



## Leave Provisions for Military Families

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Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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## Leave Provisions for Military Families

**Reference Number:** MTAS-859

### ***Military Caregiver Leave***

The National Defense Authorization Act (NDAA) provided a new leave entitlement of up to 26 weeks to care for a covered service member with a serious injury or illness. An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member, who is recovering from a serious illness or injury sustained in the line of duty, is entitled to up to 26 weeks of leave in a single 12-month period to care for the service member.

### ***Definition of Covered Service Member***

*A covered service member is a member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.*

### ***Qualified Exigency Leave (QE)***

The NDAA provides a new reason for leave under FMLA to allow families of National Guard, regular Armed Forces, Reserve personnel, and eligible veterans to take FMLA job-protected leave to manage their responsibilities called qualifying exigencies.

- An eligible employee may be entitled to up to 12 weeks of leave due to a “qualifying exigency” arising from the fact that the spouse, son, daughter, or parent of the employee is in the line of duty on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation.
- Qualifying Exigency Leave was recently clarified by NDAA of 2010 to apply to *veterans who served in the regular Armed Forces or the Reserves* within five years of the date the veterans undergo medical treatment, recuperation or therapy. Previously, military caregiver leave was only available to care for current members of the Armed Forces, Guard or Reserves.

### ***Qualified Exigency: As defined by DOL Fact Sheet 28A***

Qualifying exigencies include:

- Issues arising from a covered military member’s short notice deployment (i.e., deployment on seven or less days of notice) for a period of seven days from the date of notification;
- Military events and related activities, such as official ceremonies, programs, or events sponsored by the military or family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the active duty or call to active duty status of a covered military member;
- Certain childcare and related activities arising from the active duty or call to active duty status of a covered military member, such as arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling or transferring a child in a new school or day care facility, and attending certain meetings at a school or a day care facility if they are necessary due to circumstances arising from the active duty or call to active duty of the covered military member;
- Making or updating financial and legal arrangements to address a covered military member’s absence;
- Attending counseling provided by someone other than a health care provider for oneself, the covered military member, or the child of the covered military member, the need for which arises from the active duty or call to active duty status of the covered military member;

- Taking up to **five** days of leave to spend time with a covered military member who is on short-term temporary, rest and recuperation leave during deployment;
  - Attending to certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the covered military member's active duty status, and addressing issues arising from the death of a covered military member;
  - Any other event that the employee and employer agree is a qualifying exigency.
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