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New Jersey Expands Protections and Paid Leave Benefits for Employees Impacted by COVID-19

New Jersey has broadened the application of several existing laws and enacted new legislation as part of the state's ongoing response to the COVID-19 pandemic. Summarized below are two New Jersey laws that provide additional protections and paid leave benefits to New Jersey employees who have been impacted by COVID-19.

Expansion of Paid Leave Benefits for COVID-19-Related Purposes. Effective March 25, New Jersey's leave laws have been amended to expand coverage to workers impacted by epidemics of communicable diseases, such as the current COVID-19 pandemic. Notable aspects of the amendments include:

- Covered reasons for use of earned sick leave under the New Jersey Earned Sick Leave Law now include when employees are unable to work due to (1) the closure of their workplace, or the place of care or school of their child, due to the declaration of a state of emergency; (2) a declaration that the presence of the employee, or a family member the employee cares for, would cause a danger to the public; or (3) the employee, or a family member the employee cares for, needs to self-quarantine or isolate as a result of exposure or suspected exposure to a communicable disease.
- Under the New Jersey Family Leave Act, a "serious health condition" now includes an illness caused by, exposure or suspected exposure to, or efforts to prevent the spread of a communicable disease that requires in-home care or treatment of a family member of the employee. The leave must be due to (1) the issuance of a determination of a healthcare provider or a public health authority that the family member's presence in the community may jeopardize the health of others; or (2) the recommendation, direction, or order of the healthcare provider or an authority that the family member be isolated or quarantined because of suspected exposure.
- New Jersey's Temporary Disability Benefit and Family Leave Insurance laws have been similarly amended to expand the reasons for taking leave to cover certain COVID-19 situations. In addition, the amendments eliminate the seven-day waiting period for temporary disability benefits for COVID-19-related absences.

Prohibition from Penalizing Employees for Leave Due to Infectious Disease. This new law prohibits employers, during the Public Health Emergency and State of Emergency declared by the governor in Executive Order 103 of 2020 in response to the COVID-19 pandemic, from terminating or otherwise penalizing an employee who requests or takes time off from work based on the written or electronically transmitted recommendation of a New Jersey-licensed medical professional because the employee has, or is likely to have, an infectious disease that may infect others at the employee's workplace. When the employee returns to work from this leave, employers are required to reinstate the employee to the position that he or she held when the leave started, without impacting seniority, status, employment benefits, pay, or other terms and conditions of employment. In addition to the ability to file complaints with the Commissioner of Labor and Workforce Development due to an employer violation, the law provides aggrieved employees with a private right of action, allowing them to seek reinstatement. Employers may also be subject to a $2,500 fine for violating the law.

New Jersey's response to the COVID-19 crisis is rapidly evolving.

For more Day Pitney alerts and articles related to the impact of COVID-19, as well as information from other reliable sources, please visit our COVID-19 Resource Center.

COVID-19 DISCLAIMER: As you are aware, as a result of the COVID-19 pandemic, things are changing quickly and the effect, enforceability and interpretation of laws may be affected by future events. The material set forth in this document is not an unequivocal statement of law, but instead represents our best interpretation of where things stand as of the date of first publication. We have not attempted to address the potential impacts of all local, state and federal orders that may have been issued in response to the COVID-19 pandemic.

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