**55:09:04:12.  Family and medical leave.** Family and medical leave is available to an employee who has worked for twelve months or more and who has worked 1,250 hours or more. Up to 12 weeks of sick leave, paid family leave, vacation leave, leave without pay, or any combination of these leaves may be taken as family and medical leave. An employee may request family and medical leave for any of the following purposes:

(1)  The birth of a child of the employee or the placement of a child with the employee for adoption or foster care;

(2)  To bond with a child so long as the leave is taken within one year of the child's birth or placement;

(3)  The need to care for the spouse, child, or parent of the employee if the spouse, child, or parent has a serious health condition;

(4)  A serious health condition; or

(5)  A qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or called to active duty status as a member of the National Guard or another reserve component of the armed forces of the United States in support of a contingency operation. A qualifying exigency includes attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

An employee who has worked for twelve months or more and who has worked 1,250 hours may also request family and medical leave to care for a spouse, son, daughter, parent, or the employee's next of kin of a covered servicemember with a serious injury or illness. A covered servicemember is anyone who is currently a member of the regular armed forces, a reserve component of the armed forces, or the National Guard. A serious injury or illness is an injury or illness incurred by a covered servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of the servicemember's office, grade, rank or rating and for which the servicemember is undergoing medical treatment, recuperation, therapy, or outpatient treatment or is on the temporary disability retired list. An employee may also take military caregiver leave to care for a family member who sustained a qualifying injury for up to five years after the member has been discharged from military service. Up to 26 weeks of sick leave, vacation leave, leave without pay, or any combination of these leaves may be taken as family and medical leave for military caregiver leave during a single 12-month period.

If sick leave is used for any part of the family and medical leave, the employee may be required to support the request with a statement from a medical doctor certifying the nature of the serious health condition.

**Source:** 39 SDR 99, effective December 3, 2012; 44 SDR 99, effective December 11, 2017; 46 SDR 146, effective July 1, 2020.

**General Authority:** SDCL 3-6C-18.

**Law Implemented:** SDCL 3-6C-18.