

Sec. 31-51qq-49. What is qualifying exigency leave?

(a) Eligible employees may take FMLA leave for a qualifying exigency while the employee's spouse, son, daughter, or parent (the "military member" or "member") is on active duty, or has been notified of an impending call or order to active duty, in the Armed Forces. A call to active duty for purposes of leave taken because of a qualifying exigency refers to a call to active duty under Titles 10 or 32 of the United States Code, as amended from time to time.

(b) An eligible employee may take FMLA leave for one (1) or more of the following qualifying exigencies:

(1) Short-notice deployment.

(A) To address any issue that arises from the fact that the military member is notified of an impending call or order to active duty seven (7) or less calendar days prior to the date of deployment; and

(B) Leave taken for this purpose can be used for a period of seven (7) calendar days beginning on the date the military member is notified of an impending call or order to active duty;

(2) Military events and related activities.

(A) To attend any official ceremony, program, or event sponsored by the military that is related to active duty or the impending call or order to active duty of the military member; and

(B) To attend family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to active duty or the impending call or order to active duty of the military member;

(3) Childcare and school activities. For the purposes of leave for childcare and school activities listed in subparagraphs (A) through (D), inclusive, of this subdivision, a child of the military member shall be the military member's biological, adopted, or foster child, stepchild, legal ward, or child for whom the military member stands in loco parentis, who is either under eighteen (18) years of age or eighteen (18) years of age or older and incapable of self-care because of a mental or physical disability at the time that FMLA leave is to commence. For purposes of this subsection, "incapable of self-care" and "mental or physical disability" have the meanings set forth in regulations adopted by the United States Secretary of Labor. As with all instances of qualifying exigency leave, the military member shall be the spouse, son, daughter, or parent of the employee requesting qualifying exigency leave.

(A) To arrange for alternative childcare for a child of the military member when the active duty status, or notification of the impending call or order to active duty status, of the military member necessitates a change in the existing childcare arrangement;

(B) To provide childcare for a child of the military member on an urgent, immediate need basis (but not on a routine, regular, or everyday basis) when the need to provide such care arises from the active duty, or the notification of an impending call or order to active duty, of the military member;

(C) To enroll in or transfer to a new school or day care facility a child of the military member when enrollment or transfer is necessitated by the active duty, or the notification of an impending call or order to active duty, of the military member; and

(D) To attend meetings with staff at a school or a daycare facility, such as meetings with school officials regarding disciplinary measures, parent-teacher conferences, or meetings with school counselors, for a child of the military member, when such meetings are necessary due to circumstances arising from the active duty, or the notification of an impending call or order to active duty, of the military member;

(4) Financial and legal arrangements.

(A) To make or update financial or legal arrangements to address the military member's absence while on active duty, or where notified of an impending call or order to active duty, such as preparing and executing financial and healthcare powers of attorney, transferring bank account signature authority, enrolling in the Defense Enrollment Eligibility Reporting System (DEERS), obtaining military identification cards, or preparing or updating a will or living trust; and

(B) To act as the military member's representative before a federal, state, or local agency for purposes of obtaining, arranging, or appealing military service benefits while the military member is on active duty, or where notified of an impending call or order to active duty, and for a period of ninety (90) days following the termination of the military member's active duty status;

(5) **Counseling.** To attend counseling provided by someone other than a health care provider, for oneself, for the military member, or for the biological, adopted, or foster child, a stepchild, or a legal ward of the military member, or a child for whom the military member stands in loco parentis, who is either under age eighteen (18), or age eighteen (18) or older and incapable of self-care because of a mental or physical disability at the time that FMLA leave is to commence, provided that the need for counseling arises from the active duty, or notification of an impending call or order to active duty, of the military member. For purposes of this subsection, "incapable of self-care" and "mental or physical disability" have the meanings set forth in regulations adopted by the United States Secretary of Labor;

(6) Rest and Recuperation.

(A) To spend time with the military member who is on short-term, temporary, Rest and Recuperation leave during the period of deployment;

(B) Leave taken for this purpose can be used for a period of fifteen (15) calendar days beginning on the date the military member commences each instance of Rest and Recuperation leave;

(7) Post-deployment activities.

(A) To attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of ninety (90) days following the termination of the military member's active duty status; and

(B) To address issues that arise from the death of the military member while on active duty status, such as meeting and recovering the body of the military member, making funeral arrangements, and attending funeral services;

(8) **Parental care.** For purposes of leave for parental care listed in subparagraphs (A) through (D), inclusive of this subdivision, the parent of the military member shall be incapable of self-care and shall be the military member's biological, adoptive, step, or foster father or mother, or any other individual who stood in loco parentis to the military member when the member was under eighteen (18) years of age. A parent who is incapable of self-

care means that the parent requires active assistance or supervision to provide daily self-care in three (3) or more of the activities of daily living or instrumental activities of daily living. Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing, and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc. As with all instances of qualifying exigency leave, the military member shall be the spouse, son, daughter, or parent of the employee requesting qualifying exigency leave.

(A) To arrange for alternative care for a parent of the military member when the parent is incapable of self-care and the active duty status, or notification of impending call or order to active duty status, of the military member necessitates a change in the existing care arrangement for the parent;

(B) To provide care for a parent of the military member on an urgent, immediate need basis (but not on a routine, regular, or everyday basis) when the parent is incapable of self-care and the need to provide such care arises from the active duty status, or notification of impending call or order to active duty status, of the military member;

(C) To admit to or transfer to a care facility a parent of the military member when admittance or transfer is necessitated by the active duty status, or notification of impending call or order to active duty status, of the military member; and

(D) To attend meetings with staff at a care facility, such as meetings with hospice or social service providers for a parent of the military member, when such meetings are necessary due to circumstances arising from the active duty status, or notification of impending call or order to active duty status, of the military member but not for routine or regular meetings;

(9) **Additional activities.** To address other events which arise out of the military member's active duty status, or notification of impending call or order to active duty status, provided that the employer and employee agree that such leave shall qualify as an exigency, and agree to both the timing and duration of such leave.

(Effective August 3, 2022)