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## **New Ohio Law Requires Two Weeks of Military Family Leave for Employers With 50 or More Employees**

Effective July 2, 2010, Ohio law requires employers with 50 or more employees to provide up to two weeks of unpaid leave to an employee who is the spouse or parent of a member of the uniformed services called to active duty or injured while on active duty. The Ohio law, unlike the federal Family and Medical Leave Act (FMLA), applies regardless of whether those 50 employees are located within a 75-mile radius.

Pursuant to Ohio Revised Code Chapter 5906, once per calendar year, eligible employees may take leave up to 10 days or 80 hours, whichever is less, under the following conditions:

### **EMPLOYEE/LEAVE ELIGIBILITY**

- The employer has employed the employee for at least 12 consecutive months and for at least 1,250 hours in the 12 months immediately preceding commencement of the leave.
- The employee is the parent, spouse or a person who has or had legal custody of a person who is a member of the uniformed services and who is called into active duty in the uniformed services for a period longer than 30 days or is injured, wounded or hospitalized while serving on active duty in the uniformed services.
- The dates on which the employee takes leave occur no more than two weeks prior to or one week after the deployment date of the employee's spouse, child or ward or former ward.
- The employee does not have any other leave available to use except sick leave or disability leave.

### **EMPLOYEE OBLIGATIONS**

- The employee must provide the employer with at least 14 days' notice of the intent to take leave because of a call to active duty and at least two days prior to leave taken because of an injury, wound or hospitalization. No notice to the employer is required if the employee receives notice from a representative of the uniformed services that the injury or hospitalization is of a critical or life-threatening nature.
- The employee must supply certification from the appropriate military authority upon request of the employer.



## EMPLOYER RIGHTS AND OBLIGATIONS

- The employer must continue to provide benefits to the employee during this leave. The employee is responsible for the same proportion of cost of the benefits as he or she regularly pays.
- The employer must restore the employee to the position he or she held prior to taking leave with equivalent seniority, benefits, pay and other terms and conditions of employment.
- The employer may require the employee to provide certification from the appropriate military authority to verify that the employee satisfies the criteria for leave.
- The employer can require the employee to exhaust other available leave before granting this leave.

## UNLAWFUL ACTS BY EMPLOYERS AND REMEDIES

- An employer may not interfere with, restrain or deny the exercise or attempted exercise of a right to leave.
- An employer may not discharge, fine, suspend, expel, discipline or discriminate against an employee with respect to any term or condition of employment because of the employee's actual or potential exercise, or support for another employee's exercise, of leave rights.
- Use of this leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.
- An employer cannot require an employee to waive leave rights.
- After July 2, 2010, an employer may not enter into a collective bargaining agreement or employee benefit plan that limits or requires an employee to waive leave rights.

Employees may bring a civil action for injunctive relief or any other relief that a court finds necessary to secure leave rights.

## FOR MORE INFORMATION

For more information, contact any Thompson Hine **Labor & Employment** lawyer.

If you do not wish to receive future communications by email, please send an email with "unsubscribe: Employment @lert" in the subject line to [Heidi.Moreno@ThompsonHine.com](mailto:Heidi.Moreno@ThompsonHine.com).

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