

New Jersey Expands Family And SAFE Leave Protections And Benefits

New Jersey's governor just approved a significant expansion of the state's leave laws, permitting employees job-protected leave for a variety of new reasons while expanding available state-provided, income-replacement benefits. The February 19 action by Governor Phil Murphy expands existing job-protected leave under the Family Leave and SAFE Acts, and available benefits under Family Leave Insurance.

Increased Leave Protections Under The New Jersey Family Leave Act

Prior to the amendments, the New Jersey Family Leave Act required employers with 50 or more employees (counting those employed both in and outside New Jersey) to provide their New Jersey employees with 12 weeks of job-protected leave in a 24-month period to care for a family member (parent, parent-in-law, minor or disabled child, spouse, or civil union partner) with a serious health condition, or to bond with a newly born or adopted child ("bonding leave"). The new legislation extends coverage to employers with **30** or more employees effective June 30, 2019.

The other new provisions, which went into effect immediately, permit employees to take leave:

- to care for any child age 18 or older, a sibling, grandparent, grandchild, domestic partner, foster parent, any individual related by blood, or any other individual with a close association equivalent to a family relationship;
- for bonding with a newborn child conceived through a gestational carrier agreement, or with a newly placed foster child;
- for bonding on an intermittent basis (weeks or days) without employer consent;
- in full-day increments (reduced leave) over a period of 12 consecutive months (up from 24 consecutive weeks);
- on only 15 days of advance notice for intermittent bonding leave (employees must continue to provide 30 days advance notice for continuous bonding leave); and
- under the NJ SAFE Act when an eligible family member has been a victim of domestic violence or a sexually violent offense.

Increased Leave Protections Under The NJ SAFE Act

The New Jersey Security and Financial Empowerment Act (NJ SAFE Act) applies to employers with 25 or more employees and grants an employee 20 days of leave in a 12-month period if the employee, or the employee's family member, including a child (under 19 or of any age incapable of self-care), parent, spouse, domestic partner, or civil union partner, has been the victim of domestic violence or a sexually violent offense. Under the amended Act:

- eligible "family members" now include a parent-in-law, sibling, grandparent, grandchild, any individual related by blood, or any other individual with a close association equivalent of a family relationship;
- employers may no longer require employees to use accrued paid leave; and
- employees are now eligible for Family Leave Insurance benefits.

Increased Family Leave Insurance Benefits

Family Leave Insurance (NJFLI) provides New Jersey workers with benefits during time-off from work to bond with a newborn or newly adopted child, or to provide care for a seriously ill or injured family member. The program provides employees up to six weeks of benefits paid at rate of two-thirds of their pay, to a maximum of \$650. The new law will expand benefits to 12 weeks and increase the weekly benefits effective July 1, 2020 and broaden other protections immediately.

Changes Effective Immediately Include The Following:

- Benefits are available for leave to care for a child regardless of age, a child conceived through a gestational carrier agreement, sibling, grandparent, grandchild, parent-in-law, foster parent, any individual related by blood, or any other individual with a close association equivalent to a family relationship. (Previously, benefits were limited to a child under 19 or incapable of self-care, spouse, domestic partner, civil union partner or parent.)
- Employees taking NJ SAFE Leave Act are eligible for NJFLI Benefits.
- Employers may no longer require employees to use two weeks of paid time off in lieu of two weeks of NJFLI. Employees may elect to use their available PTO in addition to their NJFLI benefits.
- The seven-day waiting period has been eliminated.
- Employees now have to provide only 15 days of advance notice when requesting intermittent bonding leave. Employees must continue to provide 30 days advance notice for continuous bonding leave.
- Employers are prohibited from discharging, harassing, threatening, discriminating, or retaliating against an employee with respect to the compensation, terms,

conditions, or other privileges of employment, including reinstatement, because the employee took or requested NJFLI.

- Employees have multiple remedies in cases of retaliation.
- Employers will be fined for failing to comply with notice requirements regarding leave and benefits.

For Leave Commencing On Or After July 1, 2020, Changes Include The Following:

- Benefits are extended from six to twelve weeks during any 12-month period.
- Weekly benefits will increase from two-thirds (or 66 2/3 percent) of employee's average weekly wage to 85 percent; this change, too, applies to Temporary Disability Insurance benefits (TDB).
- Maximum weekly benefits increase from \$650 to approximately \$860. This applies to TBD also.
- Intermittent leave allotment increases from 42 days to 56 days.

What Should Employers Do Now?

Only a handful of states provide paid family leave benefits, and with this new legislation, New Jersey will provide some of the most generous benefits in the country. Understandably, small businesses fear the rapid expansion of employee benefits will adversely impact their bottom lines. For example, while employers do not contribute to NJFLI, many expect the expanded benefits will increase overtime to existing workers or to fees to hire temporary employees to cover the shifts of employees on leave protected by the Family Leave or SAFE Act.

Especially because many of its new requirements are effective immediately, you must promptly update your policies and practices to ensure compliance. Then, beginning June 30, 2019, the Family Leave Act expands its reach to employers with 30 employees. This will significantly increase the number of employers that must provide job-protected leave to their employees. Therefore, many smaller businesses will become subject to the law's requirement and must be ready.

You need to inform your managers and supervisors of your policy changes, and of prohibitions against retaliation. Finally, be on the lookout for updated notices from the New Jersey Department of Labor and Workforce Development. These notices must be posted at a conspicuous place at all worksites. The NJFLI notice must be distributed to all newly hired employees and employees requesting time-off for a reason that may qualify for benefits.