

FMLA AMENDMENT RELATING TO MILITARY SERVICE ISSUES

On January 28, 2008, President Bush signed into law The National Defense Authorization Act (“NDAA”) for 2008. This new law amends the Family and Medical Leave Act to permit a “spouse, son, daughter, parent, or next of kin” to take up to 26 workweeks of leave to care for 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.” The covered “serious injury or illness” is one that was incurred in the line of duty while on active duty. “Next of kin” is the nearest blood relative of the injured/sick service member. The effective date of this new leave entitlement is January 28, 2008, the date President Bush signed it into law.

In addition to the new leave entitlement, the 2008 FMLA amendment also provides for an expansion of FMLA leave entitlement, permitting an employee to take FMLA leave for “any qualifying exigency (as the Secretary [of Labor] shall, by

regulation, determine) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.” This provision of the NDAA will not become effective until the Department of Labor issues its regulations defining “any qualifying exigency.”

In summary, the 2008 NDAA amendment to the FMLA expands an employee’s FMLA entitlement as follows:

- By giving the employee up to 26 workweeks because a listed military family member has a serious injury or illness incurred in the line of duty while on active duty — this provision is effective now.
- By expanding FMLA leave entitlement — i.e. the 12 workweeks — to cover dislocations and the like caused by a call to active duty — this provision is awaiting the USDOL’s regulation before it becomes effective.

This Alert has been provided for information of clients and friends of McAfee & Taft A Professional Corporation. It does not provide legal advice, and it is not intended to create a lawyer-client relationship. Readers should not act upon the information in this Alert without seeking professional counsel.

MCAFFEE & TAFT LABOR & EMPLOYMENT ATTORNEYS

LAUREN E. B ARGHOLS

lauren.barghols@mcafeetaft.com
(405) 552-2343

TIMOTHY J. BOMHOFF

tim.bomhoff@mcafeetaft.com
(405) 552-2339

BRANDON L. BUCHANAN

brandon.buchanan@mcafeetaft.com
(405) 552-2307

VICKIE J. BUCHANAN

vickie.buchanan@mcafeetaft.com
(405) 552-2331

TODD COURT

todd.court@mcafeetaft.com
(405) 552-2330

JACQUE BRAWNER DEAN

jacque.dean@mcafeetaft.com
(405) 552-2364

BRADLEY K. DONNELL

brad.donnell@mcafeetaft.com
(405) 552-2308

MARK FOLGER

mark.folger@mcafeetaft.com
(405) 552-2327

SAM R. FULKERSON

sam.fulkerson@mcafeetaft.com
(405) 552-2369

SHAWN E. HARRELL

shawn.harrell@mcafeetaft.com
(405) 552-2205

RODNEY K. HUNSINGER

rodney.hunsinger@mcafeetaft.com
(405) 552-2275

DITTY S. JOHN

ditty.john@mcafeetaft.com
(405) 552-2235

BERNARD JONES

bernard.jones@mcafeetaft.com
(405) 552-2351

MICHAEL F. LAUDERDALE

michael.lauderdale@mcafeetaft.com
(405) 552-2257

TONY G. PUCKETT

tony.puckett@mcafeetaft.com
(405) 552-2251

TAMARA S. PULLIN

tamara.pullin@mcafeetaft.com
(405) 552-2290

NATALIE K. RAMSEY

natalie.ramsey@mcafeetaft.com
(405) 552-2325

PAUL A. ROSS

paul.ross@mcafeetaft.com
(405) 552-2383

RICHARD J. SALAMY

richard.salamy@mcafeetaft.com
(405) 552-2232

RONALD T. SHINN, JR.

ron.shinn@mcafeetaft.com
(405) 552-2323

MARK D. SPENCER

mark.spencer@mcafeetaft.com
(405) 552-2368

PETER T. VAN DYKE

peter.vandyke@mcafeetaft.com
(405) 552-2211

DARA K. WANZER

dara.wanzer@mcafeetaft.com
(405) 552-2340

JAMES R. WEBB

jim.webb@mcafeetaft.com
(405) 552-2246

NATHAN L. WHATLEY

nathan.whatley@mcafeetaft.com
(405) 552-2365

AMY D. WHITE

amy.white@mcafeetaft.com
(405) 552-2337

ELIZABETH SCOTT WOOD

elizabeth.wood@mcafeetaft.com
(405) 552-2270