

Legislative Analysis



FAMILY MILITARY LEAVE ACT

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House Bill 5632 (Substitute H-1)

Sponsor: Rep. Brian Calley

Committee: Military and Veterans Affairs and Homeland Security

First Analysis (2-6-08)

BRIEF SUMMARY: The bill would create the Family Military Leave Act to allow, under certain conditions, 10 days (or 80 hours) of unpaid family military leave for the parents and spouses of individuals called to active military service, if an employer employs 15 or more people.

FISCAL IMPACT: The fiscal impact of the bill is indeterminate. (See [Fiscal Information](#) for more detail.)

THE APPARENT PROBLEM:

The United States of America is currently at war in Iraq. Soldiers can be deployed to the Middle East for 12-15-month tours of duty, during which time they are separated from their families.

When soldiers receive their deployment orders they and their families prepare for a long separation—a time when those who remain at home must assume the responsibilities of the soldier who leaves. All endure absence, and the possibility of grievous loss. And all await an uncertain future.

As deployment nears, military families require time together, both to strengthen family bonds, and to ensure an orderly transition as they take on new roles. That time is precious. It is also stressful if employed family members have limited or non-existent opportunities to miss work. For example, one Michigan employer allowed the wife of a soldier three days of leave before his deployment to Iraq (set to occur in Indiana), but denied her request for three days after. When she missed a half-day of work upon her return, she was fired from her part-time job—a job whose income she needed during her husband's absence.

Several states—California, Illinois, Indiana, Maine, Minnesota, Nebraska, and New York—have enacted family military leave acts, to provide up to ten days of unpaid leave to eligible employees who are spouses of deployed military servicemen and servicewomen. The leave may be taken when the military spouse is on leave from deployment during a time of military conflict. To help Michigan military families spend time together as the soldiers prepare to fight a war overseas, legislation has been introduced to create a Michigan Family Military Leave Act.

THE CONTENT OF THE BILL:

The bill would create a new act known as the Family Military Leave Act to allow family military leave from employment for parents and spouses of individuals called to active military service. The bill also prescribes certain rights and responsibilities of the employee and employer.

The term "employer" would be defined to mean an individual or entity that employs 15 or more employees, and includes the state and a local unit of government.

Employee Eligibility. The bill would require an employer to grant up to 10 days or 80 hours of family military leave (whichever is less) to an employee if all of the following conditions apply:

**The employee has been employed for at least 12 months and for at least 1,250 hours during the immediately preceding 12 months.

**The employee is the parent or spouse of an individual who is a member of one of the reserve components of the United States armed forces called into active duty for a period longer than 30 days.

**The employee gives at least 14 days' notice to the employer of the dates that he or she intends to take family military leave.

**The dates of the requested leave fall within two weeks before or one week after the deployment date.

**The employee has exhausted all accrued leave and compensatory time available, other than sick and disability leave.

The employer could require the employee requesting family military leave to provide certification from the proper military authority to verify eligibility.

Employer Obligations. An employer would be required to continue existing fringe benefits to the employee during family military leave, and the employee would be responsible for the same proportion of costs paid for benefits before the leave period. An employer could not deprive an employee who takes family military leave of any employment benefit that accrued before the date the new act begins. However, the employer would not be required to pay salary or wages to the employee while on family military leave. Upon expiration of the employee's family military leave, the employer would have to restore the employee to his or her position or to a position with equal seniority, benefits, pay and other terms and conditions of employment.

Under the bill, an employer could not interfere with, restrain, or deny the exercise or attempted exercise of a right provided under the new act. An employer could 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 of a right or because of an employee's support for another employee's exercise of a right. An employer could not require an employee to waive rights under the act. This section does not prevent an employer from taking employment action that is independent of the exercise of a right under the act.

Collective Bargaining Provisions. This act would not affect an employer's obligation to comply with any collective bargaining agreement or employee benefit plan that provides greater leave rights to employees than described in the act. An employee's right under this act could not be waived or diminished under a term in a collective bargaining agreement or employee benefit plan that takes affect after the effective date of this act.

Civil Action. An individual aggrieved by a violation of the act could bring an action in circuit court to enjoin the violation or for any other relief necessary to secure a right under the act.

Definition. The bill defines "armed forces of the United States" to mean all components, including reserve and national guard components, of the United States army, navy, air force, marine corps, and coast guard.

FISCAL INFORMATION:

The fiscal impact of the bill is indeterminate. There could be costs incurred by the state, as an employer, to pay for any increased overtime resulting from leave time taken by employees covered under the act. (Civil Service rules and union contracts would govern employee leave time policies for classified employees; the bill would apply to unclassified positions.) There could be increased overtime costs incurred by local units of government as well. However, in both instances, there also could be cost savings achieved because the leave time allowed under the bill could be unpaid. There would be a similar impact on private sector employers. All of this would have an impact on employee earnings which, in turn, would have an impact (albeit an indeterminate and not likely significant one) on tax revenue. Additionally, the Department of Military and Veterans Affairs could incur additional costs for certifying an employee's eligibility for leave.

ARGUMENTS:

For:

Ensuring military families 10-days leave during deployment, leave, or homecoming, without threat of job termination is not too much to ask in return for their defense of our country. During committee testimony, a military wife denied six days of military leave by her employer said: "The job of soldiers is to defend our country and the rights and freedoms of those who live here. The job of military families is to be their soldiers' support systems. The job of the citizens in the county is to be supportive of our soldiers and their families—to help make a difficult and sometimes unbearable time a little easier for those who are sacrificing their way of life to ensure the freedoms our citizens enjoy.

The job of legislators is to protect those who are making the sacrifices from those who would, for whatever reason, deny military families the most common of decencies. With the death of 3,800 plus soldiers, and more than that returning home wounded, I would think the reason for such a bill [as this] would be crystal clear."

POSITIONS:

The Department of Military and Veterans Affairs supports the bill. (1-30-08)

The Veterans of Foreign Wars support the bill. (1-30-08)

The Purple Heart Veterans Organization supports the bill. (1-30-08)

The American Legion Marine Corps League supports the bill. (1-30-08)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.