



FMLA Rights Expanded For Military Families

On January 28, 2008, President Bush signed into law an expansion of the Family and Medical Leave Act of 1993 (FMLA). The expanded FMLA provides two additional leave entitlements for employees with family who are serving in the Armed Forces.

First, the FMLA now requires employers to permit a “spouse, son, daughter, parent, or next of kin” to take up to 26 workweeks of leave to care for a “member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.”

This expansion of FMLA leave rights is effective immediately. The United States Department of Labor has indicated that it is working quickly to prepare more comprehensive regulations or other guidance regarding employer and employee rights and responsibilities under these new FMLA provisions. In the interim, the Department will require employers to act in good faith in providing leave under the new legislation. The Department has also suggested that employers should rely on generally applicable FMLA regulations as they consider how to implement the new leave requirements.

A second new FMLA provision permits an employee to take FMLA leave for “any qualifying exigency” in connection with a family member who is in the Armed Forces. This particular provision specifically states it will not take effect until the Department of Labor defines the term “qualifying exigency.” However, the Department suggests that employers make a good faith effort to provide such leave. We will remain alert to Department publications on this issue and will notify you as soon as the Department publishes any such information.

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