

ASSEMBLY, No. 1180

STATE OF NEW JERSEY 213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

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SYNOPSIS

Provides for school and medical family leave.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 6/26/2009)

1 AN ACT concerning family leave and amending and supplementing
2 P.L.1989, c.261.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 3 of P.L.1989, c.261 (C.34:11B-3) is amended to read
8 as follows:

9 3. As used in this act:

10 a. "Child" means a biological, adopted, or resource family child,
11 stepchild, legal ward, or child of a parent who is

12 (1) under 18 years of age; or

13 (2) 18 years of age or older but incapable of self-care because of
14 a mental or physical impairment.

15 b. "Director" means the Director of the Division on Civil Rights.

16 c. "Division" means the Division on Civil Rights in the
17 Department of Law and Public Safety.

18 d. "Employ" means to suffer or permit to work for
19 compensation, and includes ongoing, contractual relationships in
20 which the employer retains substantial direct or indirect control
21 over the employee's employment opportunities or terms and
22 conditions of employment.

23 e. "Employee" means a person who is employed for at least 12
24 months by an employer, with respect to whom benefits are sought
25 under this act, for not less than 1,000 base hours during the
26 immediately preceding 12-month period.

27 f. "Employer" means a person or corporation, partnership,
28 individual proprietorship, joint venture, firm or company or other
29 similar legal entity which engages the services of an employee and
30 which:

31 (1) With respect to the period of time from the effective date of
32 this act until the 365th day following the effective date of this act,
33 employs 100 or more employees for each working day during each
34 of 20 or more calendar workweeks in the then current or
35 immediately preceding calendar year;

36 (2) With respect to the period of time from the 366th day
37 following the effective date of this act until the 1,095th day
38 following the effective date of this act, employs 75 or more
39 employees for each working day during each of 20 or more calendar
40 workweeks in the then current or immediately preceding calendar
41 year; and

42 (3) With respect to any time after the 1,095th day following the
43 effective date of this act, employs 50 or more employees for each
44 working day during each of 20 or more calendar workweeks in the
45 then current or immediately preceding calendar year. "Employer"

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 includes the State, any political subdivision thereof, and all public
2 offices, agencies, boards or bodies.

3 g. "Employment benefits" means all benefits and policies
4 provided or made available to employees by an employer, and
5 includes group life insurance, health insurance, disability insurance,
6 sick leave, annual leave, pensions, or other similar benefits.

7 h. "Parent" means a person who is the biological parent,
8 adoptive parent, resource family parent, step-parent, parent-in-law
9 or legal guardian, having a "parent-child relationship" with a child
10 as defined by law, or having sole or joint legal or physical custody,
11 care, guardianship, or visitation with a child.

12 i. "Family leave" means leave from employment so that the
13 employee may **[provide]**:

14 (1) Provide care made necessary by reason of**[**:

15 **(1)]** the birth of a child of the employee;

16 **[(2)]** the placement of a child with the employee in connection
17 with adoption of such child by the employee; or

18 **[(3)]** the serious health condition of a family member of the
19 employee;

20 (2) Attend or participate in school functions or activities of a
21 child of the employee, including, but not limited to, theatrical
22 productions, sporting events, classroom observations, parent-
23 teacher conferences or other meetings concerning the education of
24 the child; or

25 (3) Accompany the child to routine medical or dental
26 appointments, including checkups or vaccinations.

27 j. "Family member" means a child, parent, or spouse.

28 k. "Reduced leave schedule" means leave scheduled for fewer
29 than an employee's usual number of hours worked per workweek
30 but not for fewer than an employee's usual number of hours worked
31 per workday, unless agreed to by the employee and the employer.

32 l. "Serious health condition" means an illness, injury,
33 impairment, or physical or mental condition which requires:

34 (1) inpatient care in a hospital, hospice, or residential medical
35 care facility; or

36 (2) continuing medical treatment or continuing supervision by a
37 health care provider.

38 m. "School" means any public school or private school, as
39 defined in N.J.S.18A:1-1.

40 (cf: P.L.2004, c.130, s.111)

41

42 2. Section 4 of P.L.1989, c.261 (C.34:11B-4) is amended to read
43 as follows:

44 4. An employee of an employer in this State subject to the
45 provisions of this act shall be entitled to a family leave of 12 weeks
46 in any 24-month period upon advance notice to the employer,
47 unless the employer denies family leave to the employee pursuant to

1 subsection h. of this section, and the employee shall be entitled to
2 the additional 48 hours of family leave made available by the
3 provisions of section 3 of P.L. , c. (C.) (pending before
4 the Legislature as this bill).

5 a. In the case of a family member who has a serious health
6 condition, the leave may be taken intermittently when medically
7 necessary, if:

8 (1) The total time within which the leave is taken does not
9 exceed a 12-month period for each serious health condition episode;

10 (2) The employee provides the employer with prior notice of the
11 leave in a manner which is reasonable and practicable; and

12 (3) The employee makes a reasonable effort to schedule the
13 leave so as not to disrupt unduly the operations of the employer.

14 b. In the case of the birth or adoption of a healthy child, the
15 leave may be taken intermittently if agreed to by the employer and
16 the employee.

17 c. Leave taken because of the birth or placement for adoption of
18 a child may commence at any time within a year after the date of
19 the birth or placement for adoption.

20 d. Family leave required by this act, including leave provided
21 pursuant to section 3 of P.L. , c. (C.) (pending before the
22 Legislature as this bill), may be paid, unpaid, or a combination of
23 paid and unpaid leave. If an employer provides paid family leave
24 for fewer than 12 workweeks, the additional weeks of leave added
25 to attain the 12-workweek total required by this act may be unpaid.

26 e. An employer may require that any period of family leave
27 related to a serious health condition of a family member of the
28 employee or the birth or placement for adoption of the employee's
29 child be supported by certification issued by a duly licensed health
30 care provider or any other health care provider determined by the
31 director to be capable of providing adequate certification.

32 (1) Where the certification is for the serious health condition of
33 a family member of the employee, the certification shall be
34 sufficient if it states: (a) the date on which the serious health
35 condition commenced; (b) the probable duration of the condition;
36 and (c) the medical facts within the provider's knowledge regarding
37 the condition;

38 (2) Where the certification is for the birth or placement for
39 adoption of the child, the certification need only state the date of
40 birth or date of placement, whichever is appropriate.

41 In any case in which the employer has reason to doubt the
42 validity of the certification provided pursuant to paragraph (1) of
43 this subsection, the employer may require, at its own expense, that
44 an employee obtain an opinion regarding the serious health
45 condition from a second health care provider designated or
46 approved, but not employed on a regular basis, by the employer. If
47 the second opinion differs from the certification provided pursuant
48 to paragraph (1) of this subsection, the employer may require, at its

1 own expense, that the employee obtain the opinion of a third health
2 care provider designated or approved jointly by the employer and
3 the employee concerning the serious health condition. The opinion
4 of the third health care provider shall be considered to be final and
5 shall be binding on the employer and the employee.

6 f. In any case in which the necessity for leave under this act is
7 foreseeable, based upon an expected birth or placement of the child
8 for adoption, the employee shall provide the employer with prior
9 notice of the expected birth or placement of the child for adoption
10 in a manner which is reasonable and practicable.

11 g. No employee shall, during any period of leave taken pursuant
12 to this section, perform services on a full-time basis for any person
13 for whom the employee did not provide those services immediately
14 prior to commencement of the leave.

15 h. An employer may deny family leave to the employee if:

16 (1) The employee is a salaried employee who is among the
17 highest paid 5% of the employer's employees or the seven highest
18 paid employees of the employer, whichever is greater;

19 (2) The denial is necessary to prevent substantial and grievous
20 economic injury to the employer's operations; and

21 (3) The employer notifies the employee of its intent to deny the
22 leave at the time the employer determines that the denial is
23 necessary.

24 i. In any case in which the leave has already commenced at the
25 time of the notification pursuant to paragraph (3) of subsection h. of
26 this section, the employee shall return to work within 10 working
27 days of the date of notification.

28 (cf: P.L.1989, c.261, s.3)

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30 3. (New section) An employee of an employer subject to the
31 provisions of P.L.1989, c.261 (C.34:11B-1 et seq.), shall be
32 entitled, in addition to the 12 weeks of family leave to which the
33 employee is entitled during any 24-month period pursuant to the
34 provisions of section 4 of P.L.1989, c.261 (C:34:11B-4), to a total
35 of 48 hours of leave during any 12-month period to: attend or
36 participate in school functions or activities of a child of the
37 employee, including, but not limited to, theatrical productions,
38 sporting events, classroom observations, parent-teacher conferences
39 or other meetings concerning the education of the child; or
40 accompany the child to routine medical or dental appointments,
41 including checkups or vaccinations. Notwithstanding any other
42 provision of law, the employee shall have the option of taking leave
43 pursuant to this section in increments as short as two hours. If the
44 necessity for leave taken pursuant to this section is foreseeable, the
45 employee shall provide the employer with notice not less than seven
46 days before the leave. If the necessity for leave is not foreseeable,
47 the employee shall provide the employer with such notice as soon
48 as is practicable.

1 4. This act shall take effect immediately.

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STATEMENT

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6 This bill amends the “Family Leave Act,” P.L.1989, c.261
7 (C.34:11B-1 et seq.) to provide up to 48 hours of leave time during
8 any 12-month period for an employee covered under that act so that
9 the employee may:

10 1. Attend or participate in school functions or activities of a
11 child of the employee, including theatrical productions, sporting
12 events, classroom observations, parent-teacher conferences or other
13 meetings concerning the education of the child; or

14 2. Accompany the child to routine medical or dental
15 appointments, including checkups or vaccinations.

16 The bill gives the employee the option of taking the leave in
17 increments as short as two hours.