

ORDINANCE NO. NS-304.135

**AN ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CLARA
AMENDING SECTIONS A25-682 AND A25-686 OF ARTICLE 6 OF CHAPTER
VI OF DIVISION A25 OF THE COUNTY OF SANTA CLARA ORDINANCE
CODE RELATING TO MATERNITY AND PATERNITY LEAVES**

Summary

This Ordinance amends Sections A25-682 and A25-686 of the Ordinance Code to clarify that eligible male and female employees have the same ability to take up to one year of unpaid leave to bond with a natural, adoptive, or foster child within one year of the child's birth, adoption, or foster placement, and receive the same salary-step credits, and that Pregnancy Disability Leave is in addition to leave under the California Family Rights Act.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA
ORDAINS AS FOLLOWS:**

SECTION 1. Section A25-682 of Article 6 of Chapter VI of Division A25 of the Ordinance Code of the County of Santa Clara relating to Leave without pay is hereby amended to read as follows (additions in underline; deletions in ~~strike through~~):

Sec. A25-682. Leave without pay.

- (a) *Reasons granted.* Leaves of absence without pay may be granted to employees for up to one year. Extensions to leaves approved for less than one year shall not unreasonably be denied, provided adequate advance notice is given. If an employee wishes to return to work early from a leave of absence, he/she shall provide reasonable advance notice to the appointing authority. Leaves beyond one year may be granted due to unusual or special circumstances. The following are approved reasons for such leave:
- (1) Illness beyond that covered by sick leave;
 - (2) Education or training which will benefit the County;
 - (3) Other personal reasons which do not cause inconvenience on the department;

- (4) To accept other government agency employment or to accept employment with an employee organization;
- ~~(5) — Paternity leave, not to exceed six months.~~
- (b) *Revocation.* A leave may be revoked by the Director of the Employee Services Agency upon evidence that the cause for granting it was misrepresented, or has ceased to exist.
- (c) *Vacation leave without pay option.* An employee may elect to take vacation or leave without pay for an authorized absence. The employee must notify the department of his/her option prior to payroll action, otherwise vacation time will be used. The department may assign leave without pay for an unauthorized absence.
- (d) *Failure to report.* ~~The~~ Failure to of an employee to report for three or more consecutive working days for assigned duties without notification to the department and without legitimate reason for absence shall be presumed to be a resignation.
- (e) *Service credit for time served in salary step.* ~~Maternity leaves of more than 13 pay periods~~ Except as set forth in Section A25-686, leaves of absence without pay of more than two pay periods, and suspensions, shall not be counted as time spent in a salary step in computing eligibility of the employee for further salary increases. All time spent on industrial injury leave shall be counted.

SECTION 2. Section A25-686 of Article 6 of Chapter VI of Division A25 of the Ordinance Code of the County of Santa Clara relating to Maternity leave is hereby amended to be titled and to read as follows (additions in underline; deletions in ~~strikethrough~~):

Sec. A25-686. Pregnancy disability leave; ~~M~~maternity and paternity leave.

- (a) *Pregnancy disability leave.* If an employee’s physician certifies that she is disabled due to pregnancy or childbirth, the employee may remain on leave for up to four months and may use her accumulated sick leave during the period certified by the physician (the “pregnancy disability leave”). Pregnancy disability leave under this section runs concurrent with and not in addition to leave provided by the federal Family and Medical Leave Act (“FMLA”) and the California Fair Employment and Housing Act (“FEHA”). However, pregnancy disability leave

under this section is in addition to (and not concurrent with) the maternity leave rights provided by the California Family Rights Act (“CFRA”).

(b) Maternity leave and paternity leave.

(1) *Definition.* For the purposes of this section, “maternity leave” and “paternity leave” shall mean leave taken by an employee to bond with a natural, adoptive, or foster child within one year of the child’s birth, adoption, or foster placement.

(2) *Length.* Upon request, maternity leave and paternity leave without pay shall be granted to natural, ~~or~~ adoptive, ~~or foster~~ parents by the appointing authority for a period of up to six months following the birth or placement of a child. With notice no less than one month prior to the conclusion of the leave, such leave may be extended up to one year upon approval of the appointing authority. A request for extension can only be denied for good cause. ~~An employee who is pregnant may continue to work as long as her physician approves. Adoptive parents shall not be covered by County medical benefits while on maternity leave. Maternity leave shall be in addition to any pregnancy disability leave that an employee may be entitled to receive. Maternity leave and paternity leave under this section runs concurrent with and not in addition to leave provided by the FMLA and CFRA.~~

~~(b) *Sick leave use.* If, during the pregnancy leave or following the birth of a child, the employee's physician certifies that she is unable to perform the duties of her job, she may use her accumulated sick leave during the period certified by the physician.~~

(c) *Credit for time served in salary step.* The first thirteen (13) pay periods of any unpaid leave connected with the birth, adoption, or placement of a foster child shall be counted as time spent in a salary step in computing eligibility of the employee for further salary increases. All paid leave taken pursuant to the FMLA, CFRA, or Pregnancy Disability Act shall be counted as time spent in a salary step in computing eligibility for further step increases.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, on _____ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

S. JOSEPH SIMITIAN, President
Board of Supervisors

ATTEST:

MEGAN DOYLE
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

AIMEE LOGAN
Lead Deputy County Counsel

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