

[Third Reprint]

**SENATE, No. 2177**

**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

INTRODUCED SEPTEMBER 20, 2012

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**SYNOPSIS**

Creates the "New Jersey Security and Financial Empowerment Act" to assist victims of domestic violence and sexual assault.

**CURRENT VERSION OF TEXT**

As amended by the Senate on December 20, 2012.

(Sponsorship Updated As Of: 5/21/2013)

1 AN ACT assisting victims of domestic or sexual violence and  
2 supplementing Title 34 of the Revised Statutes.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. This act shall be known as the "New Jersey Security and  
8 Financial Empowerment Act" or "NJ SAFE Act."

9  
10 <sup>2</sup>2. As used in this act:

11 "Employee" means a person who is employed for at least 12  
12 months by an employer, with respect to whom benefits are sought  
13 under this act, for not less than 1,000 base hours during the  
14 immediately preceding 12-month period; and

15 "Employer" means a person or corporation, partnership,  
16 individual proprietorship, joint venture, firm or company, or other  
17 similar legal entity which engages the services of an employee and  
18 employs 25 or more employees for each working day during each of  
19 20 or more calendar workweeks in the then current or immediately  
20 preceding calendar year. "Employer" includes the State, any  
21 political subdivision thereof, and all public offices, agencies,  
22 boards, or bodies.<sup>2</sup>

23  
24 <sup>2</sup>[2.] <sup>3</sup>2 a. Any employee of an employer in <sup>2</sup>[this] <sup>2</sup>the State  
25 <sup>1</sup>who was a victim of an incident of domestic violence as defined in  
26 section 3 of P.L.1991, c.261 (C.2C:25-19) or a sexually violent  
27 offense as defined in section 3 of P.L.1998, c.71 <sup>2</sup>[(C.30:4-27.6)]  
28 (C.30:4-27.26)<sup>2</sup>, or whose child, parent, <sup>2</sup>[or]<sup>2</sup> spouse<sup>3</sup>[<sup>1</sup>],  
29 domestic partner<sup>3</sup> <sup>2</sup>, or civil union partner<sup>2</sup> was a victim<sup>2</sup>[,]<sup>2</sup><sup>1</sup> shall  
30 be entitled to <sup>1</sup>unpaid<sup>1</sup> leave of <sup>2</sup>no more than<sup>2</sup> 20 days <sup>1</sup>[in any 12-  
31 month period as needed for the purpose of engaging in any of the  
32 following activities as they relate to an] <sup>2</sup>[, which] in one 12-  
33 month period, to be used in the 12-month period next following any  
34 incident of domestic violence or any sexually violent offense as  
35 provided in this section. For purposes of this section, each incident  
36 of domestic violence or any sexually violent offense shall constitute  
37 a separate offense for which an employee is entitled to unpaid  
38 leave, provided that the employee has not exhausted the allotted 20  
39 days for the 12-month period. The unpaid leave<sup>2</sup> may be taken  
40 intermittently in intervals of no less than one day, <sup>2</sup>[within one year  
41 of the<sup>1</sup>] incident of domestic violence <sup>1</sup>[as defined in section 3 of  
42 P.L.1991, c.261 (C.2C:25-19)]<sup>1</sup> or <sup>1</sup>[a]<sup>1</sup> sexually violent offense  
43 <sup>1</sup>[as defined in section 3 of P.L.1998, c.71 (C.30:4-27.26) of which

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SHH committee amendments adopted October 1, 2012.

<sup>2</sup>Senate floor amendments adopted October 25, 2012.

<sup>3</sup>Senate floor amendments adopted December 20, 2012.

1 the employee or the employee's family or household member was a  
2 victim] ,]<sup>2</sup> as needed for the purpose of engaging in any of the  
3 following activities as they relate to the incident of domestic  
4 violence or sexually violent offense<sup>1</sup>:

5 (1) seeking medical attention for, or recovering from, physical  
6 or psychological injuries caused by domestic or sexual violence to  
7 the employee or the employee's <sup>1</sup>[family or household member]  
8 child, parent, <sup>2</sup>[or]<sup>2</sup> spouse<sup>1 2</sup>, <sup>3</sup>domestic partner,<sup>3</sup> or civil union  
9 partner<sup>2</sup>;

10 (2) obtaining services from a victim services organization for  
11 the employee or the employee's <sup>1</sup>[family or household member]  
12 child, parent, <sup>2</sup>[or]<sup>2</sup> spouse<sup>1 2</sup>, <sup>3</sup>domestic partner,<sup>3</sup> or civil union  
13 partner<sup>2</sup> ;

14 (3) obtaining psychological or other counseling for the  
15 employee or the employee's <sup>1</sup>[family or household member] child,  
16 parent, <sup>2</sup>[or]<sup>2</sup> spouse<sup>1 2</sup>, <sup>3</sup>domestic partner,<sup>3</sup> or civil union partner<sup>2</sup>;

17 (4) participating in safety planning, temporarily or permanently  
18 relocating, or taking other actions to increase the safety of the  
19 employee or the employee's <sup>1</sup>[family or household member] child,  
20 parent, <sup>2</sup>[or]<sup>2</sup> spouse<sup>1 2</sup>, <sup>3</sup>domestic partner,<sup>3</sup> or civil union partner<sup>2</sup>  
21 from future domestic or sexual violence or to ensure economic  
22 security;

23 (5) seeking legal assistance or remedies to ensure the health and  
24 safety of the employee or the employee's <sup>1</sup>[family or household  
25 member] child, parent, <sup>2</sup>[or]<sup>2</sup> spouse<sup>1 2</sup>, <sup>3</sup>domestic partner,<sup>3</sup> or  
26 civil union partner<sup>2</sup>, including preparing for<sup>1, 1</sup> or participating in<sup>1, 1</sup>  
27 any civil or criminal legal proceeding related to or derived from  
28 domestic or sexual violence; or

29 (6) attending, participating in<sup>1, 1</sup> or preparing for a criminal or  
30 civil court proceeding relating to an incident of domestic or sexual  
31 violence of which the <sup>1</sup>[individual, or the family or household  
32 member of the individual] employee or the employee's child,  
33 parent, <sup>2</sup>[or]<sup>2</sup> spouse<sup>1 2</sup>, <sup>3</sup>domestic partner,<sup>3</sup> or civil partner<sup>2</sup> , was  
34 a victim.

35 <sup>3</sup>[<sup>2</sup>[Nothing contained in this act shall be construed to prohibit  
36 an] An<sup>2</sup> employer <sup>2</sup>[from requiring] shall not require<sup>2</sup> the  
37 employee to exhaust accrued paid leave provided by the employer,  
38 or leave provided pursuant to the "Family Leave Act," P.L.1989,  
39 c.261 (C.34:11B-1 et seq.), and the federal "Family and Medical  
40 Leave Act of 1993," <sup>2</sup>Pub.L.103-3<sup>2</sup> 29 U.S.C. 2601 et seq., before  
41 using leave provided pursuant to this section.] An eligible  
42 employee may elect, or an employer may require the employee, to  
43 use any of the accrued paid vacation leave, personal leave, or  
44 medical or sick leave of the employee during any part of the 20-day  
45 period of unpaid leave provided under this subsection. In such  
46 case, any paid leave provided by the employer, and accrued  
47 pursuant to established policies of the employer, shall run

1 concurrently with the unpaid leave provided under this subsection  
2 and, accordingly, the employee shall receive pay pursuant to the  
3 employer's applicable paid leave policy during the period of  
4 otherwise unpaid leave. If an employee requests leave for a reason  
5 covered by both this subsection and the "Family Leave Act,"  
6 P.L.1989, c.261 (C.34:11B-1 et seq.) or the federal "Family and  
7 Medical Leave Act of 1993," Pub.L.103-3 (29 U.S.C. s.2601 et  
8 seq.), the leave shall count simultaneously against the employee's  
9 entitlement under each respective law.<sup>3</sup>

10 <sup>2</sup>Leave granted under this <sup>3</sup>[act] section<sup>3</sup> shall <sup>3</sup>[be in addition  
11 to, and shall not abridge or] not<sup>3</sup> conflict with<sup>3</sup>[.]<sup>3</sup> any rights  
12 pursuant to the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1  
13 et seq.), the "Temporary Disability Benefits Law," P.L.1948, c.110  
14 (C.43:21-25 et seq.), <sup>3</sup>[and] or<sup>3</sup> the federal "Family and Medical  
15 Leave Act of 1993," Pub.L.103-3 <sup>3</sup>[(29U.S.C. s.2601 et seq.)] (29  
16 U.S.C. s.2601 et seq.)<sup>3</sup> .<sup>2</sup>

17 b. Prior to taking the leave provided for in this section, an  
18 employee shall, if the necessity for the leave is foreseeable, provide  
19 the employer with written notice of the need for the leave. The  
20 notice shall be provided to the employer as far in advance as is  
21 reasonable and practical under the circumstances.

22 c. Nothing contained in this act shall be construed to prohibit  
23 an employer from requiring that a period of leave provided pursuant  
24 to this section be supported by the employee with documentation of  
25 the domestic violence or sexually violent offense which is the basis  
26 for the leave. If the employer requires the documentation, the  
27 employee shall be regarded as having provided sufficient  
28 documentation if the employee provides one or more of the  
29 following:

30 (1) a domestic violence restraining order or other documentation  
31 of equitable relief issued by a court of competent jurisdiction;

32 (2) a letter or other written documentation from the county or  
33 municipal prosecutor documenting the domestic violence or  
34 sexually violent offense;

35 (3) documentation of the conviction of a person for the domestic  
36 violence or sexually violent offense;

37 (4) medical documentation of the domestic violence or sexually  
38 violent offense;

39 (5) certification from a certified Domestic Violence Specialist or  
40 the director of a designated domestic violence agency or Rape  
41 Crisis Center, that the employee or employee's <sup>2</sup>[family or  
42 household member] child, parent, spouse, <sup>3</sup>domestic partner,<sup>3</sup> or  
43 civil union partner<sup>2</sup> is a victim of domestic violence or a sexually  
44 violent offense; or

45 (6) other documentation or certification of the domestic violence  
46 or sexually violent offense provided by a social worker, member of  
47 the clergy, shelter worker<sup>1</sup>,<sup>1</sup> or other professional who has assisted  
48 the employee or employee's <sup>2</sup>[family or household member] child,

1 parent, spouse, <sup>3</sup>domestic partner,<sup>3</sup> or civil union partner<sup>2</sup> in dealing  
2 with the domestic violence or sexually violent offenses.

3 For the purposes of this subsection:

4 “Certified Domestic Violence Specialist” means a person who  
5 has fulfilled the requirements of certification as a Domestic  
6 Violence Specialist established by the New Jersey Association of  
7 Domestic Violence Professionals; and “designated domestic  
8 violence agency” means a county-wide organization with a primary  
9 purpose to provide services to victims of domestic violence, and  
10 which provides services that conform to the core domestic violence  
11 services profile as defined by the Division of <sup>1</sup>[Youth and Family  
12 Services] Child Protection and Permanency<sup>1</sup> in the Department of  
13 <sup>1</sup>[Human Services] Children and Families<sup>1</sup> and is under contract  
14 with the division for the express purpose of providing <sup>1</sup>[such] the<sup>1</sup>  
15 services.

16 “Rape Crisis Center” means an office, institution<sup>1,1</sup> or center  
17 offering assistance to victims of sexual offenses through crisis  
18 intervention, medical and legal information<sup>1,1</sup> and follow-up  
19 counseling.

20 d. <sup>2</sup>[An employee shall be entitled, at the employee’s option, to  
21 take the leave provided for in this section intermittently or on a  
22 reduced leave basis upon the approval of the employer.

23 e.]<sup>2</sup> An employer shall display conspicuous notice of its  
24 employees’ rights and obligations pursuant to the provisions of this  
25 act, <sup>3</sup>in such form and in such manner as the Commissioner of  
26 Labor and Workforce Development shall prescribe,<sup>3</sup> and use other  
27 appropriate means to keep its employees so informed.

28 <sup>2</sup>[f.] e.<sup>2</sup> No provision of this act shall be construed as requiring  
29 or permitting an employer to reduce employment benefits provided  
30 by the employer or required by a collective bargaining agreement  
31 which are in excess of those required by this act. Nor shall any  
32 provision of this act be construed to prohibit the negotiation and  
33 provision through collective bargaining agreements of leave  
34 policies or benefit programs which provide benefits in excess of  
35 those required by this act. This provision shall apply irrespective of  
36 the date that a collective bargaining agreement takes effect.

37 Nothing contained in this act shall be construed as permitting an  
38 employer to <sup>1</sup>;

39 (1)<sup>1</sup> rescind or reduce any employment benefit accrued prior to  
40 the date on which the leave taken pursuant to this act commenced<sup>1</sup>;  
41 or

42 (2) rescind or reduce any employment benefit, unless the  
43 rescission or reduction of the benefit is based on changes that would  
44 have occurred if an employee continued to work without taking the  
45 leave provided pursuant to this section<sup>1</sup>.

46 <sup>2</sup>[g.] f.<sup>2</sup> All information provided to an employer pursuant to  
47 subsection c. of this section, and any information regarding a leave

1 taken pursuant to this section and any failure of an employee to  
2 return to work, shall be retained in the strictest confidentiality,  
3 unless the disclosure is voluntarily authorized in writing by the  
4 employee or is required by a federal or State law, rule<sup>1</sup>,<sup>1</sup> or  
5 regulation.

6 <sup>2</sup>[<sup>1</sup>h. As used in this act:

7 “employee” means a person who is employed for at least 12  
8 months by an employer, with respect to whom benefits are sought  
9 under this act, for not less than 1,000 base hours during the  
10 immediately preceding 12-month period; and

11 “employer” means a person or corporation, partnership,  
12 individual proprietorship, joint venture, firm or company, or other  
13 similar legal entity, as defined in section 3 of P.L.1989, c.261  
14 (C.34:11B-3), which engages the services of an employee and  
15 employs 25 or more employees. <sup>1</sup>]<sup>2</sup>

16  
17 <sup>2</sup>[~~3.~~ <sup>4.</sup><sup>2</sup> An employer shall not discharge, harass or otherwise  
18 discriminate or retaliate or threaten to discharge, harass or  
19 otherwise discriminate or retaliate against an employee with respect  
20 to the compensation, terms, conditions or privileges of employment  
21 on the basis that the employee took or requested any leave to which  
22 the employee was entitled pursuant to section <sup>2</sup>[~~2~~ <sup>3</sup><sup>2</sup> of this act or  
23 on the basis that the employee refused to authorize the release of  
24 information deemed confidential pursuant to subsection <sup>2</sup>[~~g.~~ <sup>f.</sup><sup>2</sup> of  
25 section <sup>2</sup>[~~2~~ <sup>3</sup><sup>2</sup> of this act.

26  
27 <sup>2</sup>[~~4.~~ <sup>5.</sup><sup>2</sup> a. Upon a violation of any of the provisions of  
28 section <sup>2</sup>[~~2~~ <sup>3</sup><sup>2</sup> or section <sup>2</sup>[~~3~~ <sup>4</sup><sup>2</sup> of this act, an employee or  
29 former employee may institute a civil action in the Superior Court  
30 for relief. All remedies available in common law tort actions shall  
31 be available to a prevailing plaintiff. The court may also order any  
32 or all of the following relief:

33 (1) an assessment of a civil fine of not less than \$1,000 and not  
34 more than \$2,000 for the first violation of any of the provisions of  
35 section <sup>2</sup>[~~2~~ <sup>3</sup><sup>2</sup> or section <sup>2</sup>[~~3~~ <sup>4</sup><sup>2</sup> of this act and not more than  
36 \$5,000 for each subsequent violation;

37 (2) an injunction to restrain the continued violation of any of the  
38 provisions of section <sup>2</sup>[~~2~~ <sup>3</sup><sup>2</sup> or section <sup>2</sup>[~~3~~ <sup>4</sup><sup>2</sup> of this act;

39 (3) reinstatement of the employee to the same position or to a  
40 position equivalent to that which the employee held prior to  
41 unlawful discharge or retaliatory action;

42 (4) reinstatement of full fringe benefits and seniority rights;

43 (5) Compensation for any lost wages, benefits and other  
44 remuneration;

45 (6) payment of reasonable costs and attorney's fees.

46 b. <sup>1</sup>[~~an~~ <sup>An</sup><sup>1</sup> action brought under this section shall be  
47 commenced within one year of the date of the alleged violation.

1 c. <sup>1</sup>~~any remedies provided for in this section shall be in~~  
2 addition to any legal or equitable relief provided by any other  
3 federal or State law, rule or regulation] A private cause of action  
4 provided for in this section shall be the sole remedy for a violation  
5 of this act.<sup>1</sup>

6  
7 <sup>2</sup>~~[5.]~~ 6.<sup>2</sup> This act shall take effect <sup>1</sup>~~immediately~~ on the first  
8 day of the third month next following the date of enactment<sup>1</sup>.