

## **New Jersey Enacts Leave Law for Victims of Domestic Violence**

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On October 1, 2013, the New Jersey Security and Financial Empowerment Act (S-2177) ("SAFE Act") will go into effect, providing unpaid job-protected leave for victims of domestic violence and sexual assault.

The SAFE Act applies to New Jersey employers with 25 or more employees. In order to be eligible for leave under the SAFE Act, an employee must have worked for his or her current employer for at least 12 months, and for at least 1,000 hours during the immediate 12-month period.

The SAFE Act provides a maximum of 20 days of unpaid job-protected leave to an eligible employee who is a victim of domestic violence or sexual assault or whose child, parent, spouse, domestic partner, or civil union partner is a victim. Employees may take leave to engage in the following activities:

- Seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic or sexual violence to the employee or the employee's family or household member;
- Obtaining services from a victim services organization, for the employee or the employee's family or household member;
- Obtaining psychological or other counseling for the employee or the employee's family or household member;
- Participating in safety planning, temporary or permanent relocation, or other actions to increase the safety of the employee or the employee's family or household member from future domestic or sexual violence or to ensure economic security;
- Seeking legal assistance or remedies to ensure the health and safety of the employee or the employee's family or household member, including preparing for, or participating in, any civil or criminal legal proceeding related to or derived from domestic or sexual violence; or

- Attending, participating in, or preparing for a criminal or civil court proceeding relating to an incident of domestic or sexual violence of which the employee or the employee's family or household member was a victim.

Employers may require employees to use any accrued paid time off during any portion of leave under the SAFE Act. If a domestic violence-related leave is covered under the federal Family and Medical Leave Act and/or the New Jersey Family Leave Act, the leaves run concurrently. Employers are permitted to request documentation to support the leave request, which may include a restraining order, documentation from the prosecutor's office, documentation of the conviction of the abuser, medical documentation, a certification from a domestic violence specialist or rape crisis center documenting the abuse, or documentation from religious or social services professionals. Such documentation must be maintained with strict confidentiality, unless disclosure is voluntarily authorized in writing by the employee, or unless disclosure is required by law, rule, or regulation.

The SAFE Act specifically prohibits discharge, harassment, or retaliation against a covered employee who takes (or requests) leave for which they are entitled under the Act and provides for a private right of action for violation of the Act.

Finally, New Jersey employers must conspicuously display a notice of employees' rights under the law and "use other appropriate means to keep ... employees informed." The form of notice is to be provided by the New Jersey Department of Labor and Workforce Development; what is necessary for compliance with the "other appropriate means" provision is not yet clear.

### **What Employers Should Do Now**

- Update leave policies to include leave under the SAFE Act.
- Establish a procedure for requesting, reviewing, and responding to leave requests.
- Train human resources professionals on the SAFE Act's requirements.
- Establish safeguards for maintaining the confidentiality of documentation provided in connection with leave requests.
- Notify all employees of their rights under the SAFE Act.

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