

EMPLOYMENT LAW SUMMARY

New Jersey: Employee Leave Laws - Overview



Because You're Different

Employers have some flexibility when it comes to establishing or negotiating employee leave such as vacation time, personal leave and sick leave. However, in New Jersey, state laws require covered employers to provide employees with leave in certain situations. Employers must also provide employee leave when required to do so by federal laws such as the Family and Medical Leave Act.

New Jersey state law requires employers to provide:

- Paid sick leave;
- Family leave;
- Domestic and sexual violence leave;
- Jury duty leave;
- Military leave; and
- Emergency responder leave.

While New Jersey's required family leave is unpaid, employees on family leave may be eligible for the state's [paid family leave program](#), which replaces the wages of workers who need to miss work for certain family reasons. This program is part of the state's temporary disability insurance program. It is funded by employees through payroll deductions and administered by the New Jersey Department of Labor and Workforce Development.

The sections below provide high-level overviews of New Jersey's employee leave laws.

Overview of Employee Leave Laws

Paid Sick Leave

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Employees must accrue at least **one hour of paid sick leave for every 30 hours worked**, up to 40 hours per year. The benefit year is any consecutive 12-month period as established by the employer.

Employees begin accruing paid sick leave upon hire. **Employers may require employees to wait 120 calendar days** after the employee's hire date to use any accrued paid sick leave.

Employees must be permitted to **use up to 40 hours** of paid sick leave per year for any of the following reasons:

- Preventive medical care for the employee or for diagnosis, care, treatment or recovery from an employee's own mental or physical illness, injury or other adverse health condition;

- Time needed for the employee to care for his or her family member during diagnosis, care, treatment or recovery from the family member's mental or physical illness, injury or other adverse health condition or for the family member's preventive medical care;
- Time off needed due to the employee, or an employee's family member, being a victim of domestic or sexual violence to allow the victim to obtain certain services, including medical attention, counseling, relocation or legal services;
- Time off when the employee cannot work due to the closure of the employee's workplace or the closure of the employee's child's school or place of care due to a public health concern;
- Time off needed because the presence in the community of the employee (or a family member of the employee) has been determined by a health care provider or public health authority to jeopardize the health of others
- Time off needed during a state of emergency because the employee (or a family member in need of care by the employee) is in isolation or quarantine as a result of suspected exposure to a communicable disease
- Time off to attend certain school-related conferences, meetings or functions for the employee's child.

The law covers time off to be tested for COVID-19 or obtain a COVID-19 vaccine, including appointment travel and recovery from side effects.

Employees using paid sick leave must be paid the same rate of pay, with the same benefits that they normally earn, so long as the pay rate is not less than the applicable minimum wage. Employers may require seven days' notice of leave for scheduled appointments.

Employers may require reasonable documentation for leave for **three or more consecutive days**.

Employers are not required to pay employees for unused paid sick leave upon separation from employment. Employer notice, recordkeeping and anti-retaliation provisions apply.

New Jersey Family Leave Act (NJFLA)

In addition to the federal FMLA, the New Jersey Family Leave Act (NJFLA) entitles eligible employees to take time off for family and medical reasons. **All employers with 30 or more employees** must comply with the NJFLA for their New Jersey employees.

To be eligible for leave under the NJFLA, an employee must:

- Have been **employed for at least 12 months** for the employer; and
- Have **worked 1,000 hours** in the 12 months prior to the leave.

The law contains an **exception for highly paid employees**, but the exception does not apply when the leave is due to an epidemic of communicable disease, known or suspected exposure to a communicable disease, or efforts to prevent spread of a communicable disease.

An eligible employee may take **12 weeks** of family leave within any **24-month period** for the birth of the employee's child, a child's placement for adoption or foster care with the employee, a family member's isolation or quarantine because of suspected exposure to a communicable disease, the serious health condition of an employee's family member, or the ordered closure of a child's school or place of care due to an epidemic of a communicable disease or other public health emergency.

Leave may be paid, unpaid or a combination. Employers may require employees to exhaust accrued paid leave, if required for other types of leaves.

Intermittent leave is permitted when taking leave to care for a family member with a serious health condition or taking leave following a foster care placement, birth or adoption of a child. Leave to care for a family member with a serious health condition may be taken on a reduced-schedule basis for up to 12 consecutive months for any one period of leave. Intermittent leave is also permitted when taking leave for qualifying reasons due to an epidemic of communicable disease if the employee:

- Provides the employer with notice as soon as practicable; and
- Makes a reasonable effort to schedule the leave so as not to unduly disrupt the operations of the employer and, if possible, provides the employer with a schedule of the days when leave will be taken.

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 the anniversary of the employee's date of hire;

- The 24-month period beginning on the first day of the employee's first NJFLA leave; or
- A rolling 24-month period, measured backward from the date of any NJFLA leave.

When leave is covered by both the FMLA and the NJFLA, the leaves run concurrently.

Employers must post an NJFLA [poster](#) in the workplace, include a notice in employee handbooks (or provided individually if there is no handbook), and provide a [notice](#) to each employee on hiring and on request. Job reinstatement and nonretaliation provisions apply.

Violations of the NJFLA are subject to fines of up to \$5,000 per offense, reinstatement, back pay, attorneys' fees and punitive damages up to \$10,000. For class actions or complaints brought by the state, punitive damages may be as much as \$500,000 or 1% of the net worth of the defendant, whichever is less.

New Jersey SAFE Act

The New Jersey Security and Financial Empowerment (SAFE) Act requires a covered employer (one with **25 or more employees**) to provide an eligible employee with **unpaid** leave following any incident of domestic violence or sexually violent offense against the employee or the employee's parent-in-law, sibling, grandparent, grandchild, child, parent, spouse, domestic partner, civil union partner or any other individual related by blood to the employee, and any other individual that the employee shows to have a close association with the employee which is the equivalent of a family relationship

To be eligible for leave under the SAFE Act, employees must have:

- Been employed for at least 12 months; and
- Worked no less than 1,000 hours during the preceding 12-month period.

An employee is entitled to take up to **20 days** of unpaid leave within one year of the qualifying event in order to get medical attention, obtain services from victim services organizations, obtain psychological or other counseling, safety planning (such as relocation), seek legal assistance, or to attend or participate in preparation for court proceedings.

Each incident of domestic or sexual or violence counts as a separate offense for which an employee is entitled to unpaid leave, provided the employee has not exhausted the allotted 20 days for the 12-month period. The unpaid leave may be taken intermittently in intervals of no less than one day.

An employer may require documentation of the domestic violence or sexually violent offense. Employees must give as much advance notice to employers for the need to take leave as is reasonable. The notice must be written if the need for leave is foreseeable, unless an emergency or other circumstance prevents advance notice.

Employees may elect to use accrued paid leave (or any family temporary disability leave benefits) during any part of the 20-day period of unpaid leave. If the leave also qualifies under the NJFLA or FMLA, the leaves will run concurrently.

Employees may bring suit for violations; remedies include fines, reinstatement, back pay and attorneys' fees.

Jury Duty Leave

Employers must allow employees to take **unpaid** leave for time spent complying with a jury summons. An employer may not discharge, penalize, threaten or otherwise coerce an employee because he or she is required to attend court for jury service.

Military Leave

In addition to USERRA, New Jersey law provides reemployment rights to U.S. military service members and members of any state's National Guard. The law protects any employee who leaves work, other than a temporary position, to do any of the following:

- Complete military service;
- Participate in military assemblies or annual training;
- Attend service schools conducted by the U.S. armed forces for up to **three months** in a four-year period.

Following active duty, an employee must be reinstated to the same or similar position they previously held and for which they are still qualified. If this is not possible (due to a reason permitted by the law), the employee must be restored to any available position for which he or she is qualified, upon request. The employee may not be discharged without cause for one year after reemployment.

In general, an employee must apply for reemployment **within 90 days** after completing military service, and must provide a certificate of completion from an officer of the military force. However, employees who participate in annual training, military assemblies or service schools must apply for reemployment **within 10 days** after completing the training or service school.

Permanent or full-time temporary employees of the state or a county, town or public school who have been employed for at least one year must be provided with **30 days** of paid leave for active duty with the federal reserves, including with the National Guard of other states. Full-time temporary employees who have been employed for less than one year must be provided 30 days' unpaid leave.

New Jersey public employers may pay their employees their full or partial regular compensation during periods of federal or New Jersey state military service. However, commissioned officers may only be paid an amount that will bring their combined military and public employee compensation up to their total public employee compensation before entering the military service.

Emergency Responders Employment Protection Act

An employer may not terminate, dismiss or suspend any employee who is absent from work due to service in his or her volunteer capacity as a volunteer emergency responder. Volunteer emergency responders include any active member in good standing of a:

- Volunteer fire company;
- Duly incorporated first-aid, rescue or ambulance squad; or
- County or municipal volunteer Office of Emergency Management (provided the member's official duties include responding to a fire or emergency call).

Leave is **unpaid**; there is no limit on the amount an eligible employee can take. However, if leave exceeds one workday, daily notice from the incident commander is required.

Employees must give their employers at least one-hour advance notice of their absence from work to fulfill emergency services in response to a declared state of emergency or emergency alarm. In addition, employees must provide their employers with documentation verifying their absence was related to volunteer emergency services.

More Information

Contact Heffernan Insurance Brokers for more information on employee leave laws in New Jersey.

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