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NJ Leave Law Amendments: More Employers Affected, More Leave, More Covered Family Members and More Paid Benefits

On February 19, New Jersey Governor Phil Murphy signed into law one of the most expansive family leave laws in the country. This law broadens the criteria for employees to be eligible for family leave and increases the paid benefits employees may receive while on family leave. Some employers opposed the law, voicing concern that it would increase their need to pay overtime or to hire additional employees to accommodate additional leaves. Governor Murphy stated, however, that the new law is crucial because "no one should have to choose between earning a paycheck and spending time with a newborn child or caring for an ailing relative." Key highlights of the law are listed below.

With regard to job-protected family leave, the new law:

- Provides leave to employees of employers with 30 or more employees. Previously, only employers with 50 or more employees were covered. This change will become effective June 30, 2019.
- Expands the definition of "family member" to include siblings, adult non-disabled children, foster children, children of those who become parents through a valid agreement with a gestational carrier, grandparents, grandchildren, domestic partners, blood relatives and others with whom an employee has a "close association" equivalent to a family relationship. The prior definition included spouse, parent, parent-in-law, minor/disabled/adopted child, and civil union partner. The definition of family member will now be consistent under the New Jersey Family Leave Act, the New Jersey Paid Family Leave Insurance Law, the New Jersey SAFE Act and the New Jersey Earned Sick Leave Law. These changes are effective immediately.
- Requires employers to provide intermittent or reduced schedule leave to employees to care for their newborn and newly adopted or foster placed children. Such leave was previously only allowed if the employer agreed.
- Extends the length of time employees may take intermittent or reduced schedule leave from 24 weeks to 12 months.

With regard to paid family leave benefits, the new law:

- Eliminates the waiting period and prohibits employers from requiring employees to use their paid time off (e.g. sick, vacation) during leaves in which they are entitled to paid family leave benefits.
- Extends paid family leave benefits or temporary disability benefits to leaves under the New Jersey SAFE Act, which provides up to 20 days of leave to employees who are the victims of domestic violence or sexual assault or who care for a family member (as defined above) who is such a victim. The law also prohibits employers from requiring employees to use their available paid time off during such leave.
- Increases the amount of paid family leave benefits to which employees are entitled from six to 12 weeks of continuous leave and from 42 to 56 days of intermittent leave, effective July 1, 2020.
- Increases the maximum weekly paid family leave benefit to 85 percent of employees' weekly wage up to a maximum of 70 percent of the statewide average of remuneration paid to workers by employers, effective July 1, 2020.

Employers will now be liable for their failure to post certain notices in the workplace or to provide to the State of New Jersey information necessary to determine employees' eligibility for paid family leave benefits. In addition, the law expands protections for retaliation against employees based on their request or receipt of paid family leave or temporary disability benefits.

Governor Murphy has earmarked \$1.2 million to publicize the new law to address concerns that many employees were not aware of their entitlements. Given these changes, employers should review and revise their policies accordingly and prepare for employees' increased use of family leave.

Authors



Francine Esposito
Partner

Parsippany, NJ | (973) 966-8275
fesposito@daypitney.com



Heather Weine Brochin
Partner

Parsippany, NJ | (973) 966-8199
New York, NY | (212)-297-5800
hbrochin@daypitney.com



Rachel A. Gonzalez
Partner

Parsippany, NJ | (973) 966-8201
New York, NY | (212) 297-5800
rgonzalez@daypitney.com



Theresa A. Kelly
Partner

Parsippany, NJ | (973) 966-8168

tkelly@daypitney.com