



ATTORNEYS AT LAW

## MG&C CLIENT ALERT

### FMLA AMENDMENTS BROADEN SCOPE OF EMPLOYEE BENEFITS

President Bush has signed the Defense Authorization Act which contains several amendments to the Family and Medical Leave Act (FMLA), taking effect *immediately* and *requiring employers to provide leave of up to 26 weeks to covered and eligible employees.*

These amendments give additional leave to employees who have family members in the military. In fact, the amendments create two new categories of FMLA leave:

- 1) **Leave during a family member's active duty**—Employees who have a spouse, parent or child on active duty in the Armed Forces may take up to 12 weeks of FMLA leave yearly when they experience a “qualifying exigency.”
- 2) **Injured servicemember leave**—Employees who are the spouse, parent, child or “next of kin” of a servicemember who has a serious illness or injury arising out of being on active duty may take up to 26 weeks of leave to care for the injured servicemember in one 12-month period. Employees may take injured servicemember leave intermittently but must use it up within 12 months. It applies broadly to servicemembers who are undergoing medical treatment, recuperation, or therapy, are in outpatient status, or otherwise are on the temporary disability retired list, for a serious injury or illness.

The Department of Labor will issue regulations that define “qualifying exigency” and further explain how to comply with these new amendments. Many questions are currently unanswered. However, employers **now** need to make a good faith effort to comply with these new requirements.

Compliance may be difficult when employers do not know exactly what the new terms and provisions mean. Therefore, it is important to consult with legal counsel when faced with a request for FMLA leave on this basis.

**IMPORTANT: Employers should amend their FMLA policies immediately to provide employees with notice of these new leave entitlements.**

Please contact Kris Cato at 803-227-2277 or Edward Rawl at 803-227-4930 with any questions or to receive assistance in amending your policy.

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