

Same Sex Spouses Now Covered by FMLA

By Final Rule published February 25, 2015, and effective March 27, 2015, the Family and Medical Leave Act of 1993 (“FMLA”) definition of spouse is amended to include persons in legally married same-sex couples. The change was made to respond to the U.S. Supreme Court’s decision that the Defense of Marriage Act is unconstitutional, and to make the FMLA consistent with many state laws, including Illinois’ marriage and civil union laws.

The amendment allows the following rights for eligible employees:

1. To take leave to care for a same-sex spouse with a serious health condition;
2. To take qualifying exigency leave due to a same-sex spouse’s covered military service;
3. To take military caregiver leave for a same-sex spouse

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4. To take leave to care for a stepchild (child of employee's same-sex spouse); and

5. To take leave to care for a stepparent who is a same-sex spouse of the employee's parent.

The Final Rule, 29 CFR 825.102, can be found at:
<http://www.dol.gov/whd/fmla/spouse/>

If you have questions about this Final Rule or about the FMLA, please contact one of our attorneys in Flossmoor (708-799-6766) or Oak Brook (630-928-1200).

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