



FACT SHEET: PROPOSED RULEMAKING TO IMPLEMENT STATUTORY AMENDMENTS TO THE FAMILY AND MEDICAL LEAVE ACT

The Family and Medical Leave Act (FMLA) was recently amended to expand the military family leave provisions and to incorporate a special eligibility provision for airline flight crew employees. The Department is issuing a Notice of Proposed Rulemaking (FMLA Statutory Amendments NPRM) implementing and interpreting these statutory amendments and making some additional regulatory changes.

The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons. Eligible employees may take up to twelve workweeks of FMLA leave in a 12-month period for the birth, adoption or placement of a child, to care for a family member with a serious health condition, or because they are unable to work due to their own serious health condition. The FMLA was amended in 2008 to add special military family leave entitlements to provide an expanded leave entitlement to permit eligible employees who are the spouse, son, daughter, parent, or next of kin of a servicemember (National Guard, Reserves, or Regular Armed Forces) with a serious injury or illness incurred in the line of duty to take up to twenty-six workweeks of FMLA leave during a single 12-month period to care for their family member (military caregiver leave), and to allow eligible employees whose spouse, child, or parent is called up for active duty in the National Guard or Reserves to take up to twelve workweeks of FMLA leave for “qualifying exigencies” related to the call-up of their family member (qualifying exigency leave).

Amendments to the Military Family Leave Provisions

- The proposal expands coverage for military caregiver leave for the first time to include care for covered veterans with a serious injury or illness. The proposal includes the statutory amendment’s limitation on coverage to care for veterans to veterans who have been discharged within the five preceding years. The proposal also expands military caregiver leave to cover serious injuries or illnesses that result from the aggravation of a preexisting condition in the line of duty for both active duty servicemembers and covered veterans.
- The proposal expands the military family leave provisions of the FMLA by extending qualifying exigency leave to include employees whose family members serve in the Regular Armed Forces (in addition to the National Guard and Reserves). The proposal also adds the new statutory requirement that the employee’s family member be deployed to a foreign country (this requirement applies to National Guard, Reserves, and Regular Armed Forces members).

Airline Flight Crew Amendments

- The proposal implements a new special minimum hours of service eligibility requirement for airline flight crew employees. In addition to other requirements, in order to be eligible to take FMLA leave employees must have worked for their employer for 1250 hours in the 12 months preceding their leave – this standard was difficult for flight crew employees to meet due to the unique requirements of the airline industry.
- Under the statutory amendments, airline flight crew employees will meet the hours of service eligibility requirement if they have worked or been paid for not less than 60 percent of the applicable total monthly guarantee and have worked or been paid for not less than 504 hours during the 12 months prior to their leave.

Major Provisions of the FMLA Statutory Amendments NPRM

The major provisions of the NPRM include:

- the extension of military caregiver leave to eligible family members of covered veterans with a serious injury or illness;
- a flexible, three part definition for serious injury or illness of a veteran;
- the extension of military caregiver leave to cover serious injuries or illnesses that result from the aggravation during military service of a preexisting condition for both current servicemembers and veterans;
- the extension of qualifying exigency leave to eligible family members of members of the Regular Armed Forces;
- inclusion of a foreign deployment requirement for qualifying exigency leave for the deployment of all servicemembers (National Guard, Reserves, Regular Armed Forces);
- the addition of a special hours of service eligibility requirement for airline flight crew employees; and
- the addition of specific provisions for calculating the amount of FMLA leave used by airline flight crew employees.

The Department encourages interested parties who to submit comments on this proposal. The full text of the FMLA Statutory Amendments NPRM, as well as information on the deadline for submitting comments and the procedures for submitting comments can be found at the Wage and Hour Division's [Proposed Rule Website](#).

For additional information on the FMLA, including information on the military family leave entitlements, please visit www.dol.gov/whd/fmla.