

SENATE, No. 2026

STATE OF NEW JERSEY

INTRODUCED APRIL 21, 1997

By Senator LESNIAK

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:

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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 foster child, stepchild,  
11 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 Department  
17 of Law and Public Safety.

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

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

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

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

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

**Matter underlined thus is new matter.**

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

6 (3) With respect to any time after the 1,095th day following the  
7 effective date of this act, employs 50 or more employees for each  
8 working day during each of 20 or more calendar workweeks in the  
9 then current or immediately preceding calendar year. "Employer"  
10 includes the State, any political subdivision thereof, and all public  
11 offices, agencies, boards or bodies.

12 g. "Employment benefits" means all benefits and policies provided  
13 or made available to employees by an employer, and includes group  
14 life insurance, health insurance, disability insurance, sick leave, annual  
15 leave, pensions, or other similar benefits.

16 h. "Parent" means a person who is the biological parent, adoptive  
17 parent, foster parent, step-parent, parent-in-law or legal guardian,  
18 having a "parent-child relationship" with a child as defined by law, or  
19 having sole or joint legal or physical custody, care, guardianship, or  
20 visitation with a child.

21 i. "Family leave" means leave from employment so that the  
22 employee may [provide]:

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

24 (1)] the birth of a child of the employee;

25 [(2)] the placement of a child with the employee in connection with  
26 adoption of such child by the employee; or

27 [(3)] the serious health condition of a family member of the  
28 employee;

29 (2) Participate in school activities directly related to the  
30 educational advancement of a child of the employee;

31 (3) Accompany the child to routine medical or dental  
32 appointments, including checkups or vaccinations;

33 (4) Accompany an elderly family member to routine medical or  
34 dental appointments or other professional services related to the  
35 elderly family member's care, including interviewing at nursing or  
36 group homes;

37 (5) Participate in literacy training under a family literacy program;  
38 or

39 (6) Deal with domestic violence and its aftermath.

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

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

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

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

3 (2) continuing medical treatment or continuing supervision by a  
4 health care provider.

5 m. "Certified domestic violence specialist" means a person who has  
6 fulfilled the requirements for certification as a domestic violence  
7 specialist established by the New Jersey Association of Domestic  
8 Violence Professionals;

9 n. "Deal with domestic violence and its aftermath" means:  
10 experiencing domestic violence; obtaining medical attention for  
11 injuries caused by domestic violence; obtaining legal assistance or  
12 remedies, including communicating with police or attorneys, or  
13 participating in any legal proceeding related to domestic violence;  
14 attending support groups for victims of domestic violence; obtaining  
15 psychological counseling related to experiences of domestic violence;  
16 participating in safety planning and other actions to increase safety  
17 from future domestic violence, including temporary or permanent  
18 relocation.

19 o. "Designated domestic violence agency" means a county-wide  
20 organization with a primary purpose to provide services to victims of  
21 domestic violence, and which provides services that conform to the  
22 core domestic violence services profile as defined by the Division of  
23 Youth and Family Services in the Department of Human Services and  
24 which is under contract with the division for the express purpose of  
25 providing such services.

26 p. "Domestic violence" means domestic violence as defined in  
27 section 3 of P.L.1991, c.261 (C.2C:25-19).

28 q. "Elderly family member" means a family member who is not less  
29 than 60 years old.

30 r. "Family literacy program" means a program of services that  
31 integrates all of the following activities: interactive literacy activities  
32 between parents and their children; training for parents on how to be  
33 full partners in the education of their children; and parent literacy  
34 training.

35 s. "Literacy" means the ability to speak, read and write English,  
36 and compute and solve problems, at levels of proficiency necessary to  
37 function successfully at work, in one's family and as a citizen in  
38 society.

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

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

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

45 4. An employee of an employer in this State subject to the  
46 provisions of this act shall be entitled to a family leave of 12 weeks in

1 any 24-month period upon advance notice to the employer, unless the  
2 employer denies family leave to the employee pursuant to subsection  
3 h. of this section, and except that the employee shall be entitled to the  
4 additional 24 hours of family leave made available by the provisions of  
5 section 3 of P.L.1997, c. (C. ) (now before the Legislature as  
6 this bill.).

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

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

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

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

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

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

22 d. Family leave required by this act, including leave provided  
23 pursuant to section 3 of P.L.1997, c. (C. ) (now before the  
24 Legislature as this bill.) may be paid, unpaid, or a combination of paid  
25 and unpaid leave. If an employer provides paid family leave for fewer  
26 than 12 workweeks, the additional weeks of leave added to attain the  
27 12-workweek total required by this act may be unpaid.

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

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

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

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

1 employed on a regular basis, by the employer. If the second opinion  
2 differs from the certification provided pursuant to paragraph (1) of this  
3 subsection, the employer may require, at its own expense, that the  
4 employee obtain the opinion of a third health care provider designated  
5 or approved jointly by the employer and the employee concerning the  
6 serious health condition. The opinion of the third health care provider  
7 shall be considered to be final and shall be binding on the employer and  
8 the employee.

9 An employer may require that any period of family leave related to  
10 domestic violence be supported by a statement from the employee  
11 along with documentation that the employee is using the leave to deal  
12 with domestic violence and its aftermath. Any of the following shall  
13 be regarded as sufficient documentation that an employee is using the  
14 leave to deal with domestic violence and its aftermath: a restraining  
15 order or other form of equitable relief issued by a court of competent  
16 jurisdiction; a police record documenting the domestic violence;  
17 documentation that the perpetrator of the domestic violence has been  
18 convicted of one or more of the offenses enumerated in section 3 of  
19 P.L.1991, c.261 (C.2C:25-19); medical documentation of the domestic  
20 violence; certification from a certified domestic violence specialist or  
21 the director of a designated domestic violence agency that the  
22 individual is a victim of domestic violence; or other documentation or  
23 certification of the domestic violence provided by a social worker,  
24 member of the clergy, shelter worker or other professional who has  
25 assisted the individual in dealing with the domestic violence and its  
26 aftermath.

27 f. In any case in which the necessity for leave under this act is  
28 foreseeable, based upon an expected birth or placement of the child for  
29 adoption, the employee shall provide the employer with prior notice  
30 of the expected birth or placement of the child for adoption in a  
31 manner which is reasonable and practicable.

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

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

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

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

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

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

1 the date of notification.  
2 (cf: P.L.1989, c.261, s.4)

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4 3. (New section) An employee of an employer subject to the  
5 provisions of P.L.1989, c.261 (C.34:11B-1 et seq.), shall be entitled  
6 to, in addition to the 12 weeks of family leave to which the employee  
7 is entitled during any 24-month period pursuant to the provisions of  
8 section 4 of P.L.1989, c.261 (C:34:11B-4), a total of 24 hours of leave  
9 during any 12-month period to:

10 a. Participate in school activities directly related to the educational  
11 advancement of a child of the employee, including parent-teacher  
12 conferences, classroom observations and interviewing for a new  
13 school;

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

16 c. Accompany an elderly family member to routine medical or  
17 dental appointments or other professional services related to the elder  
18 family member's care, including interviewing at nursing or group  
19 homes; or

20 d. Participate in literacy training under a family literacy program.

21 Leave taken pursuant to this section may be taken intermittently or  
22 on a reduced leave schedule pursuant to the provisions of sections 3  
23 and 5 of P.L.1989, c.261 (C.34:11B-3 and 34:11B-5). If the necessity  
24 for leave taken pursuant to this section is foreseeable, the employee  
25 shall provide the employer with notice not less than seven days before  
26 the leave. If the necessity for leave is not foreseeable, the employee  
27 shall provide the employer with such notice as soon as is practicable.

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29 4. This act shall take effect immediately.

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#### STATEMENT

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34 This bill amends the "Family Leave Act," P.L.1989, c.261  
35 (C.34:11B-1 et seq.) to provide up to 24 hours of leave time during  
36 any 12-month period for an employee covered under that act so that  
37 the employee may:

38 1. Participate in school activities directly related to the educational  
39 advancement of a child of the employee;

40 2. Accompany the child to routine medical or dental appointments,  
41 including checkups or vaccinations;

42 3. Accompany an elderly family member to routine medical or  
43 dental appointments or other professional services related to the  
44 elderly family member's care, including interviewing at nursing or  
45 group homes; or

46 4. Participate in literacy training under a family literacy program.

1       The bill also permits an employee to use the leave time provided by  
2 the existing law, up to 12 weeks during any two-year period, to deal  
3 with domestic violence and its aftermath.

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8 Concerns family leave.