

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

DIVISION OF STAFFING SERVICES

GENERAL INFORMATION BULLETIN No. 08-01

TO: Department and Agency Personnel and Human Resources Officers
FROM: Terry Jordan, Director of Staffing Services
SUBJECT: New FMLA Benefit for Family Members of Military Personnel
DATE: February 22, 2008

On January 28, 2008, President Bush signed into law an amendment to the FMLA to provide eligible employees working for covered employers additional leave rights related to military service. The Attendance and Leave Unit will issue detailed guidelines on this amendment in the near future. In the meantime, agencies with employees who may qualify for FMLA leave under the new criteria should contact the Attendance and Leave Unit at (518) 457-2295 for guidance.

This amendment permits an eligible spouse, son, daughter, parent, or next of kin of a covered service member to take up to 26 workweeks of leave in a single 12 month period to care for a family member who is a member of the Armed Forces (including a member of the National Guard or reserves) who is undergoing medical treatment, recuperation, or therapy, or is otherwise in outpatient status, or is on the temporary disability retired list for a serious injury or illness. In cases of leave for this purpose, the legislation adds a new category of eligible family member, "next of kin" which is defined in the amended FMLA guidelines as the nearest blood relative of the employee. The 26 week entitlement is a combined total of FMLA leave in a 12 month period and includes the 12 weeks of leave currently available under the FMLA.

This legislation also creates a new qualifying reason for FMLA leave. Eligible employees are entitled to up to 12 weeks of FMLA leave because of a "qualifying exigency" arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation. The statute requires the Secretary of Labor to issue regulations defining "any qualifying exigency." The United States Department of Labor will issue regulations on this point in the near future.

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