fiscal year (August 31) to the beginning of the next (September 1). The current schedule is as follows:

Schedule of Vacation Leave Accruals for Full Time Employees			
Length of Service	Hours Accrued per Month	Days Accrued per Year	Allowable Carryover (Hours)
Less than 2 years	8	12.0	180
At least 2 but less than 5 years	9	13.5	244
At least 5 but less than 10 years	10	15.0	268
At least 10 but less than 15 years	11	16.5	292
At least 15 but less than 20 years	13	19.5	340
At least 20 but less than 25 years	15	22.5	388
At least 25 but less than 30 years	17	25.5	436
At least 30 but less than 35 years	19	28.5	484
At least 35 years or more	21	31.5	532

See TEX. GOV'T CODE §§ 661.152.

Employees accrue vacation leave from their first day of employment. However, vacation with pay may not be taken until the employee has been continuously employed with the state for six months. *Id.* If an employee takes a full calendar month of leave without pay, that month is not counted toward:

3. continuous state service for purposes related to vacation leave or merit raises;
4. total state service credit for purposes of leave accrual; or
5. total state service for purposes of longevity pay.

Employees will normally be permitted to take vacation leave when they request it, provided that it does not disrupt Court activities. Vacation leave requests should be submitted to an employee's supervisor in advance of the date the leave is scheduled to begin.

At the end of the fiscal year, all hours of unused accumulated vacation leave over an employee's maximum allowable carryover (based on longevity) will be credited to the employee's sick leave balance as of the first day of the next fiscal year. An employee who retires is entitled to service credit in the Employees Retirement System for the employee's vacation leave that has accumulated and is unused on the last day of employment pursuant to the rules of the Employee's Retirement System of Texas (ERS).

8. Sick Leave

Employees accrue sick leave at the rate of eight hours per month or fraction of a month. TEX. GOV'T CODE § 661.202. Sick leave with pay may be taken when an employee is prevented from performing his or her duties because of sickness, injury, or pregnancy and confinement. *Id.* Sick leave may also be taken if an employee needs to care for a member of his or her immediate family who is ill. *Id.* "Immediate family" in this instance is defined as individuals related by kinship, adoption, or marriage who live in the same household; foster children who reside in the same household; and the employee's minor children, regardless of whether they live in the same household. TEX. GOV'T CODE § 661.202(d).

Sick leave may be used to care for immediate family members who do not reside in the same household only for a documented medical condition. "Immediate family" in this circumstance is defined as a spouse, child, or parent. *See* TEX. GOV'T CODE § 661.202(e). Sick leave is not a substitute for vacation, compensatory, or holiday compensatory leave.

When an employee is unable to report to work as a result of illness or a health care appointment, the employee, at the earliest practicable time, is to notify (or have someone else notify) his or her supervisor that the employee is unable to report for duty.

If an employee is ill and will miss work for a continuous period of more than three working days, the employee must provide to his or her supervisor a doctor's certificate or an acceptable written statement of facts showing the nature of the illness. If an illness results in the absence of three working days or less, the Presiding Judge has the discretion to require documentation of the illness. *See* TEX. GOV'T CODE § 661.202(g).

An employee may use up to eight hours of sick leave each fiscal year to attend educational activities for the employee's children who are in pre-kindergarten through 12th grade. TEX. GOV'T CODE § 661.206.

An employee who retires is entitled to service credit in ERS for the employee's sick leave that has accumulated and is unused on the last day of employment. ERS rules will apply to determine the amount of credit. The employee is not entitled to payment for the unused sick leave.

9. Extended Sick Leave

An employee who exhausts his or her other accrued leave, but is not experiencing a condition or illness that rises to the level required to qualify for sick pool time (described below) may request extended sick leave time. To request extended sick leave time, an employee must submit a written request for such exception to his or her supervisor. The request should be for no more than 60 days. The supervisor will review the request and may ask for additional information prior to submitting the request to the Presiding Judge. The Presiding Judge may authorize such an exception to sick leave on an individual basis after

reviewing the merits and circumstances of each request. *See* TEX. GOV'T CODE § 661.202(i) and (j).

Any interaction this time might have with disability leave should be discussed with the Court accountant. This policy is in addition to rights conferred by the Federal Family and Medical Leave Act of 1993 (FMLA) (29 U.S.C. §§ 2601-2619, 2651-2654).

10. Sick Leave Pool

The Court has established a Sick Leave Pool to allow agency employees to voluntarily transfer earned sick leave to the pool. *See* TEX. GOV'T CODE § 661.002. Contributions of sick leave must be in increments of eight hours with the exception of a retiring state employee who may contribute accrued sick leave in increments of less than eight hours. TEX. GOV'T CODE § 661.003. To contribute time to the sick leave pool, an employee must submit an application to the Court accountant.

The sick leave pool is intended to help employees and their families if a catastrophic illness or injury forces an employee to exhaust all leave time earned by that employee. "Catastrophic" is defined as a severe condition or combination of conditions affecting the mental or physical health of the employee or a member of the employee's immediate family that requires the services of a licensed practitioner for a prolonged period of time, forces the employee to exhaust all leave time earned by that employee, and would force the employee to lose compensation from the State if the leave was not granted. A "licensed practitioner" means a practitioner, as defined in the Texas Insurance Code, who is practicing within the scope of his or her license.

An employee is eligible to use the time contributed to the sick leave pool if the employee has exhausted all the sick leave time to which that employee is otherwise entitled because of (1) a catastrophic illness or injury, or (2) a previous donation of time to the pool. TEX. GOV'T CODE § 661.004. Awards of sick-leave-pool time must be authorized by the Presiding Judge. Applications for sick-leave-pool time are to be submitted by written request to the employee's supervisor, which request must include a written statement from the licensed practitioner treating the employee or the employee's immediate family member. *See* TEX. GOV'T CODE § 661.005. The employee's supervisor will review the request and may ask for additional information prior to submitting the request to the Presiding Judge. An employee may not withdraw sick leave time from the pool in an amount that exceeds the lesser of one-third of the total time in the pool or 90 days. TEX. GOV'T CODE § 661.006. An employee using sick-leave-pool time will still accrue annual and sick leave at the beginning of each month, but the leave will not be credited until the first day the employee returns to duty.

This policy does not apply to employees injured on the job. Those employees should utilize workers' compensation benefits. This policy also does not apply to pregnancy, childbirth, and related conditions which occur under routine or normal conditions. *See* FMLA leave. Any interaction this time might have with disability leave should be discussed with the Court accountant.

11. Specific Donation of Sick Leave

State employees may voluntarily transfer any amount of their accrued sick leave to another state employee within the same agency. TEX. GOV'T CODE § 661.207. To be eligible to receive such a transfer, the receiving employee must have exhausted all of his or her available sick leave, including any time the receiving employee is eligible to withdraw from the sick leave pool. *Id.*

An employee may not provide or receive remuneration or a gift in exchange for donated sick leave. *Id.* An employee who receives donated sick leave must use that sick leave in the same manner as accrued sick leave. *Id.* The recipient employee will not receive credit in ERS for any donated sick leave that is unused on the last day of the recipient employee's employment. *Id.*

12. Family and Medical Leave

This policy incorporates the major provisions of the FMLA.

Eligibility

Employees with at least 12 months of full-time employment and who have provided at least 1,250 hours of service during the 12 months preceding the beginning of the leave period described in this section are eligible to take up to 12 weeks of leave per year for the following reasons:

- the birth of a child or the placement for adoption or foster care of a child;
- the serious health condition of a spouse, child, or parent (such health condition must meet the conditions of a "serious health condition" under the FMLA, *see* 29 U.S.C. § 2611(11)); or
- an employee's own serious health condition.

TEX. GOV'T CODE § 661.912; 29 U.S.C. § 2612.

These provisions apply equally to male and female employees. The employee must first use all available paid vacation and sick leave while taking leave under this section unless:

(1) the employee is receiving temporary disability or workers' compensation benefits.

TEX. GOV'T CODE § 661.912. Or,

(2) the employee is having or adopting a child. TEX. GOV'T CODE § 661.9125.

(a) If the employee is taking leave under this section because she is giving birth to a child, she is entitled to 40 days of paid leave before she is required to use her available paid vacation and sick leave.

(b) If the employee is taking leave under this section for the birth of a child by the employee's spouse, the birth of a child by a gestational surrogate, or the adoption of a child, the employee is entitled to 20 days of paid leave before the employee is required to use his or her available paid vacation and sick leave.

Certification and Notice

Employees must provide certification explaining the serious health condition on which the leave request is based. The certification should detail the date on which the condition began; the probable duration of the condition; appropriate medical facts regarding the condition; if appropriate, a statement that the employee is needed to care for a spouse, parent, or child; or a statement that the employee's own health condition makes it impossible for him or her to work. *See* 29 U.S.C. § 2613.

The Court may require a second medical opinion, at the Court's expense, before granting leave. To the extent reasonably possible, an employee must give 30 days' advance written notice to his or her supervisor and the Court accountant of the need for leave. *Id.*

Communications During Family or Medical Leave

Employees on FMLA leave must report periodically during the leave period on their status and intention to return to work. This communication will be made to the employee's supervisor and to the Court accountant.

Married Employees

If an employee is married to another employee of the Court, the two employees are limited to a combined total of 12 weeks of leave for the birth or adoption of a child or for the care of a sick parent or child. *See* 29 U.S.C. § 2612.

Certification for Return to Work

Employees returning from medical leave caused by their own illness may be required to obtain written medical certification from their health care provider that they are able to resume work. This certification should be given to the Court accountant and the employee's supervisor on or before the first working day of the employee's return. *See* 29 U.S.C. § 2614.

13. Parental Leave

Employees with fewer than 12 months of state service or less than 1,250 hours in the 12 months immediately preceding the start of leave set out in this section are entitled to take a parental leave of absence, not to exceed 12 weeks per year for the following reasons:

- the birth of a child; or
- the adoption by or foster care placement with the employee of a child younger than three years of age.

TEX. GOV'T CODE § 661.913.

These provisions apply equally to male and female employees. The employee must first use all available paid vacation and sick leave while taking leave under this section, and the remainder of the leave is unpaid. *Id.* The leave period begins with the date of the birth, or the first day the adoptive or foster child is formally placed in the home. *Id.* An employee anticipating using parental leave should notify his or her supervisor and the Court accountant at the earliest possible opportunity in order to allow ample time to plan for covering the employee's duties for the duration of the absence.

Parental leave under this section is only available for employees who are not eligible for FMLA leave.

14. Foster Parent Leave

An employee who is a foster parent to a child under the conservatorship of the Department of Family and Protective Services is entitled to leave without a deduction in salary for the purpose of attending meetings held by the DFPS regarding the child under the foster care of the employee, or to attend an admission, review, and dismissal meeting held by a school district regarding the child. TEX. GOV'T CODE § 661.906.

15. Emergency Leave

An employee is entitled to emergency leave without a deduction in salary because of a death in the employee's family. TEX. GOV'T CODE §§ 661.902(a). An employee's "family" is defined as the employee's spouse, or the parent, child, brother, sister, grandparent, or grandchild of the employee or the employee's spouse. *Id.* No more than 3 days of leave will normally be granted per bereavement emergency. In addition, the Presiding Judge may grant emergency leave for reasons other than a death in the family if the employee shows good cause for taking the leave. TEX. GOV'T CODE §§ 661.902(b). The Presiding Judge may not grant emergency leave for reasons other than a death in the family unless he or she believes in good faith that the employee to whom the emergency leave is being granted intends to return to the employee's position on expiration of the emergency leave. *Id.*

An employee is not required to request emergency leave if the Presiding Judge grants such leave because the agency is closed due to weather conditions or in observance of a holiday. *See* TEX. GOV'T CODE § 661.902(c).

16. Administrative Leave

In addition to employee leave authorized elsewhere, the Presiding Judge may grant administrative leave without a deduction in salary to an employee as a reward for outstanding performance. Supervisors who wish to recommend an employee for an administrative leave award should ensure that the employee's performance is appropriately documented by a current performance evaluation which specifies the outstanding accomplishments or results achieved by the employee. *See* TEX. GOV'T CODE § 661.911. The total amount of administrative leave granted to an employee may not exceed 32 hours during any fiscal year. *Id.*

17. Leave to Vote

An employee will be allowed sufficient time off, without a deduction in salary or accrued leave, to vote in each national, state, or local election. *See* TEX. GOV'T CODE § 661.914. Prior scheduling with the employee's supervisor is required. One hour is generally the maximum time allowed.

18. Leave for Jury or Witness Duty

An employee is entitled to serve on a jury without a deduction in salary, including a deduction for any fee or compensation the employee receives for the jury service. *See* TEX. GOV'T CODE § 659.005. Additionally, an employee will not be required to take vacation or other paid leave time to serve on a jury.

An employee who appears as a witness in an official capacity in a judicial proceeding or legislative hearing will not be required to take vacation or other paid leave time, whether or not the appearance is pursuant to a subpoena. *See id.* An employee who appears as a witness in a non-official capacity may be required to use vacation or other paid leave time if the appearance is not pursuant to a subpoena. An employee who appears as a witness in a non-official capacity, and whose appearance is pursuant to a subpoena, will not be required to take vacation or other paid leave time and will not otherwise be penalized. TEX. LABOR CODE §52.051. The employee will be required to provide the Court accountant with a copy of the subpoena.

19. Military Leave

Regular Military Leave

An employee who is a member of the state or federal armed forces or authorized urban search and rescue team is entitled to a paid leave of absence on days on which the person is engaged in authorized training or duty ordered or authorized by the proper authority. *See* TEX. GOV'T CODE § 437.202. This paid leave is authorized for no more than fifteen (15) days in a fiscal year. *Id.* The 15 days need not be taken consecutively.

Military Leave During a National Emergency

An employee who is called to state active duty as a member of the Texas military forces by the governor or other appropriate authority because of an emergency is entitled to paid emergency leave without losing regular military or annual leave. *See* TEX. GOV'T CODE §§ 437.254 and 661.903. An employee called to active duty during a national emergency by a reserve branch of the United States Armed Forces is entitled to an unpaid leave of absence. *See* TEX. GOV'T CODE § 661.904. An employee on unpaid leave will continue to accrue vacation leave, sick leave, and state service credit for purposes of longevity pay as provided by state law. *Id.* The employee will be credited with his or her vacation and sick leave balances upon his or her return to state employment. *Id.* An employee called to federal active duty in a declared emergency is limited to no more than 22 work days without the loss of military or annual leave. *See* TEX. GOV'T CODE § 437.254.

NOTE: The Court accountant must be consulted during any situation regarding military leave. Further, the employee must provide a written request for the military leave and a copy of the military orders requiring time away from work.

20. Medical and Mental Health Care Leave for Veterans

A veteran who is eligible for health benefits under a program administered by the Veterans Health Administration of the United States Department of Veterans Affairs may be granted leave, without a deduction in salary or loss of other accrued time, to obtain medical care (including physical rehabilitation) or mental health care pursuant to that program. TEX. GOV'T CODE § 661.924. This leave may not exceed 15 days each fiscal year. However, the Presiding Judge may grant additional days as he or she deems appropriate for the employee. *Id.* Before such leave is granted, the employee must provide to the Court

accountant appropriate documentation signed by his or her doctor or health care professional.

21. Leave for Assistance Dog Training for Disabled Employees

An employee who is a “person with a disability,” as defined by Section 121.002(4) of the Human Resources Code, is entitled to leave without a deduction in salary not to exceed 10 working days in a fiscal year for the purpose of attending a training program to acquaint the employee with an assistance dog to be used by the employee. *See* TEX. GOV’T CODE § 661.910. Before an employee may use this leave, the employee must make a request to his or her supervisor in writing and with adequate documentation of the proposed training.

22. Leave for Training for Volunteer Firefighters, EMS Volunteers, and Search and Rescue Volunteers

An employee who is a volunteer firefighter, an emergency medical services volunteer, or a search and rescue volunteer is entitled to a leave of absence without a deduction in salary to attend fire service, emergency medical services, or search and rescue training conducted by a state agency or an institution of higher education. TEX. GOV’T CODE § 661.905. This leave without a deduction in salary may not exceed five working days in a fiscal year. *Id.* Before an employee may use this leave, the employee must make a request to his or her supervisor in writing and with adequate documentation of the proposed training.

23. American Red Cross Disaster Service Volunteer Leave

An employee who is a certified disaster service volunteer of the American Red Cross, or who is training to become such a volunteer, may be granted leave not to exceed ten (10) days each fiscal year to participate in specialized disaster relief services for the American Red Cross. TEX. GOV’T CODE § 661.907. Prior to taking this time, the employee must provide to the Court accountant a request for the service from the American Red Cross, proof that he or she is one of the state employees eligible to take this time, authorization from the employee’s supervisor, and the approval of the governor. *Id.* If the employee meets the above requirements, the leave will be given without a deduction in salary or a loss of accrued time.

24. Leave for Blood Donation

An employee may request from his or her supervisor sufficient time off, without a deduction in salary or accrued leave, to donate blood. *See* TEX. GOV’T CODE § 661.917. An employee must present

sufficient documentation to his or her supervisor upon return to justify the granting of the time. *Id.* An employee may receive time off to donate blood no more than four times in a fiscal year. *Id.*

25. Leave for Organ or Bone Marrow Donation

An employee is entitled to a leave of absence without a deduction in salary for the time necessary to serve as a bone marrow or organ donor. TEX. GOV'T CODE § 661.916. The leave for a bone marrow donor may not exceed five working days in a fiscal year. *Id.* The leave for an organ donor may not exceed 30 working days in a fiscal year. *Id.* The employee must present sufficient documentation to his or her supervisor upon return to work.

26. Court Appointed Special Advocate (CASA) Volunteer Leave

A state employee may be granted leave not to exceed five hours each month to participate in mandatory training or to perform volunteer services for Court Appointed Special Advocates. *See* TEX. GOV'T CODE § 661.921. This leave is provided to an employee without a deduction in salary or loss of vacation, sick, or other accrued leave. *Id.*

27. Amateur Radio Operators' Leave

An employee who holds an amateur radio station license issued by the Federal Communications Commission may be granted leave, without a deduction in salary or accrued leave, to participate in specialized disaster relief services. *See* TEX. GOV'T CODE § 661.919. The leave may not exceed ten days each fiscal year, and it must be taken with the authorization of the employee's supervisor and the approval of the governor. *Id.* The employee must also be able to document that he or she is one of the operators eligible for leave under this section. *Id.*

28. Reserve Law Enforcement Officer Leave

A state employee who is a reserve law enforcement officer as defined by Texas Occupations Code § 1701.001 may be granted leave without a deduction in salary to attend training required by Texas Occupations Code § 1701.351. *See* TEX. GOV'T CODE § 661.922. Leave without a deduction in salary under this section may not exceed five working days every fiscal biennium. *Id.* Before an employee may use this leave, the employee must make a request to his or her supervisor in writing and with adequate documentation of the proposed

training.

29. Leave During Agency Investigation

The Presiding Judge may grant leave without a deduction in salary to an employee who is:

- the subject of an investigation being conducted by the Court; or
- a victim of, or witness to, an act or event that is the subject of an investigation being conducted by the Court.

TEX. GOV'T CODE §§ 661.923.

30. Leave Without Pay

An employee may be allowed to go on leave without pay or take a leave of absence without pay under limited circumstances approved by the Presiding Judge and the employee's supervisor. *See* TEX. GOV'T CODE § 661.909. The leave may not exceed 12 months, and all applicable accrued paid leave entitlements must be used before going on leave without pay status. *Id.* Subject to fiscal constraints, the approval of the leave constitutes a guarantee of employment at the conclusion of the specified period. *Id.*

31. Return to Work Policy and Procedures

It is the policy of the Court to provide a return to work program as the means to return employees to meaningful, productive employment following injury or illness. In order to provide the highest level of quality service to the citizens of Texas, it is necessary for every employee of the Court to be available for work, ready, and capable of performing the duties and responsibilities for which the employee was hired.

The return to work program provides opportunities for any employee of this agency who sustains a compensable injury during the course and scope of employment, a disability as defined by the ADA, and/or a serious health condition as defined by the FMLA to return to work at full duty. If the employee is not physically capable of returning to full duty, the return to work program provides opportunities when available for the employee to perform a temporary assignment in which the employee's regular position is modified to accommodate the employee's physical capacities, or to perform an alternate duty position.

This return to work program shall not be construed as recognition by this agency, its management, or its employees that any employee who participates in the program has a disability as defined by the ADA. If an employee sustains an injury or illness that results in a disability under the ADA, it is the employee's responsibility to inform his or her supervisor and the Court accountant when a disability under the ADA exists and that a reasonable accommodation is necessary to perform the essential functions of his or her job.

Specific procedures shall be provided to guide all employees regarding the return to work program. All employees, divisions, and facilities of the Court are expected to support and fully comply with this policy and the procedures provided to implement this policy.