



## Washington State Expands Employee Leave Entitlements

*Governor Christine Gregoire recently signed into law legislation that requires Washington employers to provide two new types of job-protected leave for their employees. The new Military Family Leave Act guarantees eligible employees leave to spend with their military spouses before or during deployment. A separate law allows victims of domestic violence, sexual assault or stalking and their family members reasonable leave from work for legal or law enforcement assistance, medical treatment or counseling.*

### Background

Washington's [SB 6447](#) is intended to ensure that the spouses of active duty military personnel are able to spend time with them before deployment and during leave from deployment. The bill became law on March 19, and will take effect June 12. Another law ([HB 2602](#)), which took effect April 1, enables victims of domestic violence, sexual assault or stalking and their family members to recover from and cope with the effects of such violence and to participate in related legal proceedings without jeopardizing their jobs.

### The New Military Family Leave Law

Under the new law, employers must provide job-protected leave to an eligible employee whose spouse is a member of the United States armed forces, National Guard, or reserves who has been called to active duty, has been deployed, or is on leave from deployment during a period of military conflict. In similar circumstances, the new military family leave entitlement under the federal Family and Medical Leave Act would extend more broadly to all immediate family members (i.e., spouse, child and parent) of active duty military personnel. (See our January 31, 2008 [For Your Information](#).)

**BUCK COMMENT.** *Washington joins seven other states that have enacted similar leave laws, including California (see our October 16, 2007 [For Your Information](#)), Illinois, Indiana, Maine, Minnesota, Nebraska and New York.*

All Washington public and private sector employers, regardless of size, are subject to this new law. Its benefits extend to employees (excluding independent contractors) who perform services for hire for an average of 20

hours or more per week. Leave under this law is unpaid, and is capped at fifteen days per deployment. Employees may, however, elect to substitute accrued leave for any part of their military family leave entitlement.

To qualify for this new benefit, the employee must provide the employer with notice of an intended leave within five business days of receiving official notice of a military spouse's leave from deployment or of an impending call to active duty. Following leave, the employee must be restored to the same or an equivalent position without the loss of any pay or benefits accrued prior to the leave.

During leave, the employer must continue medical or dental benefits if the employer's policy or collective bargaining agreement requires. If it does not, the employee must be allowed to continue benefits during leave at his or her own expense, not to exceed 102% of the applicable premium.

This law also increases from 15 to 21 days the annual paid military leave for public employees who also serve in the National Guard or reserves. This leave is in addition to any vacation or sick leave to which the employee is otherwise entitled.

## **The New Domestic Violence/Sexual Assault Leave Law**

All public and private employers, regardless of size, are subject to another new employee leave law. Under this law, employers must allow victims of domestic violence, sexual assault, or stalking and their family members to take leave from work for the following reasons –

- to seek legal or law enforcement assistance or to prepare for or participate in related legal proceedings
- to seek health care treatment for physical or mental injuries, or to attend such treatment for a family member
- to obtain (or assist a family member to obtain) services from a domestic violence shelter, rape crisis center or other social services program
- to obtain (or assist a family member to obtain) mental health counseling
- to participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family member.

For these purposes, a "family member" includes a child, spouse, parent, parent-in-law, grandparent or person with whom the employee has a "dating relationship."

Under the new law, employees may elect to use sick leave or other paid time off, compensatory time, or unpaid leave for a qualifying absence. Leave may be taken in blocks of time, intermittently or on a reduced leave schedule. The new law limits the amount of time an employee may take to a "reasonable" amount, but fails to specify what is reasonable.

To qualify for leave, an employee must provide the employer advance notice. The timing of this notice should be consistent with the employer's stated leave policy, if one exists. When advance notice cannot be given due to emergency or unforeseen circumstances, the employee must give notice on or before the end of the first day he or she takes leave. Employers can require verification of the need for leave (e.g., police reports, court documents, proof of a familial relationship) and must maintain all such information confidentially.

The employer must generally maintain health coverage for an employee who takes leave under this new law at the same level and under the same conditions as if the employee had not taken leave. Upon return from leave, the employee must generally be restored to the same or an equivalent position without the loss of any pay or benefits accrued prior to the leave.

### **Effective Date**

The new leave law relating to domestic violence, sexual assault and stalking took effect April 1, 2008. The Military Family Leave law will take effect June 12, 2008.

### **Conclusion**

Employers with Washington-based employees should review their leave policies, practices and procedures to ensure compliance with these new laws. Buck's consultants would be pleased to assist you in meeting your obligations under the new state requirements.

---

*This FYI is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.*