



## AN IMPORTANT AMENDMENT TO THE FMLA

The Employment and Labor Group at Metz Lewis Brodman Must O'Keefe LLC wishes to alert employers covered by the Family and Medical Leave Act of an important recent amendment to the FMLA.

On January 28, 2008, without much fanfare or advance notice, President Bush signed into law what is essentially the first amendment to the FMLA in the fifteen years since it went into effect. This law, known as the National Defense Authorization Act for Fiscal Year 2008 ("NDAA") (H.R. 4986), amends the FMLA to provide two new types of FMLA leave to employees with family members serving in the military.

First, it provides an employee up to 26 weeks of leave per year (as opposed to the typical 12 weeks) to care for a family member or "next of kin" (a phrase that is new to the FMLA) with a serious health condition when that condition is incurred by a member of the military while in the line of duty on active duty.

Second, it provides employees up to 12 weeks of leave per year "because of any qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation."

Notably, because this law appears silent on when its provisions become effective, the typical interpretation would be that it became effective the day of signing: January 28, 2008. However, because certain new phrases in the law, such as "any qualifying exigency", have yet to be defined by final regulations, we suspect that the Department of Labor will not hold employers to strict compliance until the final regulations are issued.

The Employment and Labor Group strongly recommends that covered employers take immediate steps to act now to be in good faith compliance with these new rules pending further regulatory guidance. Metz Lewis Brodman Must O'Keefe LLC stands ready to help your company or organization adjust to this change in a quick, appropriate and cost-effective way. Please contact us if we can be of service.