



Military Family Leaves (under the FMLA) Expanded

Yesterday, October 28, 2009, President Obama signed into law the National Defense Authorization Act for Fiscal Year 2010. The new law expands provisions of the Qualifying Exigency and Servicemember Care Leaves under the Family and Medical Leave Act of 1993 (FMLA). Accordingly, handbook leave policies for employers with 50 or more employees should be amended as follows:

Military Family Leaves [FMLA]:

“Qualifying Exigency” Leave (up to *12 weeks* over a 12-month period) - Employees may be entitled to FMLA leave because of any “qualifying exigency” arising out of the fact that the employee’s spouse, son, daughter, or parent as a member (or retired member) of the Reserves or National Guard or a retired member of the Regular Armed Forces is on or is called to active duty in support of a contingency operation **or is an active duty servicemember in a foreign country**. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

Servicemember Care Leave (up to *26 weeks* over a single 12-month period) - An eligible employee who is the spouse, son, daughter, parent or next of kin of a covered servicemember injured during active duty, may be granted FMLA leave to care for that servicemember. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list. **Also included as covered servicemembers are veterans receiving medical treatment, recuperation, and therapy for a serious injury or illness and who were members of the Armed Forces at any time during the five years preceding the date on which the veteran undergoes the treatment, recuperation, or therapy.** This leave may be taken on an intermittent basis and is in combination with the 12 weeks allowed for all other types of FMLA leave. Additionally, if a husband and wife who are eligible for this leave are both employed by the Company the total leave for both is limited to 26 weeks.

For further assistance or additional information on this issue, please contact Lynn Ryder or Jeanne Flaherty at Employer’s Legal Advisor, Inc.

This publication is designed only to provide general information on the topics covered. It is not intended to provide legal advice or render a legal opinion on any specific matters. Readers should not act upon this information without seeking professional counsel. ©Employer’s Legal Advisor, Inc. All rights reserved.