



## One Minute Memo<sup>®</sup>

# Family And Medical Leave Act Amended To Expand Family Military Leave Rights

On October 28, 2009, as part of the Fiscal Year 2010 National Defense Authorization Act, the Family and Medical Leave Act ("FMLA") was amended to expand exigency and military caregiver leave.

The FMLA, as originally enacted in 1993, provides job protected leave for the birth, adoption, or foster care placement of a child, an employee's serious health condition, and to care for a parent, child, or spouse with a serious health condition. FMLA applies to private employers with 50 or more employees and to all public employers. An eligible employee must have worked for the employer for one year, worked 1250 hours in the 12 months prior to the leave, and work at a facility with 50 or more employees within a 75-mile radius.

In January 2008, the FMLA was amended to allow for up to 12 weeks of leave for a qualifying exigency arising out of the deployment to active duty of an employee's parent, child, or spouse ("Exigency Leave"). The FMLA was also amended to add up to 26 weeks of leave to care for a family member (parent, child, spouse, next of kin) who is injured while serving on active military duty ("Military Caregiver Leave"). Revised FMLA regulations, which included new regulations interpreting the January 2008 Amendment, went into effect on January 16, 2009.

The October 2009 amendment changes the FMLA in two ways:

- The law is expanded to allow for Exigency Leave for active duty service of an employee's parent, child, or spouse. The January 2008 amendment only allowed for exigency leave for those family members called up to active duty from the National Guard or reserves.
- The Military Caregiver portion of the law is clarified to allow for leave to care for an employee's qualifying family member who is undergoing medical treatment, recuperation or therapy for a serious illness or injury that occurred any time during the five years preceding the date of treatment.

Employers should review their FMLA policies and make appropriate changes. For more information, please contact the Seyfarth Shaw attorney with whom you work, or any attorney in our Labor and Employment Department.

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