

## **Labor & Employment Law Update**

Wednesday, November 4, 2009

### **President Obama Signs New Law Expanding FMLA Coverage**

President Obama just signed into law the National Defense Authorization Act for Fiscal Year 2010 ("NDAA 2010"), which further expands the coverage of the Family and Medical Leave Act of 1993 ("FMLA") available to military families. Through the NDAA 2010, family members of active duty members of the regular component of the Armed Forces are entitled to FMLA exigency leave under the same circumstances as family members of the Reserves or National Guard. In addition, the new law creates rights for family members of injured veterans to take military caregiver leave.

#### **Exigency Leave**

Under the previous law, "exigency leave" provided 12 weeks of leave in a 12-month period to employees whose spouse, child, or parent was in the National Guard or Reserve branches of the Armed Forces and was on active duty or notified of an impending call to active duty. Under the NDAA 2010, "exigency leave" is extended to cover eligible employees whose spouse, child, or parent is in the regular Armed Forces and deployed to a foreign country.

#### **Caregiver Leave**

Further, under the prior law, "caregiver leave" provided 26 weeks of leave in a single 12-month period to care for the serious injury or illness of a current servicemember in the Armed Forces, National Guard or Reserves who is the employee's spouse, child, parent, or next of kin. Under the NDAA 2010, this leave is expanded to include veterans, provided they were an active servicemember within five years of the date the veteran undergoes the medical treatment, recuperation, or therapy for a serious injury or illness. In addition, the definition of "serious injury or illness" has been expanded to include aggravations (in the line of duty while on active duty) of preexisting injuries, not just those injuries that occurred for the first time while on active duty.

The NDAA 2010, which amends the FMLA, takes effect immediately. Employers should be aware that the range of coverage and protections afforded to employees who have military family members are greatly expanded under this new law. Accordingly, employers are urged to review their organizations' FMLA policies and procedures for compliance. If you have any questions concerning the FMLA or need compliance assistance, please contact a Richards, Layton & Finger attorney.

