

Expansion of FMLA Leave for Military Families

Legal Alert
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Recent federal law expanded the exigency and caregiver leave provisions for military families under the Family and Medical Leave Act (FMLA), effective immediately.

Caregiver Leave

As of January 2008, employees could take up to 26 weeks of unpaid leave to care for a family member (spouse, parent, son, daughter, or next of kin) who is currently undergoing treatment, recuperation or therapy for a serious injury or illness sustained while on active duty.

Now, employees can take up to 26 weeks of unpaid leave to care for a family member who is a *veteran* and who is undergoing medical treatment, recuperation or therapy for a serious injury or illness sustained *any time during the 5 years preceding the treatment in the line of active duty*.

The new law also includes leave for care for a servicemember whose serious injury or illness was incurred before the servicemember's active duty but was *aggravated* by military service in the line of active duty.

Exigency Leave

As of January 2008, employees could take up to 12 weeks of unpaid leave for qualifying exigencies relating to a call to active service of a *reservist* family member (spouse, son, daughter, or parent) in support of a contingency operation.

Now, FMLA extends exigency leave benefits to the family member of *any active duty servicemember* being deployed to a foreign country. It also omits the reference to contingency operations.

Steps employers should take to achieve compliance:

1. Revise your FMLA policy (and forms) to reflect that caregiver leave now extends to family members of veterans, not just family members injured in active duty.
2. Revise your FMLA policy (and forms) to include family members of active duty servicemembers (not just reservists) under the exigency leave provisions, and remove any references to contingency operations.

3. Communicate these policy changes to managers and any other personnel who administer your leave policies.