



The Guardian

Helping to Protect You from Employment Law Claims

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WELCOME TO THE GUARDIAN

We are pleased to provide you with a complimentary copy of The Guardian, a free quarterly employment law publication from Boyle, Pecharich, Cline, Whittington and Stallings. Each quarter, The Guardian will inform you about important issues and developments in employment

Do You E-Verify? As many of you are probably aware, the Arizona legislature recently passed the Legal Arizona Workers Act ("Act") (ARS §23-211 *et seq.*). Essentially, the new Act requires that, in addition to the Form I-9 compliance procedures, all Arizona employers must use the federal government's Basic Pilot Program of Employment Eligibility Verification (now called "E-Verify") for all new hires after December 31, 2007. You may register online for the E-Verify system by logging into the following website: www.vis-dhs.com. The Act specifically states that employment eligibility is only to be verified "after hiring an employee."

NEW FMLA MILITARY LEAVE PROVISIONS

Congress recently made two important amendments to the FMLA for service members and their families. They are as follows:

SERVICE MEMBER FAMILY LEAVE: Effective immediately, the National Defense Appropriations Act ("NDAA") amends the FMLA to permit a spouse, child, parent or next of kin (defined as the "nearest blood relative") to take up to 26 workweeks of leave in order to care for a member of the Armed Forces who is undergoing medical treatment or therapy, recuperation or is otherwise in outpatient status or on temporary disability retirement for a serious injury or illness. For the purposes of service member leave, a "serious injury or illness" means an injury or illness which was incurred "in the line of active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating." This type of leave "is only available during a single 12-month period," and an employee is limited to a combined total of 26 weeks of FMLA leave, whether it is taken for care of a service member or for another FMLA qualifying reason.

"QUALIFYING EXIGENCY" LEAVE. A second amendment, which has not taken effect yet, will permit an employee to take up to 12 weeks of FMLA leave for "any qualifying exigency" arising out of the fact that the spouse, child or parent of the employee is on active duty or has been called up for active duty. This provision will become effective once the Secretary of Labor issues final regulations defining a "qualifying exigency." In the meantime, however, the DOL "encourages employers to provide this type of leave to qualifying employees." This provision is intended to cover situations where, because of a family member's active duty status or impending call to active duty, the employee is needed to provide care for family members or attend to other family needs necessitated by the service member's absence.

In light of these amendments to the FMLA, all employers should review and update their FMLA policies and forms accordingly. Please contact the attorney of your choice at Boyle, Pecharich, Cline, Whittington & Stallings, PLLC for assistance.

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