

# Employer • Alert

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## NEW FMLA EXPANSION

On January 28, 2008, President Bush signed into law new legislation that expands Family Medical Leave Act ("FMLA") coverage for employees with family members in the military. The new legislation requires FMLA eligible employers to provide up to 26 weeks of FMLA leave during a 12-month period to allow a spouse, child, parent, or nearest blood relative to care for an injured service member in the Armed Forces who has incurred a serious injury or illness while on active duty that may render the member medically unable to perform the duties of his or her office, grade, rank, or rating. This provision, which takes effect immediately, applies to service members who are undergoing medical treatment, recuperation, or therapy, are in outpatient status or are on the temporary disability retired list, for a serious injury or illness.

Additionally, the new legislation will require FMLA eligible employers to provide up to 12 weeks of leave to an employee whose spouse, child or parent is on active duty or is called up for active duty in the Armed Forces due to a "qualifying exigency" arising out of the family member's service or notification of impending service. To fully implement this provision, the Department of Labor will be issuing regulations defining "qualifying exigency." An employer may require an employee requesting such leave to provide certification showing that the service member is on active duty or has been called up for active duty. **Most of the provisions of the FMLA are unchanged, such as employee eligibility requirements and employer coverage.**

Our advice is that employers amend their FMLA policies to reflect this new service member coverage. In doing so, remember that the other FMLA requirements, such as health insurance continuation and reinstatement rights, apply to this new type of leave, and to coordinate the policy with any applicable state law requirements.

### QUESTIONS OR ASSISTANCE?

If you have any questions about the new FMLA legislation, or need assistance amending your policy, please contact Shari Goodstein at (203) 324-8161, Eric Lubochinski at (203) 324-8154 or Henry Zaccardi at (860) 251-5737.

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