



Employment Law Alert

Legal developments affecting human resource management

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Additional changes to military-related FMLA leave now in effect

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President Obama recently signed into law the Fiscal Year 2010 National Defense Authorization Act (H.R. 2647), which includes some changes to the military-related leaves of absence in the federal Family and Medical Leave Act of 1993 (FMLA). Employers should revise their existing FMLA policy, as well as the related notices to employees, as soon as possible to reflect these changes.

The amendment makes changes to both the Qualified Exigency Leave and the Military Caregiver Leave provisions of the FMLA. Qualified Exigency Leave has been expanded to apply not only to eligible employees who have family members on “Covered Active Duty” in the National Guard or Reserves, but also to eligible employees who have family members on “Covered Active Duty” in the regular Armed Forces. The amendment has also revised the definition of “Covered Active Duty”: for members of the Armed Forces, “Covered Active Duty” means duty during the deployment of the member with the Armed Forces to a foreign country; in the case of a member of a reserve component of the Armed Forces, “Covered Active Duty” means duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty.

Military Caregiver Leave has been expanded to apply to care for certain veterans. Previously, Military Caregiver Leave could be taken by eligible employees to help a family member who is a current member of the Armed Forces, including the National Guard and 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 incurred in the line of duty on active duty. This leave may now be taken by eligible employees to help a family member who is a veteran undergoing treatment for a serious illness or injury incurred in the line of active duty and who was a member of the Armed Forces, including the National Guard or Reserves, within the five years preceding the treatment.

Employers who would like our assistance in making these changes should contact their regular Nixon Peabody attorney or:

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