

Certain Connecticut Employees are Now Entitled to Military Caregiver Leave under Connecticut's Family Medical Leave Act

LABOR & EMPLOYMENT ALERT

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Effective May 21, 2009, Connecticut employers subject to Connecticut's Family Medical Leave Act are now required to offer military caregiver leave to all eligible employees under a new law approved by the General Assembly and signed by Governor M. Jodi Rell. Employers who are already subject to the federal FMLA provisions may recognize some of the provisions, though there are some differences between state and federal law.

Under the new Connecticut law, Military Caregiver Leave is a one time leave for any eligible employee to care for an immediate family member or next of kin who is a current member of the armed forces (i.e. the United States Army, Navy, Marine Corps, Coast Guard, Air Force, National Guard or the Reserves), sustained an injury or illness in the line of duty and is either: (1) undergoing medical treatment, recuperation, or therapy; (2) is an outpatient; or (3) is on the temporary disability retired list for their serious injury or illness.

Any employee who is a spouse, son or daughter, parent or next of kin of a service member is permitted to take military caregiver leave. "Next of kin" includes siblings, grandparents, aunts or uncles, cousins or family members who have been granted legal custody of the service member.

Under the private sector law, an employee is entitled to 26 weeks of leave within a 12-month period. The employer can start counting the 12-month period on the first day the employee takes leave. State employees are entitled to 26 weeks of leave within a more generous two year period.

An employee taking military caregiver leave is for all intents and purpose treated like any employee taking unpaid medical leave under Connecticut's Family Medical Leave Act. Therefore, in the private sector, an employer can request medical certification from the service member's health care provider. Additionally, husbands and wives who work for the same employer are only entitled to a **total** of 26 weeks in a 12 month period. Finally, as is always the case, the employee must be reinstated to his or her original position or an equivalent position after returning from leave.

Employers should immediately incorporate military caregiver leave in their FMLA policies and update their forms accordingly to ensure compliance.

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