

## **I. POLICY STATEMENT**

Chapter 361 of the Public Acts of 1997 was enacted by the General Assembly of the State of Tennessee. This Act requires all county employees to be governed by certain minimum basic personnel policies, to wit: Leave Policies; Wage & Hour Policies; Non-discrimination and Sexual Harassment Policies; and Drug and Alcohol Testing Policies for employees required to have a commercial driver's license to perform their duties. These policies are addressed herein and have been so adopted.

Madison County Tennessee has previously adopted an Employee Handbook. In addition to that Handbook, certain other departments and agencies have adopted policies and procedure manuals or handbooks for county employees working under the direction of that department or agency. Those policies and procedures for those departments and agencies shall remain in force as adopted or hereafter amended, however if any of those department or agency policies and procedures conflict with the policy provisions contained herein, this County Personnel Policy of 1998 shall control.

## **II. DEFINITIONS**

“Law enforcement personnel” are those who are hired and work for the Madison County Sheriff's Department and who are under the direction and control of the Sheriff of Madison County. However Reserve Deputies are not included in this definition and Reserve Deputies being volunteers and not employees of Madison County Tennessee are not entitled to the benefits and policies contained herein.

“Appointing Authority” means department head.

“Department Head” is the person appointed who is responsible for administering the functions of a department.

“Full-Time Regular Employees” or “Full-Time Employee” are those who are hired to work the county's normal, full time, forty (40) hour workweek on a regular basis. These employees may be “exempt” or “non-exempt” as defined below.

“Part-Time Regular Employees” are those who are hired to work fewer than forty (40) hours per week on a regular basis. These employees may be “exempt” or “non-exempt” as defined below.

“Temporary Employees” are those who are engaged to work either full time or part time with the understanding that their employment will terminate upon the completion of a specific assignment. These employees may be “exempt” or “non-exempt” as defined below.

“Exempt Employees” are those who are not required to be paid overtime, in accordance with federal wage and hour laws, for hours worked over forty (40) in a

workweek. Executive employees, professional employees, and certain employees in administrative positions are typically exempt.

“Non-Exempt Employees” are those who are required to be paid overtime at time and one-half their regular rate of pay, in accordance with federal wage and hour laws, for hours worked over forty (40) in a workweek.

“Probationary Employees” are those who have been employed by the county for less than six months. These employees accrue no benefits. They may be either “exempt” or “non-exempt”.

### **III. LEAVE POLICY**

#### **A. Family and Medical Leave Policy**

Purpose: To provide a family and medical leave policy in compliance with Public Law 103-3, titled Family and Medical Leave Act of 1993, (FMLA). FMLA leave and the state maternity leave entitlements contained in Tennessee Code Annotated 4-21-408 shall run concurrently.

Guidelines:

- 1) Definitions:
  - a. Eligible Employee: Eligible employees are those who have been employed for at least 12 months, who have provided at least 1,250 hours of service during the 12 months before leave is requested, and who work at a worksite where at least 50 employees are on the payroll (either at that site or within a 75-mile radius).
  - b. Parent: Mother or Father of an employee, or an adult who had day to day responsibility for caring for the employee during his or her childhood years in place of the natural parents.
  - c. Son or Daughter/Child: Biological, adopted or foster child, a step child, legal ward, or child of a person standing in loco parentis, who are under the age of 18 years. Children who are 18 years or older qualify, if he or she is incapable of self care because of mental or physical disability.
  - d. Serious Health Condition: An illness, injury, impairment, or physical or mental condition involving either inpatient care or continuing treatment by a health care provider. Examples of serious health conditions include but are not limited to heart attacks, heart conditions requiring heart bypass or valve operations, most cancers, back conditions requiring extensive therapy of surgical procedures, strokes, severe respiratory conditions, spinal injuries, severe arthritis, etc.
- 2) Leave Provisions:

- a. An eligible employee may take up to 12 weeks of unpaid leave in a 12 month period for the birth of a child or the placement of a child for adoption or foster care. Leave may also be taken to care for a child, spouse, or a parent who has a serious health condition.
- b. The right to take leave applies equally to male and female employees who are eligible.
- c. Unpaid leave for the purposes of care for a newborn child or a newly placed adopted or foster care child must be taken before the end of the first 12 months following the date of birth or placement.
- d. An expectant mother may take unpaid medical leave upon the birth of the child, or prior to the birth of her child for necessary medical care and if her condition renders her unable to work. Similarly for adoption or foster care, leave may be taken upon the placement of the child or leave may begin prior to the placement if absence from work is required for the placement to proceed.
- e. An employee may take unpaid leave to care for a parent or spouse of any age who, because of a serious mental or physical condition, is in the hospital or other health care facility. An employee may also take leave to care for a spouse or parent of any age who is unable to care for his or her own basic hygiene, nutritional needs, or safety. Examples include a parent or spouse whose daily living activities are impaired by such conditions as Alzheimer's disease, stroke, or who is recovering from major surgery, or who is in final stages of terminal illness.
- f. Eligible employees, who are unable to perform the functions of the position held because of a serious health condition, may request up to 12 weeks unpaid leave. The term serious health condition is intended to cover conditions or illnesses that affect an employee's health to the extent that he or she must be absent from work on a recurring basis or for more than a few days for treatment or recovery.
- g. Employees requesting medical leave due to their own illness or injury may use any balance of sick leave, annual leave, floating holidays prior to unpaid leave beginning. The combination of sick leave, annual leave, floating holidays and unpaid leave may not exceed 12 weeks. Employees requesting family leave may use unpaid leave, however annual leave, floating holidays and other paid leave are to be taken first. The combination of annual leave, floating holidays and unpaid leave may not exceed 12 weeks.
- h. During periods of unpaid leave, an employee will not accrue any additional seniority or similar employment benefits during the leave period.
- i. If spouses are employed by the same employer and wish to take leave for the care of a new child or a sick parent, their aggregate leave is limited to 12 weeks. For example, if the father takes 8 weeks of leave to care for a child, the mother would be entitled to 4 weeks leave, for a total of 12 weeks of leave.

3) Notification and Scheduling:

- a. An eligible employee must provide the employer at least 30 days advance notice of the need for leave for birth, adoption or planned medical treatment, when the need for leave is foreseeable. This 30-day advance notice is not required in cases of medical emergency or other unforeseen events, such as premature birth, or sudden changes in a patient's condition that require a change in scheduled medical treatment.
  - b. Parents who are awaiting the adoption of a child and are given little notice of the availability of the child may also be exempt from this 30-day notice.
- 4) Certification:
- a. The employer reserves the right to verify an employee's request for family/medical leave.
  - b. If an employee request leave because of a serious health condition or to care for a family member with a serious health condition, the employer requires that the request be supported by certification issued by the health care provider of the eligible employee or the family member as appropriate. If the employer has reason to question the original certification, the employer may, at the employer's expense, require a second opinion from a different health care provider chosen by the employer. That health care provider may not be employed by the employer on a regular basis. If a resolution of the conflict cannot be obtained by a second opinion, a third opinion may be obtained from another provider and that opinion will be final and binding.
  - c. This certification must contain the date on which the serious health condition began, its probable duration, and appropriate medical facts within the knowledge of the health care provider regarding the condition. The certification must also state the employee's need to care for the son, daughter, spouse, or parent and must include an estimate of the amount of time that the employee is needed to care for the family member.
  - d. Medical certifications given will be treated as confidential and privileged information.
  - e. An employee will be required to report periodically to the employer the status and the intention of the employee to return to work.
  - f. Employees who have taken unpaid leave under this policy must furnish the employer with a medical certification from the employee's health care provider that the employee is able to resume work before return is granted.
- 5) Maintenance of Health and COBRA Benefits During Unpaid Leave:
- a. The employer will maintain health insurance benefits, paid by the employer for the employee, during periods of unpaid leave without interruption. Any payment for family coverage/s premiums, or other payroll deductible insurance policies, must be paid by the employee or the benefits may not be continued.
  - b. The employer has the right to recover from the employee all health insurance premiums paid during the unpaid leave period if the employee fails to return

to work after leave. Employees who fail to return to work because they are unable to perform the functions of their job because of their own serious health condition or because of the continued necessity of caring for a seriously ill family member may be exempt from the recapture provision.

- c. Leave taken under this policy does not constitute a qualifying event that entitles an employee to COBRA insurance coverage. However, the qualifying event triggering COBRA coverage may occur when it becomes clearly known that an employee will not be returning to work, and therefore ceases to be entitled to leave under this policy.

6) Reduced and Intermittent Leave:

- a. Leave taken under this policy can be taken intermittently or on a reduced leave schedule when medically necessary as certified by the health care provider. Intermittent or reduced leave schedules for routine care of a new child can be taken only with approval of the employer. The schedule must be mutually agreed upon by the employee and the employer.
- b. Employees on intermittent or reduced leave schedules may be temporarily transferred by the employer to an equivalent alternate position that may better accommodate the intermittent or reduced leave schedule.
- c. Intermittent or reduced leave may be spread over a period of time longer than 12 weeks, but will not exceed the equivalent of 12 workweeks total leave in a one 12-month period.

7) Restoration:

- a. Employees who are granted leave under this policy will be reinstated to an equivalent or the same position held prior to the commencement of their leave.
- b. Certain highly compensated key employees, who are salaried and among the 10% highest paid employees, may be denied restoration. Restoration may be denied if (A) the employer shows that such denial is necessary to prevent substantial and grievous economic injury to the employer's operations, (B) the employer notifies the employee that it intends to deny restoration on such basis at the time the employer determines that such injury would occur, and (C) in any case in which the leave has commenced, the employee elects not to return to work within a reasonable period of time after receiving such notice.

8) The 12-month FMLA Period:

- a. The 12-month period during which an employee is entitled to 12 workweeks of FMLA leave is measured forward from the date the employee's first FMLA leave begins. An employee is entitled to 12 weeks of leave during the 12 month period after the leave begins. The next 12-month period will begin the first time the employee requests FMLA leave after the completion of the previous 12-month period.

## **B. JURY AND COURT DUTY**

The employer encourages all employees to fulfill their duty to serve as members of juries or to testify when called in both Federal and State courts. Therefore, the following procedures shall apply when an employee is called for jury duty or subpoenaed to court:

- 1) Upon receiving a summons to report for jury duty, the employee shall on the next day s/he is working, show the summons to his or her supervisor.
- 2) The employee will be granted a leave of absence when the employee is subpoenaed or directed by proper authority to appear in Federal or State court as a witness or juror.
- 3) The employee will receive his or her regular compensation during time served on jury duty or when subpoenaed as a witness.
- 4) The employee may retain all compensation or fees received for serving as a juror or as a witness.
- 5) If the employee is relieved from jury duty during working hours after serving less than three hours, the employee must report back to the employer. If the employee is relieved from being a witness during working hours, the employee will report back to the employer.
- 6) The above provisions concerning compensation for time in court do not apply if the employee is involved as a plaintiff or defendant in private litigation. On these occasions the employee must take vacation leave, comp time or leave without pay.

## **C. VOTING LEAVE**

Any person entitled to vote in an election in this state may be absent from work to vote while the election polls are open for a period of time not to exceed three hours. The employer may specify the time the employee may be absent. The employee will receive regular compensation during this period and leave time will not be affected. Voting time shall not be counted as working time for overtime computation.

## **D. MILITARY LEAVE**

- A. Full-time employees who are members of any military reserve component will be granted military training leave for such time as they are in the military service on field training or active duty for periods not to exceed fifteen (15) working days per calendar year. This time may not be used for weekend drills. Such requested leave shall be supported with copies of the armed forces orders.
- B. Full-time employees who are members of a military reserve unit who have completed their military training duty for the calendar year, and are reactivated for additional training, will be allowed an additional fifteen (15) days military leave if the additional military training:
  - 1) Occurs during the same calendar year; and

- 2) Fulfills the employee's military training obligation for the subsequent calendar year.
- C. During such time that the employee is on military training leave, the employee will receive full pay and benefits to which he or she would otherwise be entitled.

#### **E. INJURY IN LINE OF DUTY**

An employee sustaining an injury or illness during the course and scope of his or her employment which is determined to be compensable under the provisions of the On-the-Job Injury Policies & Procedures shall be entitled to receive in-line-of-duty injury leave. A copy of the On-the-Job injury policies and procedures is herewith attached as appendix.

#### **F. SICK LEAVE**

Provision is hereby made by the Madison County Government whereby its FULL-TIME employees will receive full pay during incapacity caused by illness. (Part-Time employees do not qualify). Generally the full time employee will become eligible for sick leave when...

- A. Employees are incapacitated by sickness or injury; for medical, dental, or optical diagnosis and treatment.
- B. For necessary care and attendance of a member of the employee's immediate family when approved by Department Head or his appointed representative.
- C. After exposure to a contagious disease, when certified by a qualified doctor's certificate, that the employee may jeopardize the health of others.
- D. Each full-time employee will accrue sick leave at the rate of one day per month.
- E. Sick leave benefits will commence on the first day of such absence and shall continue for as long as sick leave credit remains.
- F. To prevent abuse of the sick leave privilege, the Department Heads are required to satisfy themselves that the employee is genuinely ill before paying sick leave.
- G. Any absence may require a doctor's certificate, and any absence in excess of three work days shall require a doctor's certificate to return to work, if in the opinion of the immediate supervisor, such action is deemed appropriate.
- H. For leave purposed, the service an individual has to his credit, includes all time spent as a permanent employee of the County.
- I. Each day deducted from an employee's sick leave accumulation shall be for a regular work day and shall not include holidays and scheduled off-days.
- J. Employees claiming sick leave while on annual leave MUST support their claim by a doctor's statement or other satisfactory proof.
- K. Unused accumulated sick leave may be used for retirement credit with the Tennessee Consolidated Retirement System. For each twenty (20) days of unused sick leave, you will receive thirty (30) days credit toward your length of service.

## **G. SICK LEAVE POLICY FOR LAW ENFORCEMENT PERSONNEL**

“Department” as referred to herein is defined as Madison County Sheriff’s Department.

If an employee sustains an injury or illness during the course and scope of his or her employment which is determined to be compensable under the provisions of the Workers’ Compensation Law, then the injury in-line-of-duty policy for Law Enforcement Personnel will control.

- a. An employee of the department shall receive full pay during incapacity caused by illness, subject to the guidelines of subsection (b).
- b. Any employee shall become eligible for sick leave if:
  - (1) Employees are incapacitated by sickness or injury; for medical, dental, or optical diagnosis and treatment.
  - (2) For necessary care and attendance of a member of the employee’s immediate family when approved by department head or his appointed representative.
  - (3) After exposure to a contagious disease, when certified by a qualified doctor’s certificate, that the employee may jeopardize the health of others.
  - (4) Each permanent employee will accrue sick leave at the rate of one (1) work day per month.
  - (5) Sick leave benefits will commence on the first day of such absence and shall continue for as long as sick leave credit remains.
  - (6) To prevent abuse of the sick leave privilege, the department head is required to satisfy himself that the employee is genuinely ill before paying sick leave.
  - (7) Any absence may require a doctor’s certificate, and any absence in excess of three work days shall require a doctor’s certificate to return to work, if in the opinion of the immediate supervisor, such action is deemed appropriate.
  - (8) Accumulated sick leave has no value except for the purpose granted, and in the event of separation, all unused sick leave shall be forfeited.
  - (9) Accrued sick leave may be used as maternity leave.
  - (10) For leave purposes, the service an individual has to his credit, includes all time spent as a permanent employee of the county.
  - (11) Each day deducted from an employee’s sick leave accumulation shall be for a regular work day and shall not include holidays and scheduled off days.
  - (12) Employees claiming sick leave while on annual leave must support their claim by a doctor’s statement or other satisfactory proof.

- (13) Unused accumulated sick leave may be used for retirement credit with the Tennessee Consolidated Retirement System. For each twenty (20) days of unused sick leave, you will receive thirty (30) days credit toward your length of service.

**H. ANNUAL LEAVE**  
**(Vacation)**

Provision is hereby made by the Madison County Government to provide annual leave for its **Full Time** employees with full pay for each day earned (Part Time employees do not qualify). It is the policy of the County to promote employee efficiency, health, and morale through periodic interruption from one's duties. Paid leave based on length of service as follows:

1. Annual leave is earned and accrued at the rate of one (1) working day per month worked for the first five (5) years of service. A maximum of 30 days may be carried forward from one fiscal year to the next.
2. Annual leave is earned and accrued at the rate of one and one-half (1-1/2) days per month worked during the sixth year and through the tenth year of service. A maximum of 36 days may be carried forward from one fiscal year to the next.
3. Annual leave is earned and accrued at the rate of one and three-fourth (1-3/4) working days per month worked during the eleventh year and through the twentieth year of service. A maximum of 39 days may be carried forward from one fiscal year to the next.
4. Annual leave is earned and accrued at the rate of two (2) working days per month worked with more than 20 years of service. A maximum of 42 days may be carried forward from one fiscal year to the next.
5. Annual leave accrued in excess of the applicable maximum shall be transferred to sick leave at the end of each fiscal year.

Accrued annual leave may be used for maternity leave.

**I. ANNUAL LEAVE/VACATION LEAVE/ & HARDSHIP LEAVE FOR LAW ENFORCEMENT PERSONNEL**

- a. It is the policy of the Madison County Sheriff's Department to promote employee efficiency, health and morale through periodic interruption from one's duties. Paid leave is provided based on length of service as follows:
  - (1) Annual leave is earned and accrued at the rate of one (1) working day per month worked for the first five (5) years of service. A maximum of 30 days may be carried forward from one fiscal year to the next.

- (2) Annual leave is earned and accrued at the rate of one and one-half (1-1/2) days per month worked during the sixth year and through the tenth year of service. A maximum of 36 days may be carried forward from one fiscal year to the next.
- (3) Annual leave is earned and accrued at the rate of one and three-fourth (1-3/4) working days per month worked during the eleventh year and through the twentieth year of service. A maximum of 39 days may be carried forward from one fiscal year to the next.
- (4) Annual leave is earned and accrued at the rate of two (2) working days per month worked with more than 20 years of service. A maximum of 42 days may be carried forward from one fiscal year to the next.
- (5) Annual leave accrued in excess of the applicable maximum shall be transferred to sick leave at the end of each fiscal year.
- (b) Annual leave may be used only at times approved in advance by an immediate supervisor.
- (c) Accrued annual leave may be used for maternity leave.
- (d) Request for annual leave shall be made in writing to your supervisor, and when possible ten (10) days in advance of the first leave day. Requests will be handled on a first come first serve basis. On the day preceding requested annual leave, each employee shall furnish their immediate supervisor with the address and telephone number, if possible, where they may be reached in case of emergency. Each employee will also be responsible for completing work necessary, and arranging court cases so as not to conflict with requested vacation time. Supervisor is defined as any rank above Deputy Sheriff.

**HARDSHIP LEAVE**—Under special and emergency circumstances regarding personal or family illness or death of a family member, hardship leave may be granted. Such leave will be at the discretion of the Sheriff for a specific time and purpose. Any violation of the agreed circumstances involving this leave will represent grounds for dismissal.

### **J. DEATH LEAVE**

In the case of death in the employee's immediate family, the employee will be given a maximum of three (3) working days leave which will not be charged to vacation leave or sick leave. **IMMEDIATE FAMILY** is defined to include the following:

- 1. Husband or Wife
- 2. Parents
- 3. Grandparents
- 4. Children
- 5. Grandchildren
- 6. Daughters-in-law

7. Sons-in-law
8. Mother-in-law
9. Father-in-law
10. Sister
11. Brother
12. Sisters-in-law
13. Brothers-in-law

Annual or sick leave must be taken in the event of the death of any other family member not listed above.

### **K. SPECIAL LEAVE**

Subject to approval by your appointing authority, leave without pay, not to exceed 12 months, may be granted.

If it is necessary for you to be absent from work and you do not have enough accrued leave to cover your absence, you will be charged with special leave.

The following conditions must be met before extended leave without pay will be granted:

1. You must use all of your accumulated annual leave.
2. In cases of sickness, you must use all of your sick leave.

### **L. TERMINAL LEAVE**

If your employment with Madison County is terminated, except by dismissal for gross misconduct, and you have accrued annual leave to your credit, these usable annual leave days will be converted to terminal leave. You will be compensated for these annual days, if approved by your department head.

An inventory of supplies and equipment assigned to you must be made and accounted for prior to receiving your final payroll check. Any shortage in your assignments are subject to withholding from salaries due you.

If an employee dies, payment for their unused usable annual leave will be made to his estate.

### **M. LEGAL HOLIDAYS**

Because of the variety of County services, all County employees may not observe holidays on the same day. If your work schedule requires a deviation from the holiday schedule, your supervisor will tell you about it.

When a holiday falls on Saturday, the Friday preceding the holiday is substituted. When it falls on a Sunday, the Monday following the holiday is observed.

## LEGAL HOLIDAYS

New Year's Day	Labor Day
Martin Luther King Day	Columbus Day
Presidents' Day	Veterans' Day
Good Friday	Thanksgiving
Memorial Day	Christmas
Independence Day	

### **N. LEGAL HOLIDAYS FOR LAW ENFORCEMENT PERSONNEL**

The Sheriff shall designate the specific days which employees of the Madison County Sheriff's Department shall receive as paid holidays.

### **IV. A. - WAGE & HOUR POLICY FOR EMPLOYEES OTHER THAN LAW ENFORCEMENT PERSONNEL**

An employee will be paid a regular weekly salary which covers all hours worked up to 40 during each workweek. The workweek will begin at 12:00 a.m. on Monday and end at 11:59 p.m. on Sunday.

- 1) Overtime/Compensatory Time - All employees shall be paid overtime or given compensatory time (subject to allowable limits) for all hours worked over 40 during the workweek. No overtime or compensatory time will be earned until the employee has worked on the job over 40 hours during the work period.
- 2) Overtime Rate - Hourly rate employees who work overtime will receive overtime pay at a rate of time and one-half their regular pay. For salaried employees, the employee's annual salary divided by 52 weeks determines the weekly salary. The weekly salary is then divided by the number of hours in a normal workweek to determine the regular hourly rate of pay. That rate will then be multiplied by one and one-half to determine the overtime rate of pay. The overtime rate for both hourly and salaried employees applies only to those hours worked over 40 during a week. For salaried employees, no additional compensation will be paid for hours worked under 40. For hourly rate employees, the overtime rate will apply only to hours worked over 40 and the regular rate will apply to hours worked under 40.
- 3) Selection of Compensatory Time - Employees who are required to work in excess of 40 hours per week may elect to receive compensatory time off in lieu of overtime subject to employer approval. Such compensatory time shall be earned at a rate of one and one-half hours for each hour of employment worked over 40 hours per week. An employee cannot accrue more than 240 hours of compensatory time. Any employee who has accumulated 240 hours

of compensatory time shall be paid for any additional overtime that is worked. (240 hours represents 160 hours of actual overtime worked).

The use of compensatory time is subject to approval by the employer. Such approval will not be denied unless undue disruption to the office or department will occur.

Each employee shall sign a schedule showing that particular employee's work schedule. For any day the employee varies from the established work schedule, the employee has the duty to file with the supervisor a signed schedule variance form, which shall show the exact hours worked during the work day, and shall show sick leave, holiday leave, and vacation time taken.

Upon termination of employment an employee with banked (accumulated) compensatory time is to be compensated at the higher of:

- (1) The average rate received by the employee during the last three years of employment immediately prior to termination or,
- (2) The final regular rate of pay.

If there is a break in service, the period of employment after the break is treated as a new period of service, (so long as it was intended as permanent during the break and accrued comp time was cashed out). Where the final period of service was less than three years, the rate is calculated based on the rate in effect during the final period of service.

Use of Compensatory Time - An employee is permitted to use accrued compensation time within a reasonable period after making the request for its' use, as long as it does not unduly disrupt the workplace. A reasonable period will be determined by considering the customary work practices based on case by case facts and circumstances, including:

1. the normal work schedule,
2. anticipated peak workloads based on past experience,
3. emergency requirements for staff and services,
4. the availability of a qualified substitute staff.

“Unduly disrupt” - means more than mere inconvenience and in order to turn down a comp time request made within a reasonable period of time, the department head must reasonably and in good faith anticipate that it would impose an unreasonable burden on the employer's ability to provide services of acceptable quality and quantity for the public during the time requested without the use of the employee's services.

In the event this section may conflict with the Federal Fair Labor and Standards Act (FLSA), the provisions of the FLSA will control.

#### **IV. B. WAGE & HOUR POLICY FOR LAW ENFORCEMENT PERSONNEL**

I.

- 1) Overtime/Compensatory Time - The working day for any employee of the department shall be eight (8) hours of duty in any twenty-four (24) hour period. The working week shall consist of five (5) eight (8) hour days. Each employee shall receive two (2) days off each week.
- 2) Overtime Rate - Hourly rate employees who work overtime will receive overtime pay at a rate of time and one-half their regular pay. For salaried employees, the employee's annual salary divided by 52 weeks determines the weekly salary. The weekly salary is then divided by the number of hours in a normal workweek to determine the regular hourly rate of pay. That rate will then be multiplied by one and one-half to determine the overtime rate of pay. The overtime rate for both hourly and salaried employees applies only to those hours worked over 40 during a week. For salaried employees, no additional compensation will be paid for hours worked under 40. For hourly rate employees, the overtime rate will apply only to hours worked over 40 and the regular rate will apply to hours worked under 40.
- 3) Selection of Compensatory Time - Employees who are required to work in excess of eight (8) hours per twenty-four (24) hour period may elect to receive compensatory time off in lieu of overtime subject to employer approval. Such compensatory time shall be earned at a rate of one and one-half hours for each hour of employment worked over eight (8) hours per twenty-four (24) hour period. An employee cannot accrue more than 480 hours of compensatory time. Any employee who has accumulated 480 hours of compensatory time shall be paid for any additional overtime that is worked. (480 hours represents 320 hours of actual overtime worked).

No compensatory time shall be granted for attendance in court unless the officer is duly subpoenaed to attend in state and federal courts and duly claims his witness fee for such attendance fee. Such attendance fee shall be paid to Madison County.

Each employee shall sign a schedule showing that particular employee's work schedule. For any day the employee varies from the established work schedule, the employee has the duty to file with the supervisor a signed schedule variance form, which shall show the exact hours worked during the work day, and shall show sick leave, holiday leave, and vacation time taken.

Upon termination of employment an employee with banked (accumulated) compensatory time is to be compensated at the higher of:

- (1) The average rate received by the employee during the last three years of employment immediately prior to termination or
- (2) The final regular rate of pay.

If there is a break in service, the period of employment after the break is treated as a new period of service (so long as it was intended as permanent during the break and accrued comp time was cashed out). Where the final period of service was less than three years, the rate is calculated based on the rate in effect during the final period of service.

In the event this section may conflict with the Federal Fair Labor and Standards Act (FLSA) the provisions of the FLSA will control.

Use of Compensatory Time - An employee is permitted to use accrued compensation time within a reasonable period after making the request for its' use, as long as it does not unduly disrupt the workplace. A reasonable period will be determined by considering the customary work practices based on case by case facts and circumstances, including:

1. the normal work schedule,
2. anticipated peak workloads based on past experience,
3. emergency requirements for staff and services and
4. the availability of a qualified substitute staff.

“Unduly Disrupt” - means more than mere inconvenience and in order to turn down a comp time request made within a reasonable period of time, the department head must reasonably and in good faith anticipate that it would impose an unreasonable burden on the employer’s ability to provide services of acceptable quality and quantity for the public during the time requested without the use of the employee’s services.

#### **IV. C. WAGE AND HOUR POLICY FOR LAW ENFORCEMENT PERSONNEL- 12 HOUR SHIFTS**

##### II.

1. **Overtime/Compensatory Time** – The working day for correctional officers assigned to the Sheriff’s Department shall be twelve (12) hours of duty in any twenty-four (24) hour period. The (28) day work schedule shall consist of two (2) three day – 12 hours per day work weeks plus two (2) four day – 12 hour per day work weeks. The hours worked by correctional officers in each (28) day period will total 168. All hours worked above (12) hours per day or (168) hours per (28) day work period will result in over time work and the correctional officer will be paid at the rate of 1 ½ times regular hourly rate or given 1 ½ times the overtime hours worked as compensatory time. Each correctional officer shall receive (4) days off on a (3) day work week and 3 days off on a (4) day work week.

2. **Overtime Pay Rate** - Correctional Officers who work more than (168) hours in a 28 day period will receive overtime pay at a rate of time and one-half their regular pay.

3. **Selection of Compensatory Time** – Correctional officers who are required to work in excess of (168) hours during each 28 day work period may be given compensatory time off in lieu of overtime subject to employer approval. Such compensatory time shall be earned at a rate of one and one-half hours for each hour of employment worked over the (168) hours in a (28) day work period. A corrections officer cannot accrue more than (480) hours of compensatory time. A corrections officer who has accumulated (480) hours of compensatory time shall be paid for any additional overtime that is worked. (480 hours represents 320 hours of actual overtime worked.)

Each correctional officer shall sign a schedule showing that particular employee's work schedule. For any day the correctional officer varies from the established work schedule, correctional officer has the duty to file with the supervisor a signed schedule variance form, which shall show the exact hours worked during the work day, and shall show sick leave, holiday leave, and vacation time taken.

Upon termination of employment the correctional officer with banked (accumulated) compensatory time is to be compensated at the higher of:

1. The average rate received by the employee during the last three years of employment immediately prior to termination or,
2. The final regular rate of pay.

If there is a break in service, the period of employment after the break is treated as a new period of service (so long as it was intended as permanent during the break and accrued comp time was cashed out). Where the final period of service was less than three years, the rate is calculated based on the rate in effect during the final period of service.

In the event this section may conflict with the Federal Fair Labor and Standards Act (FLSA) the provisions of the FLSA will control.

**Use of Compensatory Time** – A correctional officer is permitted to use accrued compensation time within a reasonable period after making the request for its' use, as long as it does not unduly disrupt the workplace. A reasonable period will be determined by considering the customary work practices based on case by case facts and circumstances, including:

1. the normal work schedule,
2. anticipated peak workloads based on past experience,
3. emergency requirements for staff and services and
4. the availability of a qualified substitute staff.

“Unduly Disrupt” – means more than mere inconvenience and in order to turn down a comp time request made within a reasonable period of time, the department head must reasonably and in good faith anticipate that it would impose an unreasonable burden on the employer's ability to provide services of

acceptable quality and quantity for the public during the time requested without the use of the correctional officers services.

## **V. NON-DISCRIMINATION AND SEXUAL HARASSMENT POLICIES**

### **NON-DISCRIMINATION - EQUAL EMPLOYMENT OPPORTUNITY**

It is the policy of Madison County to provide equal employment opportunities to all individuals regardless of race, color, religion, sex, national origin, age disability, status as a Vietnam-era veteran or special disabled veteran, or status in any other group protected by law. This policy extends to all terms and conditions of employment, including, but not limited to hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, compensation and training. It is the policy of Madison County to make reasonable accommodations for qualified individuals with known disabilities unless doing so would result in undue hardship. Employees or applicants with questions or concerns about any type of discrimination in the workplace are encouraged to bring these issues to the attention of the immediate supervisor or department head. Employees can raise concerns and make complaints without fear of reprisal and with the assurance of protection from harassment or retaliation. Anyone found to be engaging in any type of unlawful discrimination will be subject to disciplinary action, up to and including termination of employment.

### **HIRING PRACTICES -**

Madison County does not discriminate in its hiring practices on the basis of race, color, religion, sex, national origin, age, disability, status as a Vietnam-era Veteran or special disabled veteran, or status in any other group protected by law. In order to give interested parties an opportunity to apply for positions as they become open, job openings will be posted in the courthouse on the main bulletin board for a minimum of five (5) days. All qualified applicants are urged to apply. Applicants must apply for a specific job opening. Employment applications will not be accepted unless a specific position is open at the time the application is submitted. When a current prospective employee or prior employee applies for a posted job we must have the individual complete a new application rather than allowing them to update their prior application. Also, if an applicant submits a resume, then the resume would need to be up-to-date as well. If an applicant does not complete a new application, then he or she will not be considered for the position. This will give an accurate representation of the applicant's qualifications at the time of a promotion or rehire. For each position posted you must keep on file a copy of all individuals applications attached to the position announcement for a 12 month period. The Sheriff's Department's hiring practices shall be controlled by the Private Acts of 1983, Chapter 54 as amended.

### **UNLAWFUL HARASSMENT IN THE WORKPLACE -**

It is the policy of Madison County to maintain a respectful work and public service environment. Madison County prohibits and will not tolerate any form of

unlawful harassment by or towards any employee or official on the basis of race, color, religion, sex, national origin, age, disability, status as a Vietnam-era veteran or special disabled veteran, or status in any other group protected by law. Any employee or official who engages in such behavior is subject to disciplinary action, up to and including termination of employment.

One particular kind of harassing behavior is sexual harassment. Sexual harassment, which can consist of a wide range of unwanted and unwelcome sexually directed behavior, is defined as:

Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

- (1) Submitting to the conduct is made either explicitly or implicitly a term or condition of an individual's employment or of obtaining public services; OR
- (2) Submitting to or rejecting the conduct is used as the basis for an employment decision affecting an individual's employment or public services; OR
- (3) Such conduct has the purpose or result of unreasonably interfering with an individual's work performance or creating an intimidation, hostile or offensive working environment.

Neither sexual harassment nor any other form of unlawful harassment will be tolerated in the workplace. Employees are urged to report alleged incidents of unlawful harassment.

#### DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURE

Discrimination, including harassment, in the workplace on the basis of race, color, religion, sex, national origin, age disability, status as a Vietnam-era veteran or special disabled veteran, or status in any other group protected by law is illegal. If an employee believes that he or she has been subjected to illegal discrimination or harassment related to employment with Madison County, the employee should report the incident promptly to the county official or department head under whose direction the employee works. Reporting the unwelcome conduct to the employee's responsible department official/head is usually most effective, although it is not required that the official be within the employee's supervisory chain. If the problem is not resolved within a reasonable time, or if for any reason the employee feels uncomfortable reporting the problem to the county official or department head, then the problem should be reported to the County Mayor, the Human Resources Director, or a member of the Personnel Committee. This reporting method applies to all county departments and constitutional offices, i.e., Assessor of Property, Chancery Court, Circuit Court, County Court Clerk, County Mayor, General Sessions Court, Juvenile Court Clerk, Register of Deeds, Sheriff, and Trustee. The County Mayor, the Human Resources Director, or the Personnel Committee may act as a mediator between the affected employee and the county official or department head under

whose direction the employee works to assist them in reaching an acceptable resolution of the problem, but the County Mayor, the Human Resources Director, or the Personnel Committee has no legal authorization to make employment decisions on behalf of the county official or department head. No adverse personnel action will be taken against an employee for reporting a bona fide incident of discrimination or harassment or for assisting in the investigation of a complaint.

If an employee believes that he or she has been subjected to illegal discrimination or harassment by the county mayor and that employee is under the direction of the county mayor, then the county personnel director shall be the official the problem is to be reported to and said official may act as a mediator in the same capacity of the county mayor as set forth in the preceding paragraph.

## **VI. SEXUAL HARASSMENT POLICY FOR LAW ENFORCEMENT PERSONNEL**

The Madison County Sheriff's Department policy as to discrimination and harassment, other than sexual, will be controlled by the policy in the Madison County, Tennessee, personnel policies contained in chapter V.

### 1. Purpose:

The purpose of this policy is to create for the members of the Madison County Sheriff's Department a comfortable environment in which to work free of sexual harassment.

### 2. Sexual Harassment is Absolutely prohibited:

The sexual harassment of any employee of the Madison County Sheriff's Department by any other employee or non-employee is absolutely prohibited. The Department will not tolerate the sexual harassment of any of its employees, and will take immediate positive steps to stop it when it occurs.

### 3. Sexual Harassment Defined:

- a. Sexual harassment is behavior with a sexual content or overtone that is unwelcome and personally offensive. Sexual harassment may consist of sexually-oriented "kidding" or jokes, physical contact such as patting, pinching or purposely rubbing up against another person's body; demands or requests for sexual favors tied to promises of better treatment or threats concerning employment; discrimination against an employee for refusing to "give in" to demands or requests for sexual favors; or rewarding or granting favors to one who submits to demands or requests for sexual favors; displaying sexually-explicit or pornographic material, no matter how it is displayed.

- b. The definition of sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct directed by women toward women.
4. Application of Sexual Harassment Policy:
- a. This sexual harassment policy adopted by the Department applies to all employees of the Madison County Sheriff's Department, including, but not limited to, full and part-time employees and permanent and temporary employees covered under the personnel rules of the Madison County Sheriff's Department.
  - b. This policy will be distributed to all employees of the Department. Every employee will be required to acknowledge the receipt of this policy in writing. A copy of that acknowledgment will be kept in the personnel file of the employee. Supervisors shall be responsible for insuring that all employees under their direction are familiar with this policy.
5. Making Sexual Harassment Complaints:
- a. This is the responsibility of any employee who is being sexually harassed, or has knowledge that another employee is being sexually harassed, to immediately contact one of the persons below with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:
    - (1) The employee's immediate supervisor
    - (2) The employee's department head
    - (3) The Assistant Chief Deputy
    - (4) The Chief Deputy
    - (5) Any supervisor of the Sheriff's Department
    - (6) The Sheriff
  - b. Employees have the right to circumvent the employee chain of command in selecting which person to whom to make a complaint concerning sexual harassment.
  - c. Regardless of the specific person to which an employee makes a complaint of sexual harassment, they should be prepared to provide the following information:
    - (1) The employee's name, department, and position title.
    - (2) The name of the person(s) committing the sexual harassment, including their title (s), if known.
    - (3) The specific nature of the sexual harassment, how long it has gone on, and any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of

the harassment, or any other threats made against the employee as a result of the harassment.

(4) All witnesses to the harassment.

(5) Whether such harassment has been previously reported and, if so, to whom and when.

6. Reporting and Investigation of Sexual Harassment Complaints Against Employees:

a. The Chief Deputy or his authorized representative is designated by the Sheriff to be the investigator of complaints of sexual harassment against employees. In the unlikely event the complaint is against the Chief Deputy, the Sheriff shall designate another supervisor to investigate the complaint.

(1) When an allegation of sexual harassment is made by an employee, the person to whom the complaint is made shall immediately prepare a report of the complaint according to the preceding section and submit it to the Chief Deputy, or in the unlikely event that the complaint is against the Chief Deputy, to the Sheriff.

(2) The Chief Deputy or authorized investigator shall make and keep a written record of the investigation, including notes of verbal responses made to the investigator by the person complaining of sexual harassment, witnesses interviewed, the person against whom the complaint was made, and any other person contacted by the investigator connection with the investigation. The notes shall be made at the time the verbal interview is in progress.

(3) When an investigator receives a complaint of sexual harassment, he/she shall immediately:

(i) Obtain a written statement from the person complaining of sexual harassment which includes a comprehensive report of the nature of the sexual harassment being complained of, the time, dates, and places where the sexual harassment occurred; and the investigator shall verbally question the person complaining of sexual harassment about any information in the written statement which is unclear or needs amplification.

(ii) Obtain written statements from witnesses which include a comprehensive report of the nature of the conduct witnessed, the time, dates, and places where the conduct of the person complaining of sexual harassment toward the person against whom the complaint of sexual harassment was made. The investigator

shall verbally question witnesses about any information in their written statements which is unclear or needs amplification.

- (iii) Obtain a written statement from the person accused of sexual harassment. The investigator shall verbally question the person accused about any information in the written statement which is not clear or needs amplification.
- (iv) Prepare a report of the investigation, which includes the written statement of the person complaining of sexual harassment, the written statement of witnesses, the written statement of the person accused of sexual harassment, and all investigator's notes connected to the investigation, and submit the report to the Sheriff.

7. Action on Complaints of Sexual Harassment:

a. Against an Employee

- (1) Upon receipt of a report of the investigation of a complaint of sexual harassment against an employee, the Sheriff or his representative shall immediately review the report. If the Sheriff or his representative determines that the report is not complete in some respect, he/she may question the person complaining of sexual harassment, the person accused of sexual harassment, witnesses to the conduct in question or any other person who may have knowledge of the conduct in question. The Sheriff or his representative shall also keep written records of his/her investigation in the same manner as prescribed for the investigator. However, if the Sheriff or his representative feels that the investigative report is adequate, he may make a determination of whether sexual harassment occurred, based on the report.
- (2) Based upon the report and his own investigation, where one is made, the Sheriff shall, within a reasonable time, determine whether the conduct of the accused constitutes sexual harassment. In making that determination the Sheriff shall look at the record as a whole and the totality of the circumstances, including the nature of the conduct in question, the context in which the conduct, if any, occurred, and the conduct of the person complaining of sexual harassment. The determination of whether sexual harassment occurred will be made on a case-by-case basis.
- (3) If the Sheriff determines that the complaint of sexual harassment is founded, he shall take immediate and appropriate disciplinary action against the employee guilty of sexual harassment consistent with the rules of the Madison County Sheriff's Department governing employee discipline.

- (4) The disciplinary action shall be consistent with the nature and severity of the offense, the rank of the employee, and any other factors that the sheriff believes relates to fair and efficient administration of the Department, including but not limited to, the effect of the offense on employee morale and public perception of the offense, and the light it casts on the Department. Disciplinary action may include demotion, suspension, warning, reprimand, or dismissal. A determination of level of disciplinary action shall also be made on a case-by-case basis.
- (5) A written record of disciplinary action taken shall be kept, including verbal reprimands. In all events, an employee found guilty of sexual harassment shall be warned not to retaliate in anyway against the person making the complaint of sexual harassment, connected with the investigation of the complaint of sexual harassment.
- (6) In cases where sexual harassment is committed by a non-employee against a department employee in the work place, the Sheriff shall take whatever lawful action against the non-employee as is necessary to bring the sexual harassment to an immediate end.

8. Duty of Employees:

- (a) Employees are obligated to report instances of sexual harassment and to cooperate in every investigation of sexual harassment. This obligation includes, but is not limited to, coming forward with evidence, both favorable and unfavorable, to a person accused of sexual harassment, fully and truthfully making a written report or verbally answering questions when required to do so by an investigator during the course of an investigation of sexual harassment; and to refrain from making bad faith accusations of sexual harassment.
- (b) Disciplinary action may be taken against any employee who fails to report instances of sexual harassment, or who fails or refuses to cooperate in the investigation of a complaint of sexual harassment, or who files a complaint of sexual harassment in bad faith.

## **VII. DRUG TESTING POLICIES**

Chapter 361 of the Public Acts of 1997 requires the basic personnel policies to cover the Drug Testing Policy for those employees who hold a commercial driver's license. Attached and incorporated herein is Appendix A which contains Madison County's Highway Department Drug Testing Policy, which is hereby adopted for the

employees covered therein and for all county employees who hold a commercial driver's license pursuant to their employment with Madison County, Tennessee.

**VIII. EMPLOYEE ACKNOWLEDGEMENT FORM**

**EMPLOYEE ACKNOWLEDGEMENT** - two copies—give one to the employee and place the other copy in the employee's personnel file.

By signing this form, I acknowledge that I have received a copy of the personnel policies currently in effect for my office as of this date, and I understand that it is my responsibility to read and comply with the policies. These policies cannot and are not intended to answer every question about my employment with Madison County. I understand that I should consult the County Personnel Director regarding any part of the policies that I do not understand or any questions I may have about my employment with Madison County which are not answered in the policies. The current policies will always be on file in the office of the Madison County Clerk, and I may examine them there at any time during normal business hours.

The policies are necessarily subject to change, and I acknowledge that revisions may occur from time to time. I understand that all changes to the policies will be filed in the office of the Madison County Clerk. Although my employer will usually provide me with notice of changes, I understand that changes will apply to me regardless of whether I receive actual notice. I understand that revised information may supercede, modify or eliminate any or all of the policies at any time. All information contained in the policies is subject to applicable state and federal laws, rules and regulations, and I understand that to the extent that any such laws may conflict with any provision of the policies, such laws, rules and regulations will control.

I acknowledge that none of the County's policies may be construed to create a contract of employment or any other legal obligation, express or implied, and that any policy may be amended, revised, supplemented, rescinded or otherwise altered, in whole or in part, at any time, in the sole and absolute discretion of Madison County.

\_\_\_\_\_  
Employee Name (type or print)

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

**IX. COMPENSATORY TIME AGREEMENT**

Two copies—give one to the employee and place the other copy in the employee's personnel file.

In accordance with the Fair Labor Standards Act, Madison County has a policy of granting employees compensatory time off in lieu of compensation for time worked in

excess of 40 hours in a workweek (or other permissible schedules for law enforcement and certain other employees). A copy of this policy is on file in the office of the County Clerk. I understand that compensatory time will be granted at time and one half for all time worked in excess of 40 hours (or other permissible work schedules). I further understand that accrued compensatory time may be used in accordance with county policy and the applicable laws, rules and regulations of the U.S. Department of Labor. I voluntarily and knowingly agree to accept compensatory time off in lieu of cash compensation for overtime work and to the use of accrued compensatory time off in accordance with the county's policy and the laws, rules and regulations of the U.S. Department of Labor. I also acknowledge that the Madison County Employee handbook and the Private Acts of 1983, Chapter 54 and as thereafter amended, (law enforcement personnel) provide for compensatory time in lieu of overtime pay and that the Handbook and Private Act were enacted prior to March 1998.

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Employee Signature

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Date

**X. Tennessee Code Annotated 39-16-504**

39-16-504. Government record; destruction, tampering or fabrication.

(a) It is unlawful for any person to:

(1) Knowingly make a false entry in, or false alteration of, a governmental record;

- (2) Make, present, or use any record, document or thing with knowledge of its falsity and with intent that it will be taken as a genuine governmental record; or
- (3) Intentionally and unlawfully destroy, conceal, remove or otherwise impair the verity, legibility or availability of a governmental record.

(b) A violation of this section is a Class A misdemeanor.