

CHAPTER 279

AN ACT concerning reinstatement of employees after taking family leave and amending various parts of the statutory law.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 3 of P.L.1989, c.261 (C.34:11B-3) is amended to read as follows:

C.34:11B-3 Definitions.

3. As used in this act:

- a. "Child" means a biological, adopted, foster child, or resource family child, stepchild, legal ward, or child of a parent, including a child who becomes the child of a parent pursuant to a valid written agreement between the parent and a gestational carrier.

- b. "Director" means the Director of the Division on Civil Rights.

- c. "Division" means the Division on Civil Rights in the Department of Law and Public Safety.

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

- e. "Employee" means a person who is employed for at least three months by an employer, with respect to whom benefits are sought under this act, for not less than 250 base hours during the immediately preceding 12-month period. Any time, up to a maximum of 90 calendar days, during which a person is laid off or furloughed by an employer due to that employer curtailing operations because of a state of emergency declared after October 22, 2012, shall be regarded as time in which the person is employed for the purpose of determining eligibility for leave time under this act. In making the determination, the base hours per week during the layoff or furlough shall be deemed to be the same as the average number of hours worked per week during the rest of the 12-month period.

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

- (1) (Deleted by amendment, P.L.2019, c.37)

- (2) (Deleted by amendment, P.L.2019, c.37)

- (3) With respect to the period of time from the 1,095th day following the effective date of P.L.1989, c.261 (C.34:11B-1 et seq.) through June 30, 2019, employs 50 or more employees for each working day during each of 20 or more calendar workweeks in the then current or immediately preceding calendar year;

- (4) With respect to any period of time from June 30, 2019 until the effective date of P.L.2025, c.279, employs 30 or more employees for each working day during each of 20 or more calendar workweeks in the then current or immediately preceding calendar year; and

- (5) With respect to any period of time after the effective date of P.L.2025, c.279, employs 15 or more employees for each working day during each of 20 or more calendar workweeks in the then current or immediately preceding calendar year.

"Employer" includes the State, any political subdivision thereof, and all public offices, agencies, boards or bodies.

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

- h. "Parent" means a person who is the biological parent, adoptive parent, foster parent, resource family parent, step-parent, parent-in-law or legal guardian, having a "parent-child

relationship" with a child as defined by law, or having sole or joint legal or physical custody, care, guardianship, or visitation with a child, or who became the parent of the child pursuant to a valid written agreement between the parent and a gestational carrier.

i. "Family leave" means leave from employment so that the employee may provide care made necessary by reason of:

(1) the birth of a child of the employee, including a child born pursuant to a valid written agreement between the employee and a gestational carrier;

(2) the placement of a child into foster care with the employee or in connection with adoption of such child by the employee;

(3) the serious health condition of a family member of the employee; or

(4) in the event of a state of emergency declared by the Governor, or when indicated to be needed by the Commissioner of Health or other public health authority, an epidemic of a communicable disease, a known or suspected exposure to the communicable disease, or efforts to prevent spread of a communicable disease, which:

(a) requires in-home care or treatment of a child due to the closure of the school or place of care of the child of the employee, by order of a public official due to the epidemic or other public health emergency;

(b) prompts the issuance by a public health authority of a determination, including by mandatory quarantine, requiring or imposing responsive or prophylactic measures as a result of illness caused by an epidemic of a communicable disease or known or suspected exposure to the communicable disease because the presence in the community of a family member in need of care by the employee, would jeopardize the health of others; or

(c) results in the recommendation of a health care provider or public health authority, that a family member in need of care by the employee voluntarily undergo self-quarantine as a result of suspected exposure to a communicable disease because the presence in the community of that family member in need of care by the employee, would jeopardize the health of others.

j. "Family member" means a child, parent, parent-in-law, sibling, grandparent, grandchild, spouse, domestic partner, or one partner in a civil union couple, 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.

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

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

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

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

m. "State of emergency" means a natural or man-made disaster or emergency for which a state of emergency has been declared by the President of the United States or the Governor or for which a state of emergency has been declared by a municipal emergency management coordinator.

n. "Health care provider" means a duly licensed health care provider or other health care provider deemed appropriate by the director.

2. Section 24 of P.L.2019, c.37 (C.43:21-55.2) is amended to read as follows:

C.43:21-55.2 Retaliation against employee for request, use of disability benefits prohibited; violations, penalties.

24. a. Any covered individual who took any temporary disability benefits pursuant to P.L.1948, c.110 (C.43:21-25 et al.), or family temporary disability leave benefits pursuant to P.L.2008, c.17 (C.43:21-39.1 et al.), shall, upon the expiration of the leave, be entitled to be restored by the employer to the position held by the employee when the leave commenced or to an equivalent position of like seniority, status, employment benefits, pay, and other terms and conditions of employment, except that nothing in this section or any section of P.L.2008, c.17 (C.43:21-39.1 et al.) shall be construed as increasing, reducing, or otherwise modifying any entitlement provided to a worker by the provisions of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) to be restored to employment by the employer after a period of family temporary disability leave. The employee shall retain all rights under any applicable layoff and recall system, including a system under a collective bargaining agreement, as if the employee had not taken the leave.

b. An employer shall not discharge, harass, threaten, or otherwise discriminate or retaliate against an employee with respect to the compensation, terms, conditions, or privileges of employment on the basis that the employee requested or took any temporary disability benefits pursuant to P.L.1948, c.110 (C.43:21-25 et al.), or family temporary disability leave benefits pursuant to P.L.2008, c.17 (C.43:21-39.1 et al.), including retaliation by refusing to reinstate the employee to employment following a period of leave, if, and as, required by subsection a. of this section.

c. Upon a violation of subsection a. or b. of this section, an employee or former employee may, as an alternative to any action that the employee is permitted to take for the violation pursuant to the provisions of P.L.1948, c.110 (C.43:21-25 et al.), P.L.2008, c.17 (C.43:21-39.1 et al.), or the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.), institute a civil action in the Superior Court for relief in which all remedies available in common law tort actions shall be available to a prevailing plaintiff. The court may also order any or all of the following relief:

(1) an assessment of a civil fine of not less than \$1,000 and not more than \$2,000 for the first violation of any of the provisions of this section and not more than \$5,000 for each subsequent violation;

(2) an injunction to restrain the continued violation of any of the provisions of this section;

(3) reinstatement of the employee to the same position or to a position equivalent to that which the employee held prior to unlawful discharge or retaliatory action, or other failure to reinstate the employee in violation of this section;

(4) reinstatement of full fringe benefits and seniority rights;

(5) compensation for any lost wages, benefits and other remuneration; and

(6) payment of reasonable costs and attorney's fees.

d. An employee who is eligible for both earned sick leave pursuant to P.L.2018, c.10 (C.34:11D-1 et seq.), and either temporary disability benefits pursuant to P.L.1948, c.110 (C.43:21- 25 et al.), or family temporary disability leave benefits pursuant to P.L.2008, c.17 (C.43:21-39.1 et al.) shall have the option of using either the earned sick leave or whichever is applicable of temporary disability benefits or family temporary disability leave benefits, and may select the order in which the different kinds of leave are taken, but shall not receive more than one kind of paid leave simultaneously during any period of time.

3. This act shall take effect six months following enactment.

Approved January 17, 2026.