

Ordinance No. 756-2022

AN EMERGENCY ORDINANCE

Council Members Santana, Slife, Howse

To supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Section 171.67 related to paid safe leave.

WHEREAS, one in four women and one in seven men nationally have been victims of domestic violence, and Cleveland Police reported 8,609 victims of domestic violence in 2021, up from 3,539 victims in 2017, and 625 rapes in 2021, which is likely a dramatic undercount;

WHEREAS, instances of domestic violence and sexual assault are estimated to have increased in the past two years due to COVID-19 restrictions, and Cleveland Police reported 9,231 reports of domestic violence and sexual assault in 2021, which includes rapes, sexual conduct with a minor, and domestic violence; and

WHEREAS, these victims miss an average of one month of work or 137 hours of work per year as a result of abuse due to absenteeism, health problems, and difficulties focusing at work; as many as 60% of victims lose their jobs due to reasons resulting from their abuse, and only 50% of mothers have leave benefit coverage under the Family and Medical Leave Act; and

WHEREAS, after a domestic or sexual violence crisis, victims may need paid time off work to seek medical or psychological help, obtain help from an organization that provides services to victims, obtain counseling, make safety plans, including possibly leaving an abuser and relocating to safety, and seek legal assistance and attend court dates; and

WHEREAS, numerous cities, including Philadelphia, Pittsburgh, Chicago, Minneapolis, and St. Paul, have enacted ordinances that require employers and/or their cities to provide job-protected leave to employee victims of domestic and sexual violence in order to deal with fallout from abuse; and

WHEREAS, with Resolution No. 1158-2019, adopted September 30, 2019 this Council established a working committee with the Administration and community stakeholders, including the Cleveland Rape Crisis Center, Journey Center for Safety and Healing (formerly the Domestic Violence and Child Advocacy Center), The Legal Aid Society of Cleveland, and Cleveland State University Law and Urban Affairs students, to study domestic violence and safe leave policies, consider implementing a City policy, and consider requiring employers to provide job-protected leave to employee victims of domestic and sexual violence; and

WHEREAS, the committee also studied existing policies and ordinances, labor issues, economic impact on victims and businesses, necessary documentation, protection against discrimination, and impact of safe leave policies to help victims and prevent abuse;

WHEREAS, this Council and Administration want to provide paid safe leave to city employees who are victims, or are parents or legal guardians of a child victim, of domestic and sexual violence, and encourage other employers to do the same; and

WHEREAS, this Council and Administration support providing paid safe leave to non-union and union member employees alike, and encourage all collective bargaining units to negotiate this safe leave provision with the City; and

WHEREAS, this ordinance constitutes an emergency measure providing for the immediate preservation of the public peace, property, health or safety; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

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Section 1. That the Codified Ordinances of Cleveland, Ohio 1976, are supplemented by enacting new Section 171.67 as follows:

Section 171.67 Paid Safe Leave

(a) Definitions

- (1) “Domestic Violence” means, as defined in Section 3113.31 of the Revised Code, the occurrence of one or more of the following acts against a family or household member or against a person in a dating relationship:
 - A. Attempting to cause or recklessly causing bodily injury;
 - B. Placing another person by threat or force in fear of imminent serious physical harm or committing a violation of Section 2903.211 of the Revised Code, Menacing by Stalking, or Section 2911.211 of the Revised Code, Aggravated Trespass.
 - C. Committing any act with respect to a child that would result in the child being an abused child, as defined in Section 2151.031 of the Revised Code;
 - D. Committing a sexually oriented offense. (RC 3113.31 (A)(1))
- (2) “Family or household member” means any of the following:
 - A. Any of the following who is residing with or has resided with the offender:
 - (i) A spouse, a person living as a spouse, or a former spouse of the offender;
 - (ii) A parent, foster parent, or a child of the offender, or another person related by consanguinity or affinity to the offender;
 - (iii) A parent or a child of a spouse, person living as a spouse, or former spouse of the offender, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the offender.
 - B. The natural parent of any child of whom the offender is the other natural parent or is the putative other natural parent. (RC 3113.31 (A)(3))
- (3) “Person living as a spouse” means a person who is living or has lived with the offender in a common law marital relationship, who otherwise is cohabiting with the offender, or who otherwise has cohabited with the offender within five years prior to the date of the alleged occurrence of the act in question. (RC 3113.31 (A)(4))
- (4) “Dating relationship” means a relationship between individuals who have, or have had, a relationship of a romantic or intimate nature. “Dating relationship” does not include a casual acquaintanceship or ordinary fraternization in a business or social context. (RC 3113.31 (A)(8))
- (5) “Sexual assault” means any conduct enumerated in Chapter 2907 of the Revised Code, Sex Offenses, including rape, sexual battery, unlawful sexual conduct with a minor, gross sexual imposition, sexual imposition, or importuning.
- (6) “Stalking” means any conduct enumerated in Section 2903.211 of the Revised Code, Menacing by Stalking, including engaging in a pattern of conduct that knowingly causes another person to believe that the offender will cause physical harm or mental distress to the other person or a family or household member of the other person.

(b) Use of Paid Safe Leave

Any full-time or part-time non-union City employee who is a victim, or is a parent or legal guardian of a child victim, of domestic violence, sexual assault, or stalking, shall be entitled to take paid leave from work for any of the following:

- (1) Seeking medical attention related to physical or psychological injuries caused by domestic violence, sexual assault, or stalking;
- (2) Obtaining services from a victim-services organization;
- (3) Obtaining psychological or other counseling;

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(4) Participating in safety planning, temporarily or permanently relocating, or taking any other actions reasonably necessary to increase the safety of the employee or employee's family or household member from future domestic violence, sexual assault or stalking; or

(5) Seeking legal assistance or remedies to ensure the health and safety of the employee, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic violence, sexual assault, or stalking.

(c) Period of Paid Safe Leave Time

(1) Full-time non-union City employees shall be entitled to 60 hours paid safe leave time annually. Part-time non-union City employees shall be entitled to 30 hours paid safe leave time annually.

(2) Paid safe leave time may be taken intermittently or on a reduced work schedule.

(3) Employees are not required to expend available, accrued benefit time, including vacation, personal, compensatory, or sick time, before using paid safe leave time.

(d) Certification – Forms of Documentation

(1) Employees seeking paid safe leave shall submit at least one form of acceptable documentation to the Director of Human Resources, or his or her designee. Acceptable forms of documentation include the following:

- A. 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 has sought assistance in addressing domestic violence, sexual assault or stalking; or
- B. A police report or court record; or
- C. Other corroborating evidence deemed sufficient by the Director.

(2) The Director may require any additional documentation necessary to substantiate the request.

(e) Regulations and Procedures

The Director of Human Resources may promulgate regulations and procedures to carry out the provisions of this Section.

Section 2. That new Section 171.67 shall take effect 60 days after the effective date of this ordinance.

Section 3. That, within both six and twelve months of the new Section 171.67 becoming effective as provided in Section 2 above, the Director of Human Resources shall provide an update to Council on whether or what paid safe leave time has been agreed upon in any ratified collective bargaining agreements and/or subsequently negotiation after ratification.

Section 3. 4. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

