

**ASSEMBLY, No. 1449**

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**STATE OF NEW JERSEY**

**218th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Assemblyman WAYNE P. DEANGELO**

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**District 15 (Hunterdon and Mercer)**

**Co-Sponsored by:**

**Assemblyman Coughlin**

**SYNOPSIS**

Provides job security to certain organ and bone marrow donors.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT providing job security to individuals who are unable to  
2 work due to donating an organ or bone marrow, and amending  
3 and supplementing P.L.1948, c.110.  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. Section 5 of P.L.1948, c.110 (C.43:21-29) is amended to  
9 read as follows:

10 5. Compensable disability. (a) In the case of the disability of a  
11 covered individual, disability shall be compensable subject to the  
12 limitations of P.L.1948, c.110 (C.43:21-25 et al.) if the disability is  
13 the result of the covered individual suffering an accident or sickness  
14 not arising out of and in the course of the individual's employment  
15 or if so arising not compensable under the workers' compensation  
16 law, R.S.34:15-1 et seq., including if the disability is the result of  
17 the donation of any organ or bone marrow by the covered  
18 individual, and resulting in the individual's total inability to perform  
19 the duties of employment.

20 (b) In the case of an individual taking family temporary  
21 disability leave, the leave shall be compensable subject to the  
22 limitations of P.L.2008, c.17 (C.43:21-39.1 et al.).  
23 (cf: P.L.2008, c.17, s.3)  
24

25 2. Section 15 of P.L.1948, c.110 (C.43:21-39) is amended to  
26 read as follows:

27 15. Limitation of benefits. Notwithstanding any other provision  
28 of the "Temporary Disability Benefits Law," P.L.1948,  
29 c.110 (C.43:21-25 et al.), no benefits shall be payable under the  
30 State plan to any individual:

31 (a) for the first seven consecutive days of each period of  
32 disability; except that:

33 (1) if benefits shall be payable for three consecutive weeks with  
34 respect to any period of disability, then benefits shall also be  
35 payable with respect to the first seven days thereof;

36 (2) in the case of intermittent leave in a single period of family  
37 temporary disability leave taken to provide care for a family  
38 member of the individual with a serious health condition, benefits  
39 shall be payable with respect to the first day of leave taken after the  
40 first one-week period following the commencement of the period of  
41 family temporary disability leave and each subsequent day of leave  
42 during that period of family temporary disability leave; and if  
43 benefits become payable on any day after the first three weeks in  
44 which leave is taken, then benefits shall also be payable with

**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 respect to any leave taken during the first one-week period in which  
2 leave is taken; **[and]**

3 (3) in the case of an individual taking family temporary  
4 disability leave immediately after the individual has a period of  
5 disability for the individual's own disability, there shall be no  
6 waiting period between the period of the individual's own disability  
7 and the period of family temporary disability; and

8 (4) if the benefits shall be payable for a period of disability  
9 which is the result of the donation of any organ or bone marrow by  
10 the covered individual, then benefits shall be payable with respect  
11 to the first seven days thereof;

12 (b) (1) for more than 26 weeks with respect to any one period  
13 of disability of the individual;

14 (2) for more than six weeks with respect to any one period of  
15 family temporary disability leave, or more than 42 days with respect  
16 to any one period of family temporary disability leave taken on an  
17 intermittent basis to provide care for a family member of the  
18 individual with a serious health condition; and

19 (3) for more than six weeks of family temporary disability leave  
20 during any 12-month period, or more than 42 days of family  
21 temporary disability leave taken during any 12-month period, on an  
22 intermittent basis to provide care for a family member of the  
23 individual with a serious health condition, including family  
24 temporary disability leave taken pursuant to R.S.43:21-4(f)(2) while  
25 unemployed;

26 (c) for any period of disability which did not commence while  
27 the claimant was a covered individual;

28 (d) for any period of disability of a claimant during which the  
29 claimant is not under the care of a legally licensed physician,  
30 dentist, optometrist, podiatrist, practicing psychologist, advanced  
31 practice nurse, certified nurse midwife, or chiropractor, who, when  
32 requested by the division, shall certify within the scope of the  
33 practitioner's practice, the disability of the claimant, the probable  
34 duration thereof, and, where applicable, the medical facts within the  
35 practitioner's knowledge or for any period of family temporary  
36 disability leave for a serious health condition of a family member of  
37 the claimant, during which the family member is not receiving  
38 inpatient care in a hospital, hospice, or residential medical care  
39 facility or is not subject to continuing medical treatment or  
40 continuing supervision by a health care provider, who, when  
41 requested by the division, shall certify within the scope of the  
42 provider's practice, the serious health condition of the family  
43 member, the probable duration thereof, and, where applicable, the  
44 medical facts within the provider's knowledge;

45 (e) (Deleted by amendment, P.L.1980, c.90.)

46 (f) for any period of disability due to willfully and intentionally  
47 self-inflicted injury, or to injury sustained in the perpetration by the  
48 claimant of a crime of the first, second, third, or fourth degree, or

1 for any period during which a covered individual would be  
2 disqualified for unemployment compensation benefits for gross  
3 misconduct under subsection (b) of R.S.43:21-5;

4 (g) for any period during which the claimant performs any work  
5 for remuneration or profit;

6 (h) in a weekly amount which together with any remuneration  
7 the claimant continues to receive from the employer would exceed  
8 regular weekly wages immediately prior to disability;

9 (i) for any period during which a covered individual would be  
10 disqualified for unemployment compensation benefits under  
11 subsection (d) of R.S.43:21-5, unless the disability commenced  
12 prior to such disqualification; and there shall be no other cause of  
13 disqualification or ineligibility to receive disability benefits  
14 hereunder except as may be specifically provided in **[this act]**  
15 P.L.1948, c.110 (C.43:21-25 et al.).

16 (cf: P.L.2009, c.114, s.1)

17  
18 3. (New section) For a period of disability which is the result  
19 of donating any organ or bone marrow under section 5 of P.L.1948,  
20 c.110 (C.43:21-29), a covered individual shall, after the period of  
21 disability ends, be entitled to be restored by the individual's  
22 employer to the position of employment held by the individual  
23 when the period of disability commenced or to an equivalent  
24 position of like seniority, status, employment benefits, pay, and  
25 other terms and conditions of employment. If during the period of  
26 disability which is the result of donating any organ or bone marrow,  
27 the employer experiences a reduction in force or layoff and the  
28 covered individual would have lost the position of employment had  
29 the individual not experienced the period of disability, as a result of  
30 the reduction in force or pursuant to the good faith operation of a  
31 bona fide layoff and recall system, including a system under a  
32 collective bargaining agreement where applicable, the individual  
33 shall not be entitled to reinstatement to the former or an equivalent  
34 position. The covered individual shall retain all rights under any  
35 applicable layoff and recall system, including a system under a  
36 collective bargaining agreement, as if the individual had not  
37 experienced the period of disability.

38  
39 4. This act shall take effect on the 120th day after enactment.  
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#### 42 STATEMENT

43  
44 This bill provides job security for an individual during a period  
45 of disability under the "Temporary Disability Benefits Law,"  
46 P.L.1948, c.110 (C.43:21-25 et al.), which is the result of an organ  
47 or bone marrow donation by the individual.

1       Currently, an individual who donates an organ or bone marrow is  
2 eligible for temporary disability benefits under the “Temporary  
3 Disability Benefits Law” during the period that the individual is  
4 unable to work due to the organ or bone marrow donation.  
5 However, the “Temporary Disability Benefits Law” does not  
6 provide an express guarantee of job security for an individual who  
7 is unable to work during a period of disability under the law.

8       This bill provides, for the purposes of donating an organ or bone  
9 marrow, that an individual who experiences a period of disability  
10 pursuant to the “Temporary Disability Benefits Law” will be  
11 entitled to be restored to the individual’s position of employment  
12 upon the end of the period of disability, or to an equivalent position  
13 of like seniority, status, employment benefits, pay, and other terms  
14 and conditions of employment. Also, for the purposes of donating  
15 an organ or bone marrow, the bill eliminates the one week waiting  
16 period for the payment of temporary disability benefits.