

January 2008

## Contacts

If you have questions or would like more information, please contact any of the attorneys listed at the end of this Alert. Hunton & Williams' [labor and employment law practice](#) covers the entire spectrum of labor and employment litigation, arbitration, administrative practice before the NLRB, EEOC, and the DOL, federal contract compliance, wage-hour standards, workplace safety and health standards, workers' compensation, contractual rights and remedies, Sarbanes-Oxley and whistleblower claims, workplace investigations and client counseling under federal and state labor and employment laws. Hunton & Williams LLP provides legal services to corporations, financial institutions, governments and individuals, as well as to a broad array of other entities. Since our establishment more than a century ago, Hunton & Williams has grown to more than 1,000 attorneys serving clients in 100 countries from 19 offices around the world. While our practice has a strong industry focus on energy, financial services and life sciences, the depth and breadth of our experience extends to more than 100 separate practice areas, including bankruptcy and creditors' rights, commercial litigation, corporate transactions and securities law, intellectual property, international and government relations, regulatory law, products liability, and privacy and information management.

## Family And Medical Leave Act Expanded

For the first time since it was passed, the Family and Medical Leave Act ("FMLA") has been amended to expand coverage. The National Defense Authorization Act for Fiscal Year 2008 ("NDAA"), H.R. 4986, signed into law by President Bush on January 28, 2008, amends the FMLA to require employers to provide additional and, in some circumstances, lengthier leave to the family of members of the armed forces.

The FMLA, originally enacted in 1993, requires covered employers to allow employees up to 12 workweeks of unpaid leave for the birth of a child; for the adoption or foster placement of a child; to care for a spouse, son, daughter or parent with a serious health condition; or because of the employee's own serious health condition. Importantly, any employee taking leave under the FMLA also is entitled to reinstatement to the same or to a substantially similar position at the expiration of his or her leave period.

The NDAA adds to this framework by creating a special provision for employees seeking leave "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." Additionally, the NDAA adds a new provision entitled "Servicemember Family Leave," which requires that an employer allow a "spouse, son, daughter, parent, or next of kin" up to 26 workweeks of leave to care for a "Covered Servicemember."

The secretary of labor is currently working on regulations to define "qualifying exigency," and therefore, the implica-

tions of this portion of the amendment cannot be fully predicted. However, the "Servicemember Family Leave" provision is effective immediately, and in addition to increasing the maximum leave period from 12 weeks to 26 weeks for leave covered by its terms, it defines a "Covered Servicemember" expansively to include any member of the armed forces, National Guard or reserves "who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for serious injury or illness." Because this definition is significantly broader than the definition of a "serious health condition," family members of servicemembers will be entitled to leave in a greater number of situations under this provision.

### What Does This Mean For Employers?

It will be important for employers to update company policies and to educate managers and human resources personnel on the FMLA's expanded scope. Employers also need to plan for the impact of increased leave periods, given that employees taking FMLA leave must be reinstated to the same or substantially similar position at the end of the leave period. Because the secretary of labor has not yet defined what is a "qualifying exigency," employers and their legal counsel should be on the lookout for related regulations in the near future.

If you have any questions about this significant development, please do not hesitate to contact any member of our team.

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