



ONE CHURCHILL PARK
3301 McCRADY ROAD
PITTSBURGH, PA 15235

TEL: 412-242-4400
FAX: 412-242-4377

NORTH HILLS
7500 BROOKTREE DRIVE
WEXFORD, PA 15090

TEL: 724-935-6990

LEGISLATION NEWS ALERT

President Bush Signs Expanded FMLA Coverage

For the first time since the Family and Medical Leave Act (FMLA) became law in 1993, its coverage has been expanded to include employees who are family members of those called for military service. The legislation was signed into law by President Bush effective January 28, 2008 as part of the National Defense Authorization Act for fiscal year 2008 and is effective immediately.

The amendments require employers to offer up to twelve (12) weeks of unpaid, job-protected leave as a result of any "qualifying exigency" as determined by regulations to be issued by the Department of Labor (DOL) arising from the spouse, son, daughter or parent of the employee being on active duty, or having been notified of an impending call or order to active duty, in the Armed Forces in support of a contingency operation. The amendments provide definitions of active duty, contingency operation, covered servicemember, outpatient status with respect to a covered servicemember, next of kin and serious injury or illness in the case of a member of the Armed Forces. The term "serious injury or illness" with regard to a member of the Armed Forces, which includes a member of the National Guard or Reserves, is defined as "an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank or rating." This definition is important in that the leave requirements of FMLA were further amended to provide an eligible employee, who is the spouse, son, daughter, parent or next of kin of a covered servicemember, with a total of 26 workweeks of leave during a 12

month period to care for the servicemember. This "Servicemember Family Leave" is only available during a single 12 month period.

The DOL has also drafted proposed regulations for consideration. The DOL proposed regulations define a "qualifying exigency" under the new provisions and also address other FMLA issues including requiring employees to give employers notice before taking leave, with exceptions for extenuating circumstances, and permitting employers to require an employee to provide an annual recertification from a doctor that the employee has a serious health condition. The proposed regulations will probably be published in the Federal Register as early as February and are anticipated to be finalized before the end of the year.

Since the FMLA amendments take effect immediately, please share this information with your entire Board.

The full text of the FMLA with the current amendments can be viewed on our website at www.mbm-law.net. Our experienced attorneys are prepared to assist you in preparing revised policies and personnel procedures to implement the new FMLA amendments, as well as the future regulations issued by DOL. Contact any one of our Public Sector Law Team Members at Maiello, Brungo & Maiello, LLP.

MB&M Public Sector Law Team:

Alfred C. Maiello	acm@mbm-law.net
Michael L. Brungo	mlb@mbm-law.net
Falco A. Muscante	fam@mbm-law.net
R. Russell Lucas, Jr.	rrl@mbm-law.net
David S. Bloom	dsb@mbm-law.net