

Know your Indiana Military Family Leave Act responsibilities

The continuing military conflicts in Iraq and Afghanistan have found increasing numbers of Indiana National Guard members and reservists being called to duty.

Federal law has long provided protection for employees who honor their military commitments under the Uniformed Services Employment and Reemployment Rights Act.

Now Indiana has joined a growing number of states that require midsize and larger employers to provide job-protected leave to eligible employees who have family members on active duty in the U.S. armed forces and the Indiana National Guard.

The law is expected to have a significant impact on Indiana employers since more than 37,000 Indiana residents serve in the military or in National Guard units.

Note, though, that the deployed family member doesn't have to be an Indiana resident. *(For more on the law's requirements, see "Who is eligible for MFLA leave?" in box below.)*

Protected leave

Indiana's Military Family Leave Act (MFLA), authored by state Rep. Dennis Avery, D-Evansville, became effective July 1, 2007. Patterned somewhat after the FMLA, the MFLA is designed to allow employees to take up to 10 days off from work per year to spend time with a family member who has been called to or is returning from active military duty.

Employees who take military family leave are entitled to return to the same or an equivalent job at the end of their leave unless the employer can prove that the reason for not restoring the employee was unrelated to the employee exercising his or her rights under the act. Employees also are entitled to continuation of their group health benefits while on leave.

MFLA and other leave

Similar to the FMLA, the Indiana MFLA allows an employer to require employees to substitute earned paid vacation, personal leave or other paid leave available for any part of the 10 days of otherwise unpaid leave. If the employer does not require the employee to use such paid leave, the employee still may elect to do so. If the employer requires or the employee elects to use earned paid leave, those days count toward the 10-day total.

In other words, the employee is not entitled to an additional 10 unpaid days of leave. Rather, the employee is entitled to up to 10 days of job-protected leave, whether those days are paid, unpaid or some combination of paid and unpaid.

Employees are required to give their employers written notice—including a copy of active-duty orders, if they are available—before taking military family leave. Employees must provide at least 30 days' notice to their

employer before the date that the requested leave is to begin, unless the active-duty orders are issued less than 30 days before the starting date of the requested leave.

Employers also may require verification of an employee's eligibility for leave. If an employee does not provide verification, the employer may treat the absence as unexcused.

Administrative issues

Although the new law does not require employers to post notices or issue written policies regarding military family leave, covered employers should consider updating their employee handbooks and other manuals to include such policies.

Covered employers also should track leave requests, eligibility and leave taken by employees utilizing the MFLA, just as they do for other incidents of leave entitlements, such as FMLA leave.

Who is eligible for MFLA leave?

Indiana's Military Family Leave Act (MFLA)—in force throughout Indiana and all its political subdivisions—applies to all employers who had 50 or more employees for each working day during each of at least 20 calendar workweeks.

The MFLA makes job-protected leave available to parents, grandparents, siblings and spouses (but not children) of individuals on active duty in the U.S. armed forces, the Indiana National Guard or the Indiana Air National Guard. "Active duty" is defined as full-time service on active-duty orders for a period that exceeds 89 consecutive calendar days.

To be eligible for such leave, an employee must have:

- Been employed by the employer for at least 12 months.
- Worked at least 1,500 hours during the 12-month period immediately preceding the date that the leave is to begin.

Family military leave can be taken all at once or sporadically throughout the year during one or more of the following time periods:

- The 30 days before the active-duty orders are in effect.
- During a leave provided to the person on active duty while the active-duty orders are in effect.
- The 30 days immediately following the termination of the active-duty orders.