

Leave Laws: New Jersey

**MICHAEL D. HOMANS, FLASTER/GREENBERG PC,
WITH PRACTICAL LAW LABOR & EMPLOYMENT**

Search the [Resource ID numbers in blue](#) on Westlaw for more.

A Q&A guide to state law on employee leave for private employers in New Jersey. This Q&A addresses the legal requirements for leave from employment and explains the rights and obligations of employees and employers under state law. Federal, local, or municipal law may impose additional or different requirements. Answers to questions can be compared across a number of jurisdictions (see [Leave Laws: State Q&A Tool](#)).

OVERVIEW OF STATE LEAVE LAW

1. What leave laws exist in your state (for example, mini-FMLA laws, disability leave, jury duty leave, or domestic violence leave)? For each leave law please describe:

- Which employers are covered.
- Which employees are eligible to take the leave.
- The entity that administers the law.
- Whether the employee has a private right of action.

NEW JERSEY FAMILY LEAVE ACT: N.J.S.A. §§ 34:11B-1 TO 34:11B-16 **Covered Employers**

The New Jersey Family Leave Act (NJFLA) covers New Jersey employers that employ 50 or more individuals for 20 or more work weeks during the current or preceding calendar year (N.J.S.A. § 34:11B-3(f)(3)).

Eligible Employees

To be eligible for this leave, an employee must have worked for the covered employer for both:

- 12 months.
- 1,000 hours in the 12 months before the leave.

(N.J.S.A. § 34:11B-3(e).)

Certain highly paid employees (employees who are among the top seven or within the top 5% of highest paid, salaried employees, whichever includes more employees) may be denied leave if:

- Denial of leave is necessary to prevent economic harm that would adversely and substantially affect the employer's operations considerably beyond the costs of replacing the employee.
- The employer also notifies the employee of its intent to deny leave when it determines that denial of leave is necessary.

(N.J.S.A. § 34:11B-4(h); N.J.A.C. § 13:14-1.9.)

Administration

The New Jersey Division on Civil Rights administers the NJFLA and issued regulations governing the NJFLA (N.J.A.C. §§ 13:14-1.1 to 13:14-1.16).

Private Right of Action

An employee may bring a civil action in the New Jersey Superior Court on either an individual or class basis (N.J.S.A. §§ 34:11B-11 to 34:11B-16). For more information, see Question 8: [New Jersey Family Leave Act](#).

NEW JERSEY FAMILY LEAVE INSURANCE LAW: N.J.S.A. §§ 43:21-26 TO 43:21-39

Covered Employers

New Jersey Family Leave Insurance Law (sometimes referred to as the Paid Family Leave Law) (NJFLIL) covers all employers that are subject to New Jersey unemployment compensation laws, regardless of size (N.J.S.A. § 43:21-27(a)(1)).

Eligible Employees

Employees are eligible for this leave if, during the 12 months before leave, they either:

- Worked at least 20 calendar weeks for a covered employer and earned at least \$145.
- Earned at least 1,000 times the New Jersey minimum wage.

(N.J.S.A. § 43:21-27(b)(2).)

New Jersey's minimum wage is \$8.44 per hour. For more information on New Jersey's minimum wage, see the New Jersey Department of Labor and Workforce Development's (NJDLWD) website and State Q&A, [Wage and Hour Laws: New Jersey \(0-505-9896\)](#).

Administration

The NJDLWD's Division of Temporary Disability Insurance (DTDI) administers the NJFLIL. Employers typically participate in the state plan for these benefits, but also can elect to provide Family Leave Insurance benefits coverage under a private plan approved by the DTDI. (N.J.S.A. § 43:21-32.)

Private Right of Action

Employees who dispute a decision to deny Family Leave Insurance benefits may file an action with the NJDLWD's DTDI (N.J.S.A. § 43:21-50). For more information, see Question 8: New Jersey Family Leave Insurance Law.

JURY DUTY LEAVE: N.J.S.A. § 2B:20-17**Covered Employers**

This law covers all New Jersey employers (N.J.S.A. § 2B:20-17(a)).

Eligible Employees

All New Jersey employees are eligible for this leave (N.J.S.A. § 2B:20-17(a)).

Administration

The statute does not specify an administering agency.

Private Right of Action

An employee may bring a civil action within 90 days from the date of the violation or the completion of jury service (N.J.S.A. § 2B:20-17(c)).

Employers who violate this law are guilty of a disorderly persons offense (N.J.S.A. § 2B:20-17(b)). The sole remedy is a private civil action seeking:

- Damages.
- Reinstatement.
- Attorneys' fees.

(N.J.S.A. § 2B:20-17(c).)

For more information, see Question 8: Jury Duty Leave.

NEW JERSEY EMERGENCY RESPONDERS EMPLOYMENT PROTECTION ACT: N.J.S.A. §§ 40A:14-213 TO 40A:14-214**Covered Employers**

The New Jersey Emergency Responders Employment Protection Act covers all employers in New Jersey (N.J.S.A. § 40A:14-214(b)).

Eligible Employees

Employees who are "volunteer emergency responders" are eligible for this leave. Volunteer emergency responders include:

- Active members in good standing of a volunteer fire company.
- Volunteer members of a duly incorporated first aid, rescue, or ambulance squad.
- Members of any county or municipal volunteer Office of Emergency Management, if the member's official duties include responding to a fire or emergency call.

(N.J.S.A. § 40A:14-214(a).)

The law does not apply to "essential employees," but that term is not defined in the statute (N.J.S.A. § 40A:14-214(d)).

Administration

The statute does not specify an administering agency.

Private Right of Action

The statute does not address whether an employee has a private right of action.

NEW JERSEY SOLDIERS' AND SAILORS' CIVIL RELIEF ACT: N.J.S.A. §§ 38:23C-1 TO 38:23C-26**Covered Employers**

The New Jersey Soldiers' and Sailors' Civil Relief Act (sometimes referred to as Military Leave) covers all New Jersey employers (N.J.S.A. § 38:23C-20(a)).

Eligible Employees

All employees who leave work, other than a temporary position, to do any of the following are eligible for this leave:

- Complete military service for the US armed forces.
- Participate in military assemblies or annual training.
- Attend service schools conducted by the US armed forces for up to a total of three months (but no more than three months over any four-year period).

(N.J.S.A. § 38:23C-20(b).)

Administration

The statute does not specify an administering agency.

Private Right of Action

An employee may bring a civil action in the New Jersey Superior Court for violations of the military leave law (N.J.S.A. § 38:23C-20(e)). For more information, see Question 8: New Jersey Soldiers' and Sailors' Civil Relief Act.

NEW JERSEY SECURITY AND FINANCIAL EMPOWERMENT ACT: N.J.S.A. §§ 34:11C-1 TO 34:11C-5**Covered Employers**

The New Jersey Security and Financial Empowerment Act (NJ SAFE Act) covers New Jersey employers with 25 or more employees (N.J.S.A. § 34:11C-2).

Eligible Employees

Employees who have worked for the employer for at least 12 months and for at least 1,000 hours during the immediately preceding 12-month period of the qualifying event are eligible for this leave (N.J.S.A. § 34:11C-2).

Administration

The statute does not specify an administering agency.

Private Right of Action

An employee may bring a civil action in the New Jersey Superior Court against an employer within one year of an alleged violation of

the law (N.J.S.A. § 34:11C-5(a)). For more information, see Question 8: New Jersey Security and Financial Empowerment Act.

RULES REGARDING TAKING LEAVE

2. For each leave law, please describe:

- The circumstances under which an employee may take leave (for example, birth of a child).
- How much leave time is allowed to be taken by each employee each year?
- How is that leave time calculated?

NEW JERSEY FAMILY LEAVE ACT: N.J.S.A. §§ 34:11B-1-1 TO 34:11B-16

Valid Leave Reasons

Eligible employees may take leave under the New Jersey Family Leave Act (NJFLA) for:

- The birth or adoption of a child.
- Serious health condition of a:
 - child, including children under 18 years old who are biological, adopted, foster, or stepchildren or legal wards and children over 18 years old who are incapable of self-care because of a physical or mental impairment;
 - parent, including biological, adoptive, foster and step parents, parents-in-law, and legal guardians; or
 - spouse or partner in a civil union couple.

(N.J.S.A. § 34:11B-3(i).)

Section 13:14-1.2 of the New Jersey Administrative Code provides more information on what constitutes a serious health condition.

Leave Time for Each Employee

Eligible employees may take up to 12 weeks of leave during a 24-month period (N.J.S.A. § 34:11B-4).

Calculating Leave Time

Under the NJFLA, the 24-month period may be measured as:

- Two calendar years.
- A fixed 24-month period starting on a specified date, such as the:
 - employer's fiscal year; or
 - anniversary of the employee's hire date.
- The 24-month period beginning on the first day of the employee's first NJFLA leave.
- A rolling 24-month period, measured backward from the date of any NJFLA leave.

(N.J.A.C. § 13:14-1.4(c).)

In addition, eligible employees may take NJFLA leave:

- As a single block of time.
- Intermittently in increments each lasting at least one week, but less than 12 weeks.
- By reducing their normal work schedule when medically necessary for a family member's serious health condition, after reasonable notice and effort to schedule the leave to not disrupt the operations of the employer.

- By reducing their normal work schedule for the birth or adoption of a child, only if the employer and employee agree. (N.J.S.A. § 34:11B-4(a), (b).)

For more information on intermittent and reduced schedule leave, see Question 4: New Jersey Family Leave Act.

NEW JERSEY FAMILY LEAVE INSURANCE LAW: N.J.S.A. §§ 43:21-26 TO 43:21-39

Valid Leave Reasons

The New Jersey Family Leave Insurance Law (NJFLIL) does not require employers to provide leave, but provides eligible employees with monetary benefits during leave, if the leave is to:

- Care for or bond with a newborn or newly adopted child during the first 12 months after the child's birth or placement for adoption with the employee.
- Care for a family member with a serious health condition. (N.J.S.A. § 43:21-27(o).)

Leave Time for Each Employee

The NJFLIL does not require employers to offer leave, but provides benefits for up to six weeks to compensate eligible employees for wages lost because of covered leave (N.J.S.A. § 43:21-39(b) and N.J.A.C. § 12:21-1.1(a)).

Calculating Leave Time

There is no specific method for calculating leave time, but it limits benefit payments to six weeks. Employers may require employees to use up to two weeks of paid time off at the beginning of the leave, which counts toward the six-week total. (N.J.S.A. § 43:21-39.1(c).)

For information on intermittent leave, see Question 4: New Jersey Family Leave Insurance Law.

JURY DUTY LEAVE: N.J.S.A. § 2B:20-17

Valid Leave Reasons

Employees may take leave when required to attend court for jury service (N.J.S.A. § 2B:20-17(a)).

Leave Time for Each Employee

The statute provides no specific amount of leave time an employee may take for jury service.

Calculating Leave Time

The statute provides no specific method for calculating leave time.

NEW JERSEY EMERGENCY RESPONDER EMPLOYMENT PROTECTION ACT: N.J.S.A. §§ 40A:14-213 TO 40A:14-214

Valid Leave Reasons

The New Jersey Emergency Responder Employment Protection Act protects voluntary emergency responders who are absent from work because they are either:

- Serving as volunteer emergency responders during a state of emergency declared by the US President or the New Jersey Governor.
- Actively engaging in responding to an emergency alarm. (N.J.S.A. § 40A:14-214(b).)

However, volunteer emergency responders must provide their employers with:

- Notice at least one hour before the start of a scheduled shift or workday.
- A copy of the incident report and a certification by the incident commander or other official or officer in charge affirming that the volunteer emergency responder was actively engaged in, and necessary for, rendering emergency services, and setting forth the date and time the volunteer emergency responder was relieved from duty.

(N.J.S.A. § 40A:14-214(b).)

Leave Time for Each Employee

The statute does not specify an amount of leave time that may be taken each year. However, the statute requires daily notice from the incident commander if the leave extends beyond one work day (N.J.S.A. § 40A:14-214(b)).

Calculating Leave Time

The statute provides no specific method for calculating leave time.

New Jersey Soldiers' and Sailors' Civil Relief Act: N.J.S.A. §§ 38:23C-1 to 38:23C-26

Valid Leave Reasons

Employees may take leave to:

- Complete military service for the US armed forces.
- Participate in military assemblies or annual training.
- Attend service schools conducted by the US armed forces for up to a total of three months (but no more than three months in any four-year period).

(N.J.S.A. §§ 38:23C-2(a) and 38:23C-20.)

Leave Time for Each Employee

The statute does not specify the amount of leave that may be taken each year with one exception. Leave to attend service schools conducted by the US armed forces is limited to a total of three months in any four-year period. (N.J.S.A. § 38:23C-20(b).)

Calculating Leave Time

The statute provides no specific method for calculating leave.

NEW JERSEY SECURITY AND FINANCIAL EMPOWERMENT ACT: N.J.S.A. §§ 34:11C-1 TO 34:11C-5

Valid Leave Reasons

An employee who has been a victim of domestic violence or sexual assault or whose child, parent, spouse, domestic partner, or civil union partner has been a victim may take leave to:

- Seek or receive medical treatment.
- Recover from the injuries caused by the domestic violence or sexual assault.
- Obtain services from a victim services organization.
- Obtain psychological or other counseling.
- Participate in safety planning, moving, or taking other actions to increase safety.

- Seek legal assistance in any civil or criminal proceeding
- Attend, participate, or prepare for criminal or civil court proceedings.

(N.J.S.A. § 34:11C-3.)

Leave Time for Each Employee

Eligible employees may take up to 20 days of job-protected leave in a 12-month period (N.J.S.A. § 34:11C-3(a)).

Calculating Leave Time

Eligible employees must take the leave within one year of the qualifying event. Each incident of domestic or sexual violence constitutes a separate offense for which an employee is entitled to leave, provided the employee has not exhausted the allotted 20 days for the 12-month period. (N.J.S.A. § 34:11C-3(a).) For information on intermittent leave, see Question 4: New Jersey Security and Financial Empowerment Act.

3. For each leave law, must the leave time run concurrently with other leave, and if so, which types of leave must it run concurrently with?

NEW JERSEY FAMILY LEAVE ACT: N.J.S.A. §§ 34:11B-1 TO 34:11B-16

This leave does not run concurrently with other leave laws. Employers, however, may designate leave as New Jersey Family Leave Act leave concurrently with other types of leave, if the leave qualifies under each applicable law. (N.J.A.C. § 13:14-1.6(a).)

NEW JERSEY FAMILY LEAVE INSURANCE LAW: N.J.S.A. §§ 43:21-26 TO 43:21-39

This leave does not run concurrently with other leave laws. Employers, however, may designate leave as New Jersey Family Leave Act leave concurrently with other types of leave, if the leave qualifies under each applicable law. (N.J.S.A. § 43:21-39.1(d).)

JURY DUTY LEAVE: N.J.S.A. § 2B:20-17

This leave does not run concurrently with other leave laws.

NEW JERSEY EMERGENCY RESPONDER LEAVE: N.J.S.A. §§ 40A:14-213 TO 40A:14-214

This leave does not run concurrently with other leave laws.

NEW JERSEY SOLDIERS' AND SAILORS' CIVIL RELIEF ACT: N.J.S.A. §§ 38:23C-1 TO 38:23C-26

This leave does not run concurrently with other leave laws.

NEW JERSEY SECURITY AND FINANCIAL EMPOWERMENT ACT: N.J.S.A. §§ 34:11C-1 TO 34:11C-5

The leave runs concurrently with other leave entitlements including the New Jersey Family Leave Act and the federal Family and Medical Leave Act (N.J.S.A. § 34:11C-3).

4. For each leave law, can leave be taken intermittently, and if so, what rules apply to intermittent leave under each law?

NEW JERSEY FAMILY LEAVE ACT: N.J.S.A. §§ 34:11B-1 TO 34:11B-16

An employee may take leave intermittently to care for a family member with a serious health condition in intervals of at least one week (but not more than 12 weeks) if:

- Intermittent leave is medically necessary.
- The leave is taken within a 12-month period for each health condition.
- The employee gives reasonable and practicable notice of the leave.
- The employee makes reasonable effort to schedule the intermittent leave so as not to unduly disrupt the employer's operations.

(N.J.S.A. § 34:11B-4(a); N.J.A.C. § 13:14-1.2.)

Employees also may take reduced schedule leave to care for a family member with a serious health condition for up to 24 weeks. Employees on reduced schedule leave work fewer days per week (but not fewer hours per day), unless the employer and employee agree to another reduced schedule. Only one reduced schedule leave may be taken during any 24-month period, and employees must take any remaining leave time as either:

- A single block of time.
- Intermittent leave.

(N.J.S.A. § 34:11B-5.)

Employees may not take intermittent or reduced schedule leave for the birth or adoption of a child who does not have a serious health condition, unless the employer and employee agree to intermittent or reduced schedule leave (N.J.S.A. §§ 34:11B-3 and 34:11B-4).

NEW JERSEY FAMILY LEAVE INSURANCE LAW: N.J.S.A. §§ 43:21-26 TO 43:21-39

Eligible employees may receive benefits for intermittent leave to care for a family member with a serious health condition if the intermittent leave is taken:

- In increments of at least one day.
- For no more than 42 days in a 12-month period.

(N.J.S.A. §§ 43:21-39(b) and 43:21-39.3(c).)

Eligible employees may only receive benefits for intermittent leave to bond with a newborn or newly adopted child if:

- The employer and the employee agree to intermittent leave.
- The leave is taken in increments of at least seven days.
- The leave is taken during the 12-month period immediately following the birth or adoption of the child.

(N.J.S.A. §§ 43:21-39.2 and 43:21-39.3(c).)

JURY DUTY LEAVE: N.J.S.A. § 2B:20-17

The law does not specifically address intermittent leave.

NEW JERSEY EMERGENCY RESPONDERS EMPLOYMENT PROTECTION ACT: N.J.S.A. §§ 40A:14-213 TO 40A:14-214

The law does not specifically address intermittent leave.

NEW JERSEY SOLDIERS' AND SAILORS' CIVIL RELIEF ACT: N.J.S.A. §§ 38:23C-1 TO 38:23C-26

The law does not specifically address intermittent leave. Leave for attendance at service schools conducted by the US armed forces, however, may be taken in "a period or periods up to and including three months," with a three-month maximum in any four-year period (N.J.S.A. § 38:23C-20(b)).

NEW JERSEY SECURITY AND FINANCIAL EMPOWERMENT ACT: N.J.S.A. §§ 34:11C-1 TO 34:11C-5

Employees may take intermittent leave in intervals of no less than one full day (N.J.S.A. § 34:11C-3(a)).

EMPLOYEE OBLIGATIONS**5. For each leave law, must an employee seeking leave:**

- Give notice to their employer? If so, how much and what kind of notice?
- Provide medical or any other sort of certification?

NEW JERSEY FAMILY LEAVE ACT: N.J.S.A. §§ 34:11B-1 TO 1-34:11B-16 Notice

Employees seeking leave must give 30 days' advance notice to their employer, unless notice is not feasible because of an emergency. In the case of emergencies, employees must give notice that is reasonable and practicable. (N.J.A.C. § 13:14-1.5.)

Certification

Employers may require employees to provide a certification from a licensed health care provider including:

- Where the certification is for the serious health condition of a family member:
 - the date on which the serious health condition commenced;
 - the probable duration of the condition; and
 - the medical facts within the provider's knowledge.
- Where the certification is for the birth or placement of a child, the date of birth or placement.

(N.J.S.A. § 34:11B-4(e); N.J.A.C. § 13:14-1.10.)

NEW JERSEY FAMILY LEAVE INSURANCE LAW: N.J.S.A. §§ 43:21-26 TO 43:21-39 Notice

Employees intending to take leave to bond with a newborn or newly adopted child must give their employer at least 30 days' notice before the leave begins (N.J.S.A. § 43:21-39.3(b)). If the employee does not give this notice, the employee's maximum New Jersey Family Leave Insurance benefits will be reduced by two weeks, unless the time of the leave either:

- Is unforeseeable.
- Changes for unforeseeable reasons.

(N.J.S.A. § 43:21-39.3(b).)

Employees intending to take leave to care for a family member with a serious health condition on a continuous (non-intermittent) basis must give their employer reasonable and practicable advance notice, unless an emergency or other unforeseen circumstance precludes this notice (N.J.S.A. § 43:21-39.2(a)).

Employees intending to take intermittent leave to care for a family member with a serious health condition must give their employer at least 15 days' advance notice, unless an emergency or other unforeseen circumstance precludes this notice (N.J.S.A. § 43:21-39.2(a)).

Certification

The employee must give a certification of the serious health condition by a health-care provider to the plan administrator (N.J.S.A. § 43:21-39.2(b)). The certification must include:

- The date, if known, on which the serious health condition commenced.
- The probable duration of the condition.
- The medical facts within the knowledge of the certifying provider.
- A statement that the serious health condition warrants the participation of the employee in providing health care.
- An estimate of the amount of time the employee's assistance will be needed.
- If the leave is intermittent:
 - a statement of the medical necessity for the intermittent leave;
 - the expected duration of the intermittent leave; and
 - the dates of any planned medical treatments for which the intermittent leave is being taken.

(N.J.S.A. § 43:21-39.2(b))

In addition, employees must file a claim for benefits within 30 days after the leave begins or a penalty may be imposed (N.J.S.A. § 43:21-39.1(f)). For employers that participate in the state-administered plan, employees can obtain application forms:

- From the Department of Labor and Workforce Development's website.
- By calling the Division of Temporary Disability Insurance's Customer Service Section at (609) 292-7060.
- By writing to the Division of Temporary Disability Insurance, PO Box 387, Trenton, NJ 08625-0387.

Employers that are covered by a private plan must provide the necessary claim form to employees.

JURY DUTY LEAVE: N.J.S.A. § 2B:20-17

Notice

No notice is required.

Certification

No certification is required, but employers can require proof of jury service.

NEW JERSEY EMERGENCY RESPONDERS EMPLOYMENT PROTECTION ACT: N.J.S.A. §§ 40A:14-213 TO 40A:14-214

Notice

An eligible employee must give at least one hour advance notice to his employer that he will be absent from work to render emergency services in response to a declared state of emergency or emergency alarm (N.J.S.A. § 40A:14-214(b)).

Certification

On returning to work, an eligible employee must give his employer a copy of the incident report and a certification by the incident commander, or other officer or official in charge, that both:

- Affirms that the volunteer emergency responder was actively engaged in, and necessary for, rendering emergency services.
- States the date and time that the employee was relieved from emergency duty.

(N.J.S.A. § 40A:14-214(b).)

NEW JERSEY SOLDIERS' AND SAILORS' CIVIL RELIEF ACT: N.J.S.A. §§ 38:23C-1 TO 38:23C-26

Notice

No notice is required.

Certification

To be restored to work, an eligible employee who has taken leave for military service in the US armed forces must do all of the following:

- Provide a "certificate of completion of military service duly executed by an officer of the applicable" US armed force or organized militia.
- Be qualified to perform the duties of the position he is reemployed to.
- Apply for reemployment within 90 days after being relieved from service.

(N.J.S.A. § 38:23C-20(a).)

An eligible employee who has taken leave to participate in military assemblies or annual training or to attend service schools conducted by the US armed forces must apply for reemployment within ten days after completing leave (N.J.S.A. § 38:23C-20(b)).

NEW JERSEY SECURITY AND FINANCIAL EMPOWERMENT ACT: N.J.S.A. §§ 34:11C-1 TO 34:11C-5

Notice

When it is foreseeable, employees must provide their employer with written notice of intent to take leave. The notice must be provided to the employer as far in advance as reasonable and practical under the circumstances. (N.J.S.A. § 34:11C-3(b).)

Certification

An employer may require an employee to provide certification of the domestic or sexual violence, which may include:

- A domestic violence restraining order or other court-issued documentation of equitable relief.

- A letter or other written documentation from the county or municipal prosecutor documenting the domestic or sexual violence.
- Documentation of the conviction of the aggressor for the domestic or sexual violence.
- Medical documentation of the domestic violence or sexually violent offense.
- Certification from a Certified Domestic Violence Specialist or the director of a designated domestic violence agency or Rape Crisis Center that the employee or related individual is a victim of domestic or sexual violence.
- Other documentation or certification by a social worker, member of the clergy, shelter worker, or other professional who has assisted the employee or related individual in coping with the domestic or sexual violence.

(N.J.S.A. § 34:11C-3(c).)

A Certified Domestic Violence Specialist means a person who has fulfilled the requirements of certification as a domestic violence specialist set out by the New Jersey Association of Domestic Violence Professionals. A Rape Crisis Center means an office, institution, or center offering assistance to victims of sexual offenses. (N.J.S.A. § 34:11C-3(c).)

All information provided to an employer in response to a certification request must be kept in the strictest confidentiality unless the disclosure is voluntarily authorized in writing by the employee or is required by a federal or state law (N.J.S.A. § 34:11C-3(f)).

6. For each leave law, what rights and benefits does the law grant to an employee taking leave under it (for example, pay, right to return to their same position or right to bonuses that would have otherwise been earned)?

NEW JERSEY FAMILY LEAVE ACT: N.J.S.A. §§ 34:11B-1 TO 34:11B-16

Employees on leave under the New Jersey Family Leave Act (NJFLA) have a right to:

- Reinstatement to their former position or a position with comparable pay, seniority, benefits, and other terms and conditions of employment following leave (N.J.S.A. § 34:11B-7).
- Continuation of group health insurance benefits as if they were not on leave (N.J.S.A. § 34:11B-8). If the plan is governed by the Employee Retirement Income Security Act of 1974 (ERISA), then continuation of benefits is determined in accordance with ERISA (*N.J. Bus. & Indus. Ass'n v. State*, 592 A.2d 660, 664 (N.J. Super. Ct. Law Div. 1991)).

Reinstatement is not required where both:

- There is a reduction in force.
- The employer can demonstrate that the reduction would have ended the employee's employment, regardless of the NJFLA leave.

(N.J.S.A. § 34:11B-7; N.J.A.C. § 13:14-1.11(b).)

Certain highly paid employees may be denied leave or continuation of leave to prevent substantial and grievous economic injury to the

employer's operation (for more information, see Question 1: New Jersey Family Leave Act: N.J.S.A. §§ 34:11B-1 to 34:11B-16: Eligible Employees).

NEW JERSEY FAMILY LEAVE INSURANCE LAW: N.J.S.A. §§ 43:21-26 TO 43:21-39

Eligible employees are entitled to up to six weeks of insurance benefit payments from the state or private plan, whichever applies, at two-thirds of the employee's weekly wage, up to a maximum of \$524 per week (which may be adjusted by the state annually) (N.J.S.A. § 43:21-40).

The New Jersey Family Leave Insurance Law does not provide employees with any leave entitlement, right to reinstatement, or continued benefits.

JURY DUTY LEAVE: N.J.S.A. § 2B:20-17

Employers cannot "penalize, threaten, or otherwise coerce an employee" because that employee must attend court for jury service (N.J.S.A. § 2B:20-17(a)).

NEW JERSEY EMERGENCY RESPONDERS EMPLOYMENT PROTECTION ACT: N.J.S.A. §§ 40A:14-213 TO 40A:14-214

Employers cannot terminate, dismiss, or suspend eligible employees for engaging in protected activity relating to voluntary emergency responder service (N.J.S.A. § 40A:14-214(b)).

NEW JERSEY SOLDIERS' AND SAILORS' CIVIL RELIEF ACT: N.J.S.A. §§ 38:23C-1 TO 38:23C-26

Eligible employees who miss work for military service are entitled to be restored to the position they held before the military service, or to a position of like seniority, status, and pay, unless the employer's circumstances have changed to make it impossible or unreasonable to do so. In that event, if the employee requests, the employer must restore the employee to any available position for which the employee is able or qualified to perform the duties. (N.J.S.A. § 38:23C-20(a).)

Any employee who is reemployed must be:

- Considered to have been on furlough or leave of absence during the period of military service, training, or schooling.
- Restored without loss of seniority.
- Entitled to participate in insurance or other benefits offered by the employer to employees on furlough or leave of absence in effect with the employer when the employee began military leave.

(N.J.S.A. § 38:23C-20(d).)

In addition, the law protects employees who are reemployed after military service from discharge without cause for one year after reemployment (N.J.S.A. § 38:23C-20(d)).

An eligible employee who has been in military service in an organized militia or a reserve component of the US armed forces and who, because of this membership, is discharged or suspended by his employer, and who is qualified to perform the duties of the position, must be restored to his position and benefits on application for reemployment within ten days after the discharge or suspension (N.J.S.A. § 38:23C-20(c)).

NEW JERSEY SECURITY AND FINANCIAL EMPOWERMENT ACT: N.J.S.A. §§ 34:11C-1 TO 34:11C-5

Under this law, eligible employees are entitled to take up to 20 days of job-protected leave. Employers may not:

- Rescind or reduce any employment benefit accrued before the date of leave, unless based on changes that would have occurred if the employee continued to work without taking leave.
- Discharge, harass, discriminate, or retaliate, or threaten to discharge, harass, discriminate, or retaliate against an employee concerning:
 - compensation;
 - terms;
 - conditions; or
 - privileges.

(N.J.S.A. §§ 34:11C-3(e) and 34:11C-4.)

EMPLOYER OBLIGATIONS**7. For each leave law, what obligations does an employer have to inform its employees of their rights to the leave?****NEW JERSEY FAMILY LEAVE ACT: N.J.S.A. §§ 34:11B-1 TO 34:11B-16**

Covered employers must display the New Jersey Division of Civil Rights' official New Jersey Family Leave Act (NJFLA) poster in places easily visible to all employees (N.J.A.C. § 13:8-2.2).

Also, if a covered employer gives written guidance about employee benefits or leave rights to employees (for example, in an employee handbook), the employer must include information about the NJFLA in the handbook or other written guidance (for a model policy, see State Q&A, Leave Policy Language: New Jersey (8-505-6931)). If an employer does not have written guidance describing employee benefits and leave provisions, the employer must give written guidance to each employee about employee rights and obligations under the NJFLA. (N.J.S.A. § 34:11B-6; N.J.A.C. § 13:14-1.14.) To meet this requirement, employers may give a copy of the NJFLA Fact Sheet to each employee.

NEW JERSEY FAMILY LEAVE INSURANCE LAW: N.J.S.A. §§ 43:21-26 TO 43:21-39

Employers must conspicuously post a notice about the New Jersey Family Leave Insurance Law (NJFLI) at each workplace, and must provide a written copy of the notice to each employee at **all** of the following times:

- When the employee is hired.
- Each time the employee notifies the employer of the need for family leave.
- On the first request for this notice from the employee.

(N.J.S.A. § 43:21-39.1(g); N.J.A.C. § 12:21-1.8(b).)

Additionally, employers must conspicuously post a poster containing information about the NJFLI and seven other state statutes, and must provide the notice to all newly hired employees. Posting the notice on an employer's internet or intranet site available to all employees for their exclusive use will satisfy the conspicuous posting requirement. (N.J.A.C. § 12:2-1.3.)

For a model policy, see State Q&A, Leave Policy Language: New Jersey: Model New Jersey Family Leave Insurance Policy (8-505-6931).

JURY DUTY LEAVE: N.J.S.A. § 2B:20-17

The statute does not specify any obligations for employers to inform their employees of their right to leave.

NEW JERSEY EMERGENCY RESPONDERS EMPLOYMENT PROTECTION ACT: N.J.S.A. §§ 40A:14-213 TO 40A:14-214

The statute does not specify any obligations for employers to inform their employees of their right to leave.

NEW JERSEY SOLDIERS' AND SAILORS' CIVIL RELIEF ACT: N.J.S.A. §§ 38:23C-1 TO 38:23C-26

The statute does not specify any obligations for employers to inform their employees of their right to leave.

NEW JERSEY SECURITY AND FINANCIAL EMPOWERMENT ACT: N.J.S.A. §§ 34:11C-1 TO 34:11C-5

Employers must display conspicuous notice of an employee's rights under this law. Employers must also use other appropriate means to keep employees informed. (N.J.S.A. § 34:11C-3(d).) While this law does not give guidance on other appropriate means, employers should consider including notice of employee rights under this law in their employee handbook.

8. For each leave law, what are possible consequences for employers who violate the law?**NEW JERSEY FAMILY LEAVE ACT: N.J.S.A. §§ 34:11B-1 TO 34:11B-16**

Employers that violate this law may be subject to penalties of up to:

- \$2,000 for the first offense.
- \$5,000 for each further offense.

(N.J.S.A. § 34:11B-10.)

Employees also may bring a civil action in court to enforce the law. A prevailing plaintiff may recover:

- Equitable remedies.
- Compensatory damages, including:
 - reinstatement;
 - lost wages and benefits;
 - emotional distress damages;
 - attorneys' fees and costs; and
 - punitive damages up to \$10,000 per person for individual claims and, in the case of class actions or complaints by the Director of the Division on Civil Rights, up to the lesser of \$500,000 or 1% of the defendant's net worth.

(N.J.S.A. § 34:11B-11.)

NEW JERSEY FAMILY LEAVE INSURANCE LAW: N.J.S.A. §§ 43:21-26 TO 43:21-39

Unless the employer has an approved private plan, the state of New Jersey typically administers benefits under the New Jersey Family

Leave Insurance Law. Employees do not have a private right of action against employers for benefits administered by the state.

Employees who dispute a decision to deny Family Leave Insurance benefits may file a complaint with the New Jersey Department of Labor and Workforce Development, Division of Temporary Disability Insurance (N.J.S.A. § 43:21-50). A prevailing employee may recover:

- Lost benefits.
 - Up to 20% of the value of the claim as reasonable attorneys' fees.
 - A reasonable fee for the appearance of medical witnesses.
- (N.J.S.A. § 43:21-51.)

JURY DUTY LEAVE: N.J.S.A. § 2B:20-17

An employer that violates this law may be found guilty of a disorderly persons offense (N.J.S.A. § 2B:20-17(b)).

In addition, if an employer penalizes an employee for being required to attend court for jury service, the employee may bring a civil action for:

- Damages.
- Reinstatement.
- Reasonable attorneys' fees.

(N.J.S.A. § 2B:20-17(c).)

The action must be commenced within 90 days from the date of the violation or the completion of jury service, whichever is later (N.J.S.A. § 2B:20-17(c)).

NEW JERSEY EMERGENCY RESPONDERS EMPLOYMENT PROTECTION ACT: N.J.S.A. §§ 40A:14-213 TO 40A:14-214

The statute does not specifically address consequences for violations of the law.

NEW JERSEY SOLDIERS' AND SAILORS' CIVIL RELIEF ACT: N.J.S.A. §§ 38:23C-1 TO 38:23C-26

Any private employer that violates this law may be subject to a private cause of action by the employee before the Superior Court of New Jersey (N.J.S.A. § 38:23C-20(e)).

NEW JERSEY SECURITY AND FINANCIAL EMPOWERMENT ACT: N.J.S.A. §§ 34:11C-1 TO 34:11C-5

In addition to imposing common law tort remedies, the court may order an employer to:

- Pay a fine between \$1,000 and \$2,000 for a first violation.
- Pay a fine of up to \$5,000 for a second or further violation.
- Refrain from committing a continued violation.
- Reinstatement the employee to the same or equivalent position.
- Reinstatement full fringe benefits and seniority rights.
- Compensate the employee for any lost wages, benefits, or other remuneration.
- Pay reasonable costs and attorneys' fees.

(N.J.S.A. § 34:11C-5.)

RECORDKEEPING

9. What are the recordkeeping obligations for each type of leave?

NEW JERSEY FAMILY LEAVE ACT: N.J.S.A. §§ 34:11B-1 TO 34:11B-16

Neither the statute nor the regulations contain any specific recordkeeping requirements. Best practice is for employers to keep records of compliance, notices, postings, and administration under the New Jersey Family Leave Act for at least two years.

NEW JERSEY FAMILY LEAVE INSURANCE LAW: N.J.S.A. §§ 43:21-26 TO 43:21-39

Covered employers must keep accurate employment records demonstrating that the employer is complying with the Family Leave Insurance Law. The records must be open to inspection by the New Jersey Department of Labor and Workforce Development, Division of Temporary Disability Insurance or its authorized representative at any time during ordinary business hours. (N.J.S.A. § 43:21-52.)

Regulations describing recordkeeping requirements have not yet been issued. Best practice is for covered employers to keep records of compliance, notices, postings, and submission of applications and forms under the New Jersey Family Leave Insurance Law for at least two years.

JURY DUTY LEAVE: N.J.S.A. § 2B:20-17

The law does not include any recordkeeping requirements. However, best practice is for employers to keep relevant records for at least two years.

NEW JERSEY EMERGENCY RESPONDERS EMPLOYMENT PROTECTION ACT: N.J.S.A. §§ 40A:14-213 TO 40A:14-214

The law does not include any recordkeeping requirements. However, best practice is for employers to keep relevant records for at least two years.

NEW JERSEY SOLDIERS' AND SAILORS' CIVIL RELIEF ACT: N.J.S.A. §§ 38:23C-1 TO 38:23C-26

The law does not include any recordkeeping requirements. However, best practice is for employers to keep relevant records for at least two years.

NEW JERSEY SECURITY AND FINANCIAL EMPOWERMENT ACT: N.J.S.A. §§ 34:11C-1 TO 34:11C-5

The law does not include any recordkeeping requirements. However, best practice is for employers to keep relevant records for at least two years.

OTHER LEAVE LAWS

10. Please describe other laws relating to leave that employers should consider in your state (for example, laws not requiring leave, but prohibiting discrimination in provision of certain types of leave).

**NEW JERSEY LAW AGAINST DISCRIMINATION:
N.J.S.A. §§ 10:5-1 TO 10:5-49**

Employers covered by the New Jersey Law Against Discrimination (LAD) may have to provide disabled employees with leave as a reasonable accommodation, in certain circumstances (N.J.A.C. § 13:13-2.5(b)(1)(ii)). For more information about the LAD, see State Q&A, Anti-Discrimination Laws: New Jersey ([6-506-1735](#)).

**NEW JERSEY TEMPORARY DISABILITY BENEFITS LAW:
N.J.S.A. §§ 43:21-25 TO 43:21-56**

The New Jersey Temporary Disability Benefits Law provides mandatory health and accident insurance for workers through either:

- A state-administered plan (most employers).
- A private plan approved by the Division of Employment Security.

All employers that are subject to the state's unemployment compensation law are covered by the Temporary Disability Benefits Law. Benefits are funded through compulsory payroll deductions. The statute provides for temporary benefits (up to 26 weeks) in the event of non-work-related disability. The law does not contain any job-protected leave provisions or require an employer to provide any amount of leave to employees.

11. Please describe any significant leave laws in major jurisdictions within your state that employers should consider.

Practitioners should be aware of the following paid sick leave requirements:

- The Town of Morristown requires paid sick leave for certain employees (Town of Morristown, N.J., Ordinances (Ordinance No. 0-35-2016)).
- City of East Orange requires paid sick leave for certain employees (Mun. Code of the City of E. Orange, N.J., ch. 140, Art. 1 (Ordinance No. 21-2014)).

- Township of Irvington requires paid sick leave for certain employees (Rev. Code of the Twp. of Irvington, as amended by Ordinance No. MC 3513).
- Jersey City requires paid sick leave for certain employees (Jersey City, N.J. Ordinance No. 13-097, amending and supplementing Jersey City, N.J. Mun. Code, ch. 3, art. VI, §§ 3-50 to 3-52.9).
- The Township of Montclair requires paid sick leave for certain employees (Twp. of Montclair, N.J. Sick Leave for Private Employees).
- City of Newark requires paid sick leave for certain employees (Newark, N.J. Rev. Gen. Ordinance No 13-2010).
- City of Passaic requires paid sick leave for certain employees (Rev. Gen. Ordinances of the City of Passaic, N.J., ch. 128, art. 1 (Ordinance No. 1998-14)).
- City of Paterson requires paid sick leave for certain employees (City of Paterson, N.J. Mun. Code, ch. 412 (Ordinance No. 14-040)).
- City of Trenton requires paid sick leave for certain employees (City of Trenton, N.J. Ordinances (Ordinance No. 14-45)).
- City of Elizabeth requires paid sick leave for certain employees (City of Elizabeth, N.J. Ordinances (Ordinance No. 4617)).
- Township of Bloomfield requires paid sick leave for certain employees (Ordinances of Twp. of Bloomfield, ch. 160).
- City of New Brunswick requires paid sick leave for certain employees (City of New Brunswick Rev. Gen. Ord. Tit. 8, Ch. 56, Ord. 121501).
- City of Plainfield requires paid sick leave for certain employees (City of Plainfield, N.J. Mun. Code, Ch. 8, Art. 5).

For more information on these requirements, see Paid Sick Leave State and Local Laws Chart: Overview ([4-597-3867](#)).

ABOUT PRACTICAL LAW

Practical Law provides legal know-how that gives lawyers a better starting point. Our expert team of attorney editors creates and maintains thousands of up-to-date, practical resources across all major practice areas. We go beyond primary law and traditional legal research to give you the resources needed to practice more efficiently, improve client service and add more value.

If you are not currently a subscriber, we invite you to take a trial of our online services at legalsolutions.com/practical-law. For more information or to schedule training, call **1-800-733-2889** or e-mail referenceattorneys@tr.com.