

Employment Counseling & Litigation

February 22, 2019

Governor Phil Murphy Signs Expansive New Jersey Family Leave Bill Into Law

By **Lauren M. Hollender** and **Julie Levinson Werner**

On February 19, 2019, New Jersey Governor Phil Murphy signed Bill A-3975, which significantly expands paid family leave insurance benefits and increases the number of employers required to provide employees with job-protected leave under the New Jersey Family Leave Act.

The New Jersey Paid Family Leave Law (NJPFLL) currently provides up to six weeks of paid family leave insurance benefits to covered employees to:

- Bond with a child during the first 12 months after the child's birth, if the covered individual, domestic partner or civil union partner of the covered individual is a biological parent of the child, or the first 12 months after the placement of the child for adoption with the covered individual; or
- Care for a family member with a serious health condition.

The NJPFLL, while providing monetary benefits, does not provide job-protected leave.

In contrast, the New Jersey Family Leave Act (NJFLA) provides up to 12 weeks of job-protected (but unpaid) family leave when the following conditions are met:

- The employer has at least 50 employees during each of 20 or more calendar workweeks;
- The employee has worked for that employer for a least one year, and has worked at least 1,000 hours for that employer during the 12 months immediately prior to taking the leave; and

- The leave of absence is taken in connection with the birth or adoption of a child, or because of a serious health condition of a child, parent, stepparent, parent-in-law, spouse or civil union partner.

Under the NJFLA, an eligible employee, with limited exceptions, is entitled to reinstatement to his or her former position or an equivalent position upon return from leave. During the leave, the employer is required to maintain the employee's coverage under the employer's group health plan, just as if the employee did not take leave.

The new legislation marks a significant expansion of employee benefits under both NJPFLL and NJFLA. Key provisions include:

- **More paid time off.** Beginning July 2020, eligible employees will be allowed to take up to 12 weeks of **paid time off** after the birth or adoption of a child or to care for a sick family member.
- **Increased monetary benefits.** As of July 2020, the maximum weekly payment under the leave program will increase from \$650 to \$860. Employees will be eligible to receive 85 percent of their weekly wage (compared to the current 66 percent), up to the maximum state-set weekly limit. The program is financed by employee contributions through payroll deductions. Employers do not contribute to the program. Annual payroll deductions could rise significantly for some workers.
- **Expansion of family members who participants can care for.** Paid family leave

insurance benefits are immediately available to a larger group of people. Family members had been defined to mean “a child, spouse, domestic partner, civil union partner or parent of a covered individual.” Under the new law, family members now include siblings, grandparents, grandchildren, parents-in-law or “any other individual related by blood to the employee, and any other individual who the employee shows to have a close association with the employee,” which is the equivalent of a family relationship. The law also extends paid family leave benefits to employees taking care of family members who have been the victim of domestic violence or sexual assault.

- **More intermittent leave time.** Employees will be able to take 52 days of intermittent leave, as opposed to the current 42, when caring for a family member with a serious health condition.
- **Strengthened protections prohibiting discrimination and retaliation.** The law specifies that an employer may not discharge, harass, threaten, discriminate or

retaliate against an employee with respect to the compensation, terms, conditions, or privileges of employment on the basis that the employee took or requested leave to which the employee was entitled.

- **Job protection.** Beginning June 30, 2019, employers with just 30 or more employees (down from the current requirement of 50 or more) will be covered employers under NJFLA. This change will significantly increase the number of employees eligible for job-protected family leave in New Jersey.

The changes to the New Jersey laws will definitely create compliance hurdles for employers, who will need to update policies and administer longer and a greater number of leaves. We at Lowenstein Sandler routinely draft and review employer family and medical leave policies and counsel clients on leave-related issues and would be pleased to assist you.

Contacts

Please contact the listed attorneys for further information on the matters discussed herein.

LAUREN M. HOLLENDER

Counsel

T: 973.597.2530

lhollender@lowenstein.com

JULIE LEVINSON WERNER

Partner

T: 212.419.5864 (NY) / 973.597.2550 (NJ)

jwerner@lowenstein.com

This Alert has been prepared by Lowenstein Sandler LLP to provide information on recent legal developments of interest to our readers. It is not intended to provide legal advice for a specific situation or to create an attorney-client relationship. Lowenstein Sandler assumes no responsibility to update the Alert based upon events subsequent to the date of its publication, such as new legislation, regulations and judicial decisions. You should consult with counsel to determine applicable legal requirements in a specific fact situation. Attorney Advertising.