CLIENT ALERT: President Obama Signs into Law Amendments to the FMLA Expanding Coverage for Military Service Members and Their Families

On October 29, 2009, President Obama signed into law the Defense Authorization Act for 2010, which expands the exigency and caregiver leave provisions for military families under the Family and Medical Leave Act ("FMLA"). The leave provisions for military exigency and caregivers were originally established by recent amendments to the FMLA, effective January 2008.

As of January 2008, the FMLA provides eligible employees with a spouse, child, or parent on active duty or call to active duty in the National Guard or Reserves up to 12 weeks of leave to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings. The amendments effective in January 2008 also provide a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member who has a serious injury or illness incurred in the line of duty.

The Defense Authorization Act for 2010 amends and expands these leave benefits for military families. The exigency leave benefit now includes family members of active duty service members — not just family members of National Guard and Reservists. The caregiver leave provision now permits leave to care for veterans who are undergoing medical treatment for injury or illness that occurred any time during the five years preceding treatment.

Although these changes to the FMLA military leave provisions may apply to only a small number of employees, employers will once again need to modify their FMLA policies. Employers are therefore well-advised to consult with counsel to ensure that any revisions are in full compliance with the law.

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