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## GENERAL CIRCULAR NUMBER 2023-063

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**DATE:** November 9, 2023

**TO:** Heads of State Agencies and Human Resources Directors

**SUBJECT:** Approved Adoption of Civil Service Rule 11.36

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At its General Business meeting held on September 6, 2023, the State Civil Service Commission adopted Civil Service Rule 11.36, effective January 1, 2024. As necessary, the Governor has also granted approval.

In summary, this rule will allow a legal parent of a newborn or the adoptive or foster parent with whom a child under the age of 18 is placed to take up to six weeks (240) hours of paid parental leave to bond with a child with whom the employee has a new parental relationship and an active and on-going role in parenting. Foster and adoptive parents may also use this leave to attend post-placement court proceedings or mandatory meetings related to adoption or foster placement.

Please read the adopted rule in its entirety for specific qualifications, eligibility, duration, compensation methods, and limitations.

The amended rule reads as follows:

### [Chapter 11: Hours of Work, Annual, sick and Other Forms of Leave](#)

#### **11.36 PARENTAL LEAVE**

- (a) This rule provides up to 240 hours of paid parental leave without deduction to an eligible employee's annual, sick, or compensatory leave balances. Such leave shall be for a qualifying purpose related to an employee's child born or placed with the employee for adoption or foster care on or after January 1, 2024, and as described throughout this rule.
- (b) Qualifying Events:
  - 1. Birth of a child;
  - 2. Placement of a child under the age of 18 with the employee for adoption;

3. Placement of a child under the age of 18 with the employee for foster care.
- (c) Eligibility:
1. Parental leave is only available to employees in leave-earning positions on the date of the qualifying event;
  2. Parental leave is only available to employees who on the date of the qualifying event have been employed by the State for at least 12 months and who have actually worked at least 1250 hours in the 12 months preceding the parental leave request.
  3. Parental leave is only available to the legal parents, adoptive parents or foster parents of the child for whom parental leave is taken when said parents have an active and on-going role in parenting the child and are taking leave for one of the qualifying purposes set forth below. For purposes of this rule, a legal parent is a person having a genetic relationship to the child or filiated to the child through legal presumption or assisted reproductive technology.
- (d) Qualifying Purposes:
1. For a legal, adoptive or foster parent to bond with the child for whom leave is taken.
    - i. A need to bond with the child exists when there is a new relationship between the parent and child and the employee will spend time with the child to create an on-going mutual attachment. This rule is not intended to apply where a relationship resembling parent-child already exists and the primary change is the legal nature of the relationship. (Examples: foster parent to adoptive parent; some intra-family adoptions such as adoptions by step-parents.)
  2. For adoptive or foster parents to attend post-placement court proceedings or mandatory meetings related to adoption or foster placement.
- (e) Duration:
1. Parental leave is available for use only during the 12 weeks (84 calendar days) immediately following the commencement of the qualifying event;
  2. Parental leave is available for use commencing on the first date of a qualifying event and for only as much of the parental leave period as the employee is engaged in a qualifying purpose;
  3. Parental leave may be used continuously or intermittently, in accordance with the need therefor;
  4. Unless the Appointing Authority determines that an employee is utilizing parental leave in violation of this rule, the Appointing Authority shall not reduce the parental leave period authorized herein nor interfere with the employee's use of parental leave as set forth herein.

- (f) Compensation:
1. Full-time employees shall be compensated at the rate of 100% of the employee's base pay for a period not to exceed 240 hours during the available 12-week period;
  2. Part-time employees shall be compensated at the rate of 100% of the employee's base pay for a period not to exceed 6 weeks based upon the employee's average number of hours worked in the 6 months immediately preceding the commencement of parental leave. (Example: if an employee works an average of 25 hours per week during the 6 month look-back period, the employee shall be paid their base pay for 25 hours per week for 6 weeks).
- (g) Limitations:
1. Parental leave shall not be donated to another employee or leave pool;
  2. Unused parental leave shall not be reserved for use during a subsequent qualifying event nor paid to the employee;
  3. This rule is not intended to provide any form of unpaid leave after exhaustion of 240 hours (or the appropriate allotment for part-time employees) of paid parental leave. Additional leave, if any, shall be taken under the provisions of another rule, law or policy;
  4. At least 12 months shall elapse from the beginning of one parental leave period until an employee is eligible for another parental leave period. For a new parental leave period, there shall be a new qualifying event on or after the 12-month waiting period and the eligibility requirements of section (c) shall be satisfied as of the date of the new qualifying event;
  5. Eligible employees utilizing parental leave for occurrences also qualifying under the Family and Medical Leave Act ("FMLA") shall use FMLA leave concurrently with parental leave;
  6. When both parents to the child for whom parental leave is taken are employed in the state classified service, each is entitled to utilize a full 240-hour (or the appropriate allotment for part-time employees) parental leave period.
  7. In using parental leave, employees shall follow their agency's customary leave practices. That is, as practicable, advance notice of leave needs shall be provided and leave approved prior to use;
  8. An employee's use of parental leave in accordance with this rule and agency policy shall not have a negative impact upon their employment relationship. Employees not utilizing parental leave in accordance with this rule and/or agency policy may be disciplined, including the possibility of separation or dismissal.
- (h) Establishing Eligibility for Parental Leave:
1. Prior to granting parental leave, an Appointing Authority shall have the requesting employee complete a request form developed by the Director.

2. In addition to the request form, an Appointing Authority may require an employee requesting paid parental leave to produce acceptable proof in support of their request, such as a birth certificate or insurance certificate confirming their relationship to the child for whom parental leave is requested or proof of attendance at court proceedings or other mandated meetings related to adoption or foster placement. An Appointing Authority shall not require that an employee produce medical records or scientific evidence to prove paternity.
- (i) Policies:  
Agencies may adopt policies and procedures to give effect to the intent and purposes of this rule. Except as necessary to do so, all provisions of the Civil Service Rules remain fully applicable to employees authorized to use parental leave.

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Should you have any questions about the rule, please contact your agency's Human Resources Office or [Elizabeth Montalbano](#), State Civil Service HR Program Support Division Administrator.

Sincerely,

s/Byron P. Decoteau, Jr.  
State Civil Service Director