



Leave Laws: New Jersey

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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.

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.

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

Covered Employers

Employers in New Jersey that employ 50 or more individuals for 20 or more work weeks during the current or preceding calendar

year are covered by the New Jersey Family Leave Act (NJFLA) (*N.J. Stat. Ann. § 34:11B-3.f(3) (2011)*).

Eligible Employees

To be eligible for NJFLA 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. Stat. Ann. § 34:11B-3.e (2011)*.)

Certain highly paid employees (employees who are in the top seven or top 5% of highest paid 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. Stat. Ann. § 34:11B-4.h (2000)* and *N.J. Admin. Code § 13:14-1.9 (2008)*.)

Administration

The New Jersey Division on Civil Rights administers the NJFLA and has issued regulations governing the NJFLA (*N.J. Admin. Code §§ 13:14-1.1 to 1.16 (2008)*).

NEW JERSEY FAMILY LEAVE INSURANCE LAW: N.J. STAT. ANN. §§ 43:21-26 TO 43:21-31

Covered Employers

New Jersey Family Leave Insurance Law (sometimes referred to as the Paid Family Leave Law) (NJFLIL) applies to all employers

that are subject to New Jersey unemployment compensation laws, regardless of size (*N.J. Stat. Ann. § 43:21-27(a)(1) (2008)*).

Eligible Employees

Employees are eligible for benefits under the NJFLIL 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. Stat. Ann. § 43:21-27(b)(2) (2008)*.)

As of June 2011, New Jersey's minimum wage is \$7.25 per hour. For more information on New Jersey's minimum wage, see NJ LWD: Wage and Hour.

Administration

The New Jersey Department of Labor and Workforce Development, Division of Temporary Disability Insurance (Division) 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 Division.

(*N.J. Stat. Ann. § 43:21-32 (2011)*.)

JURY DUTY LEAVE: N.J. STAT. ANN. § 2B:20-17

Covered Employers

All employers are required to provide jury duty leave (*N.J. Stat. Ann. § 2B:20-17.a (2011)*).

Eligible Employees

All employees are eligible for jury duty leave (*N.J. Stat. Ann. § 2B:20-17.a (2011)*).

Administration

The law does not have any administrative provisions, but employers who violate this law are guilty of a disorderly persons offense. The sole remedy is a private civil action seeking:

- Damages.
- Reinstatement.
- Attorneys' fees.

(*N.J. Stat. Ann. § 2b:20-17.c (2011)*.)

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

Covered Employers

The New Jersey Emergency Responders Employment Protection Act applies to all employers in New Jersey (*N.J. Stat. Ann. § 40A:14-214.b (2009)*).

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. Stat. Ann. § 40A:14-214.a (2009)*.)

The law does not apply to "essential employees," but that term is not defined in the statute (*N.J. Stat. Ann. § 40A:14-214.d (2009)*).

Administration

The statute does not specify which agency administers this law.

MILITARY LEAVE: N.J. STAT. ANN. § 38:23C-20

Covered Employers

All New Jersey employers are covered by this law.

Eligible Employees

This law protects any employee who leaves work, other than a temporary position, to do any of the following:

- 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. Stat. Ann. § 38:23C-20 (2008)*.)

Administration

This law is not administered by any state agency. Aggrieved individuals may bring a private right of action in the Superior Court of the State of New Jersey (*N.J. Stat. Ann. § 38:23C-20.e (2008)*).

RULES REGARDING TAKING LEAVE

2. For each applicable 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. STAT. ANN. §§ 34:11B-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. Stat. Ann. § 34:11B-3 (2011)).

For more information on what constitutes a serious health condition, see *N.J. Admin. Code § 13:14-1.2 (2008)*.

Leave Time For Each Employee

Eligible employees may take up to 12 weeks of leave during a 24-month period (N.J. Stat. Ann. § 34:11B-4 (2000)).

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. Admin. Code § 13:14-1.4(c) (2008)).

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. Stat. Ann. § 34:11B-4(a) (2000)).

For more information on intermittent and reduced schedule leave, see *Question 4: New Jersey Family Leave Act: N.J. Stat. Ann. §§ 34:11B-1 to 34:11B-16*.

NEW JERSEY FAMILY LEAVE INSURANCE LAW: N.J. STAT. ANN. §§ 43:21-26 TO 43:21-31

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. Stat. Ann. § 43:21-27(o) (2008)).

Leave Time for Each Employee

The NJFLIL does not require employers to provide leave, but provides benefits for up to six weeks to compensate eligible employees for wages lost because of covered leave (N.J. Stat. Ann. § 43:21-39(b) (2011) and N.J. Admin. Code § 12:21-1.1(a) (2011)).

Calculating Leave Time

The NJFLIL does not require a particular method of 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. Stat. Ann. § 43:21-39.1(c) (2008)).

For information on intermittent leave, see *Question 4: New Jersey Family Leave Insurance Law: N.J. Stat. Ann. §§ 43:21-26 to 43:21-31*.

JURY DUTY LEAVE: N.J. STAT. ANN. § 2B:20-17

Valid Leave Reasons

Employees may take leave when required to attend court for jury service (N.J. Stat. Ann. § 2B:20-17.a (2011)).

Leave Time for Each Employee

There is no limit on the amount of leave time an employee may take for jury service.

Calculating Leave Time

This law does not require a specific method of calculating leave time.

NEW JERSEY EMERGENCY RESPONDER EMPLOYMENT PROTECTION ACT: N.J. STAT. ANN. §§ 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. Stat. Ann. § 40A:14-214.b (2009).)

Leave Time for Each Employee

There is no limit on the amount of emergency responder leave an employee can take, but the statute requires daily notice from the incident commander if the leave extends beyond one work day (N.J. Stat. Ann. § 40A:14-214.b (2009)).

Calculating Leave Time

This law does not require a specific method of calculating leave time.

MILITARY LEAVE: N.J. STAT. ANN. § 38:23C-20

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. Stat. Ann. § 38:23C-20 (2008).)

Leave Time for Each Employee

There is no limit to the amount of military leave an employee can take, except 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. Stat. Ann. § 38:23C-20.b (2008)).

Calculating Leave Time

This law does not require a specific method of calculating leave.

3. For each applicable 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. STAT. ANN. §§ 34:11B-1 TO 34:11B-16

The New Jersey Family Leave Act (NJFLA) does not require that NJFLA leave run concurrently with other leave. However, employers may designate leave as NJFLA leave concurrently with other types of leave, if the leave qualifies under each applicable law.

(N.J. Admin. Code § 13:14-1.6(a) (2008).)

NEW JERSEY FAMILY LEAVE INSURANCE LAW: N.J. STAT. ANN. §§ 43:21-26 TO 43:21-31

The New Jersey Family Leave Insurance Law (NJFLIL) does not require that leave time run concurrently with other leave. However, employers may designate leave as NJFLIL leave concurrently with other types of leave, if the leave qualifies under each applicable law.

(N.J. Stat. Ann. § 43:21-39.1.d (2008).)

JURY DUTY LEAVE: N.J. STAT. ANN. § 2B:20-17

The law does not have any provisions about concurrent leave.

EMERGENCY RESPONDER LEAVE: N.J. STAT. ANN. §§ 40A:14-213 TO 40A:14-214

The law does not have any provisions about concurrent leave.

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

MILITARY LEAVE: N.J. STAT. ANN. § 38:23C-20

The law does not have any provisions about concurrent leave.

NEW JERSEY FAMILY LEAVE ACT: N.J. STAT. ANN. §§ 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. Stat. Ann. § 34:11B-4.a (2000) and N.J. Admin. Code § 13:14-1.2 (2008).*)

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. Stat. Ann. § 34:11B-5 (2011).*)

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. Stat. Ann. §§ 34:11B-3 and 34:11B-4 (2000).*)

NEW JERSEY FAMILY LEAVE INSURANCE LAW: N.J. STAT. ANN. §§ 43:21-26 TO 43:21-31

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. Stat. Ann. §§ 43:21-39.2 and 43:21-39.3.c (2008).*)

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. Stat. Ann. §§ 43:21-39.2 and 43:21-39.3.c (2008).*)

JURY DUTY LEAVE: N.J. STAT. ANN. § 2B:20-17

The law does not specifically address intermittent leave.

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

The law does not specifically address intermittent leave.

MILITARY LEAVE: N.J. STAT. ANN. § 38:23C-20

The law does not specifically address intermittent leave. However, leave for attendance at service schools conducted by the US

armed forces 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. Stat. Ann. § 38:23C-20.b (2008).*)

EMPLOYEE OBLIGATIONS

5. For each applicable 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?
- How is that leave time calculated?

- 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. STAT. ANN. §§ 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. Admin. Code § 13:14-1.5 (2008).*)

Certification

Employers may require employees to provide a:

- Certification by the employee as to the reason for the leave.
- Health care certification from a licensed health care provider if leave is to care for a family member with a serious health condition.

(*N.J. Stat. Ann. § 34:11B-4.e(1) (2000) and N.J. Admin. Code § 13:14-1.10 (2008).*)

Health care certifications should include:

- The date the serious health condition began.
- The expected duration of the serious health condition.
- Medical facts about the serious health condition.

(*N.J. Stat. Ann. § 34:11B-4.e(1) (2000) and N.J. Admin. Code § 13:14-1.10 (2008).*)

If leave is for the birth or adoption of a child, employers may require employees to provide a certification with the expected date of either:

- Birth.
- Placement for adoption.

(*N.J. Stat. Ann. § 34:11B-4.e(2) (2000).*)

NEW JERSEY FAMILY LEAVE INSURANCE LAW: N.J. STAT. ANN. §§ 43:21-26 TO 43:21-31

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. Stat. Ann. § 43:21-39.3.b (2008)*). 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. Stat. Ann. § 43:21-39.3.b (2008)*).

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. Stat. Ann. § 43:21-39.2.a (2008)*).

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. Stat. Ann. § 43:21-39.2.a (2008)*).

Certification

The employee must give a certification of the serious health condition by a health-care provider to the plan administrator (*N.J. Stat. Ann. § 43:21-39.2.b (2008)*).

In addition, employees must file a claim for benefits within 30 days after the leave begins or a penalty may be imposed (*N.J. Stat. Ann. § 43:21-39.1.f (2008)*). 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. STAT. ANN. § 2B:20-17

Notice

The law does not specifically address notice.

Certification

The law does not specifically address certification, but employers can require proof of jury service.

EMERGENCY RESPONDERS EMPLOYMENT PROTECTION ACT: N.J. STAT. ANN. §§ 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. Stat. Ann. § 40A:14-214.b (2009)*).

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.
- Sets forth the date and time that the employee was relieved from emergency duty.

(*N.J. Stat. Ann. § 40A:14-214.b (2009)*).

MILITARY LEAVE: N.J. STAT. ANN. § 38:23C-20

Notice

The law does not specifically address notice.

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 such service.

(*N.J. Stat. Ann. § 38:23C-20.a (2008)*).

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 10 days after completing leave (*N.J. Stat. Ann. § 38:23C-20.b (2008)*).

6. For each applicable 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)?

THE NEW JERSEY FAMILY LEAVE ACT: N.J. STAT. ANN. §§ 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. Stat. Ann. § 34:11B-7 (2011)*).
- Continuation of group health insurance benefits as if they were not on leave (*N.J. Stat. Ann. § 34:11B-8 (2011)*). However, 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*, 249 N.J. Super. 513, 520-21 (*Law Div.* 1991)).

Reinstatement is not required where a reduction in force has occurred and the employer can demonstrate that it would have ended the employee's employment, regardless of the NJFLA leave (*N.J. Stat. Ann. § 34:11B-7 (2011)* and *N.J. Admin. Code § 13:14-1.11(b) (2008)*).

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. Stat. Ann. §§ 34:11B-1 to 34:11B-16: Eligible Employees*).

NEW JERSEY FAMILY LEAVE INSURANCE LAW: N.J. STAT. ANN. §§ 43:21-26 TO 43:21-31

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. Stat. Ann. § 43:21-40 (2011)*).

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. STAT. ANN. § 2B:20-17

Employers cannot "penalize, threaten, or otherwise coerce an employee" because that employee must attend court for jury service (*N.J. Stat. Ann. § 2B:20-17.a (2011)*).

EMERGENCY RESPONDERS EMPLOYMENT PROTECTION ACT: N.J. STAT. ANN. §§ 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.

MILITARY LEAVE: N.J. STAT. ANN. § 38:23C-20

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 (*N.J. Stat. Ann. § 38:23C-20 (2008)*). In that event, the employer must restore the employee to any available position for which the employee is able or qualified to perform the duties, if requested by the employee (*N.J. Stat. Ann. § 38:23C-20 (2008)*).

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 at the time the employee began military leave.

(*N.J. Stat. Ann. § 38:23C-20.d (2008)*).

In addition, employees who are reemployed after military service are protected from discharge without cause for one year after reemployment (*N.J. Stat. Ann. § 38:23C-20.d (2008)*).

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 upon application for reemployment within 10 days after the discharge or suspension (*N.J. Stat. Ann. § 38:23C-20.c (2008)*).

EMPLOYER OBLIGATIONS

7. For each applicable leave law, what obligations does an employer have to inform their employee of their rights to the leave?

THE NEW JERSEY FAMILY LEAVE ACT: N.J. STAT. ANN. §§ 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. Admin. Code § 13:8-2.2 (2011)*).

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* (www.practicallaw.com/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. Stat. Ann. § 34:11B-6 (2011)* and *N.J. Admin. Code § 13:14-1.14 (2008)*.) 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. STAT. ANN. §§ 43:21-26 TO 43:21-31

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

- At the time of hire.
- Each time the employee notifies the employer of the need for family leave.
- On the first request for such notice from the employee.

(*N.J. Stat. Ann. § 43:21-39.1.g (2008)* and *N.J. Admin. Code § 12:21-1.8(b) (2011)*.)

For a model policy, see *State Q&A, Leave Policy Language: New Jersey* (www.practicallaw.com/8-505-6931).

JURY DUTY LEAVE: N.J. STAT. ANN. § 2B:20-17

Employers do not have to notify employees of their right to jury leave.

EMERGENCY RESPONDERS EMPLOYMENT PROTECTION ACT: N.J. STAT. ANN. §§ 40A:14-213 TO 40A:14-214

Employers do not have to notify employees of their rights to emergency responder leave.

MILITARY LEAVE: N.J. STAT. ANN. § 38:23C-20

Employers do not have to notify employees of their rights to military leave.

8. For each applicable leave law, what are possible consequences for employers who violate the law?

THE NEW JERSEY FAMILY LEAVE ACT: N.J. STAT. ANN. §§ 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 subsequent offense.

(*N.J. Stat. Ann. § 34:11B-10 (2011)*.)

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 percent of the defendant's net worth.

(*N.J. Stat. Ann. § 34:11B-11 (2011)*.)

NEW JERSEY FAMILY LEAVE INSURANCE LAW: N.J. STAT. ANN. §§ 43:21-26 TO 43:21-31

Benefits under the New Jersey Family Leave Insurance Law are typically administered by the state of New Jersey, unless the employer has an approved private plan. 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. Stat. Ann. § 43:21-50 (2011)*). A prevailing employee may recover:

- Lost benefits.
- Up to 20 percent of the value of the claim as a reasonable attorneys' fees.
- A reasonable fee for the appearance of medical witnesses.

(*N.J. Stat. Ann. § 43:21-51 (2011)*.)

JURY DUTY LEAVE: N.J. STAT. ANN. § 2B:20-17

An employer that violates this law may be found guilty of a disorderly persons offense (*N.J. Stat. Ann. § 2B:20-17.b (2011)*).

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.

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. Stat. Ann. § 2B:20-17.c (2011)*.)

EMERGENCY RESPONDERS EMPLOYMENT PROTECTION ACT: N.J. STAT. ANN. §§ 40A:14-213 TO 40A:14-214

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

MILITARY LEAVE: N.J. STAT. ANN. § 38:23C-20

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.

RECORDKEEPING

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

THE NEW JERSEY FAMILY LEAVE ACT: N.J. STAT. ANN. §§ 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. STAT. ANN. § 43:21-52

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. 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. STAT. ANN. § 2B:20-17

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

EMERGENCY RESPONDERS EMPLOYMENT PROTECTION ACT: N.J. STAT. ANN. §§ 40A:14-213 TO 40A:14-214

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

MILITARY LEAVE: N.J. STAT. ANN. § 38:23C-20

The law does not include any recordkeeping requirements, but 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. STAT. ANN. §§ 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. Admin. Code § 13:13-2.5(b)(1) (2011)*). For more information about the LAD, see *State Q&A, Anti-discrimination Laws: New Jersey* (www.practicallaw.com/6-506-1735).

NEW JERSEY TEMPORARY DISABILITY BENEFITS LAW: N.J. STAT. ANN. §§ 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 Law 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.

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