

[Fifth Reprint]

ASSEMBLY, No. 2919

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED MAY 14, 2012

Sponsored by:

Assemblyman ANGEL FUENTES

District 5 (Camden and Gloucester)

Assemblywoman GABRIELA M. MOSQUERA

District 4 (Camden and Gloucester)

Assemblywoman CELESTE M. RILEY

District 3 (Cumberland, Gloucester and Salem)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

Co-Sponsored by:

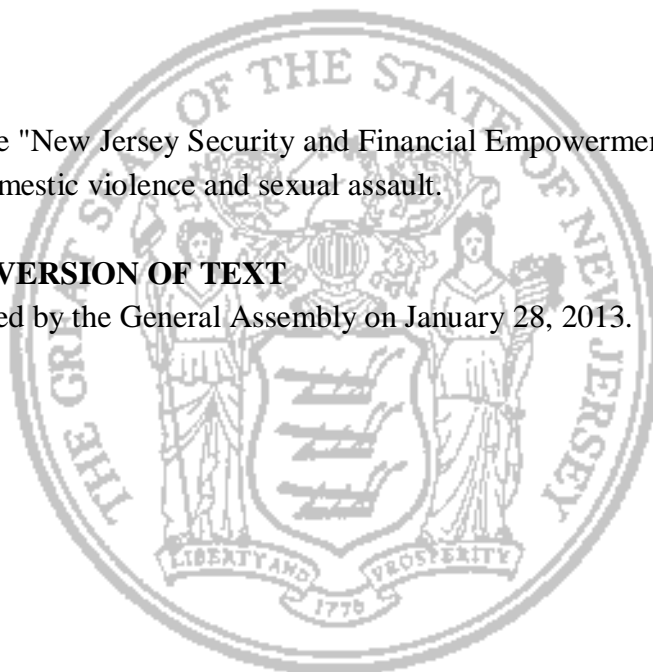
**Assemblywoman Lampitt, Assemblymen Conaway, Johnson, McKeon,
Giblin, Assemblywoman Tucker and Assemblyman Diegnan**

SYNOPSIS

Creates the "New Jersey Security and Financial Empowerment Act" to assist victims of domestic violence and sexual assault.

CURRENT VERSION OF TEXT

As amended by the General Assembly on January 28, 2013.



(Sponsorship Updated As Of: 5/21/2013)

1 AN ACT assisting victims of domestic or sexual violence and
2 supplementing Title 34 of the Revised Statutes.

3

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

6

7 1. This act shall be known as the "New Jersey Security and
8 Financial Empowerment Act" or "NJ SAFE Act."

9

10 ³2. As used in this act:

11 "Employee" means a person who is employed for at least 12
12 months by an employer, with respect to whom benefits are sought
13 under this act, for not less than 1,000 base hours during the
14 immediately preceding 12-month period; and

15 "Employer" means a person or corporation, partnership,
16 individual proprietorship, joint venture, firm or company, or other
17 similar legal entity which engages the services of an employee and
18 employs 25 or more employees for each working day during each of
19 20 or more calendar workweeks in the then current or immediately
20 preceding calendar year. "Employer" includes the State, any
21 political subdivision thereof, and all public offices, agencies,
22 boards, or bodies.³

23

24 ³[2.] ³a. ³[Any employee of an employer in this State ²who
25 was a victim of an incident of domestic violence as defined in
26 section 3 of P.L.1991, c.261 (C.2C:25-19) or a sexually violent
27 offense as defined in section 3 of P.L.1998, c.71 (C.30:4-27.6), or
28 whose child, parent, or spouse was a victim,² shall be entitled to
29 ²unpaid² leave of 20 days ¹[in any 12-month period as needed for
30 the purpose of engaging in any of the following activities as they
31 relate to] ², which may be taken intermittently,² within one year of¹
32 ²[an] the² incident of domestic violence ²[as defined in section 3
33 of P.L.1991, c.261 (C.2C:25-19)]² or ²[a]² sexually violent offense
34 ²[as defined in section 3 of P.L.1998, c.71 (C.30:4-27.26) of which
35 the employee or the employee's family or household member was a
36 victim¹]², as needed for the purpose of engaging in any of the
37 following activities as they relate to the incident of domestic
38 violence or sexually violent offense¹] Any employee of an
39 employer in the State who was a victim of an incident of domestic
40 violence as defined in section 3 of P.L.1991, c.261 (C.2C:25-19) or
41 a sexually violent offense as defined in section 3 of P.L.1998, c.71

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AWC committee amendments adopted June 14, 2012.

²Assembly AAP committee amendments adopted September 24, 2012.

³Assembly floor amendments adopted October 18, 2012.

⁴Assembly floor amendments adopted December 17, 2012.

⁵Assembly floor amendments adopted January 28, 2013.

1 (C.30:4-27.26), or whose child, parent, spouse, ⁴domestic partner,⁴
2 or civil union partner was a victim shall be entitled to unpaid leave
3 of no more than 20 days in one 12-month period, to be used in the
4 12-month period next following any incident of domestic violence
5 or any sexually violent offense as provided in this section. For
6 purposes of this section, each incident of domestic violence or any
7 sexually violent offense shall constitute a separate offense for
8 which an employee is entitled to unpaid leave, provided that the
9 employee has not exhausted the allotted 20 days for the 12-month
10 period. The unpaid leave may be taken intermittently in intervals of
11 no less than one day, as needed for the purpose of engaging in any
12 of the following activities as they relate to the incident of domestic
13 violence or sexually violent offense³:

14 (1) seeking medical attention for, or recovering from, physical
15 or psychological injuries caused by domestic or sexual violence to
16 the employee or the employee's ³[family or household member]
17 child, parent, spouse, ⁴domestic partner,⁴ or civil union partner³;

18 (2) obtaining services from a victim services organization for
19 the employee or the employee's ³[family or household member]
20 child, parent, spouse, ⁴domestic partner,⁴ or civil union partner³;

21 (3) obtaining psychological or other counseling for the
22 employee or the employee's ³[family or household member] child,
23 parent, spouse, ⁴domestic partner,⁴ or civil union partner³;

24 (4) participating in safety planning, temporarily or permanently
25 relocating, or taking other actions to increase the safety of the
26 employee or the employee's ³[family or household member] child,
27 parent, spouse, ⁴domestic partner,⁴ or civil union partner³ from
28 future domestic or sexual violence or to ensure economic security;

29 (5) seeking legal assistance or remedies to ensure the health and
30 safety of the employee or the employee's ³[family or household
31 member] child, parent, spouse, ⁴domestic partner,⁴ or civil union
32 partner³, including preparing for^{1, 1} or participating in^{1, 1} any civil or
33 criminal legal proceeding related to or derived from domestic or
34 sexual violence; or

35 (6) attending, participating in^{1, 1} or preparing for a criminal or
36 civil court proceeding relating to an incident of domestic or sexual
37 violence of which the ³[individual, or the family or household
38 member of the individual] employee or the employee's child,
39 parent, spouse, ⁴domestic partner,⁴ or civil union partner³, was a
40 victim.

41 ⁴[³[Nothing contained in this act shall be construed to prohibit
42 an] An³ employer ³[from requiring] shall not require³ the
43 employee to exhaust accrued paid leave provided by the employer,
44 or leave provided pursuant to the "Family Leave Act," P.L.1989,
45 c.261 (C.34:11B-1 et seq.), and the federal "Family and Medical
46 Leave Act of 1993," ³Pub.L.103-3³ 29 U.S.C. 2601 et seq., before

1 using leave provided pursuant to this section.]

2 An eligible employee may elect, or an employer may require the
3 employee, to use any of the accrued paid vacation leave, personal
4 leave, or medical or sick leave of the employee during any part of
5 the 20-day period of unpaid leave provided under this subsection.
6 In such case, any paid leave provided by the employer, and accrued
7 pursuant to established policies of the employer, shall run
8 concurrently with the unpaid leave provided under this subsection
9 and, accordingly, the employee shall receive pay pursuant to the
10 employer's applicable paid leave policy during the period of
11 otherwise unpaid leave. If an employee requests leave for a reason
12 covered by both this subsection and the "Family Leave Act,"
13 P.L.1989, c.261 (C.34:11B-1 et seq.) or the federal "Family and
14 Medical Leave Act of 1993," Pub.L.103-3 (29 U.S.C. s.2601 et
15 seq.), the leave shall count simultaneously against the employee's
16 entitlement under each respective law.⁴

17 ³Leave granted under this ⁴[act] ⁴section⁴ shall ⁴[be in addition
18 to, and shall not abridge or] not⁴ conflict with⁴[.]⁴ any rights
19 pursuant to the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et
20 seq.), the "Temporary Disability Benefits Law," P.L.1948, c.110
21 (C.43:21-25 et seq.), ⁴[and] ⁴or⁴ the federal "Family and Medical
22 Leave Act of 1993," Pub.L.103-3 (29 U.S.C. s.2601 et seq.).³

23 b. Prior to taking the leave provided for in this section, an
24 employee shall, if the necessity for the leave is foreseeable, provide
25 the employer with written notice of the need for the leave. The
26 notice shall be provided to the employer as far in advance as is
27 reasonable and practical under the circumstances.

28 c. Nothing contained in this act shall be construed to prohibit
29 an employer from requiring that a period of leave provided pursuant
30 to this section be supported by the employee with documentation of
31 the domestic violence or sexually violent offense which is the basis
32 for the leave. If the employer requires the documentation, the
33 employee shall be regarded as having provided sufficient
34 documentation if the employee provides one or more of the
35 following:

36 (1) a domestic violence restraining order or other documentation
37 of equitable relief issued by a court of competent jurisdiction;

38 (2) a letter or other written documentation from the county or
39 municipal prosecutor documenting the domestic violence or
40 sexually violent offense;

41 (3) documentation of the conviction of a person for the domestic
42 violence or sexually violent offense;

43 (4) medical documentation of the domestic violence or sexually
44 violent offense;

45 (5) certification from a certified Domestic Violence Specialist or
46 the director of a designated domestic violence agency or Rape
47 Crisis Center, that the employee or employee's ³[family or

1 household member] child, parent, spouse, ⁵domestic partner,⁵ or
2 civil union partner³ is a victim of domestic violence or a sexually
3 violent offense; or

4 (6) other documentation or certification of the domestic violence
5 or sexually violent offense provided by a social worker, member of
6 the clergy, shelter worker^{1,1} or other professional who has assisted
7 the employee or employee's ³[family or household member] child,
8 parent, spouse, ⁵domestic partner,⁵ or civil union partner³ in dealing
9 with the domestic violence or sexually violent offenses.

10 For the purposes of this subsection:

11 "Certified Domestic Violence Specialist" means a person who
12 has fulfilled the requirements of certification as a Domestic
13 Violence Specialist established by the New Jersey Association of
14 Domestic Violence Professionals; and "designated domestic
15 violence agency" means a county-wide organization with a primary
16 purpose to provide services to victims of domestic violence, and
17 which provides services that conform to the core domestic violence
18 services profile as defined by the Division of ²[Youth and Family
19 Services] Child Protection and Permanency² in the Department of
20 ¹[Human Services] Children and Families¹ and is under contract
21 with the division for the express purpose of providing ¹[such] the¹
22 services.

23 "Rape Crisis Center" means an office, institution^{1,1} or center
24 offering assistance to victims of sexual offenses through crisis
25 intervention, medical and legal information^{1,1} and follow-up
26 counseling.

27 d. ³[An employee shall be entitled, at the employee's option, to
28 take the leave provided for in this section intermittently or on a
29 reduced leave basis upon the approval of the employer.

30 e.]³ An employer shall display conspicuous notice of its
31 employees' rights and obligations pursuant to the provisions of this
32 act ⁴in such form and in such manner as the Commissioner of Labor
33 and Workforce Development shall prescribe⁴, and use other
34 appropriate means to keep its employees so informed.

35 ³[f.] e.³ No provision of this act shall be construed as requiring
36 or permitting an employer to reduce employment benefits provided
37 by the employer or required by a collective bargaining agreement
38 which are in excess of those required by this act. Nor shall any
39 provision of this act be construed to prohibit the negotiation and
40 provision through collective bargaining agreements of leave
41 policies or benefit programs which provide benefits in excess of
42 those required by this act. This provision shall apply irrespective of
43 the date that a collective bargaining agreement takes effect.

44 Nothing contained in this act shall be construed as permitting an
45 employer to ¹;

46 (1)¹ rescind or reduce any employment benefit accrued prior to

1 the date on which the leave taken pursuant to this act commenced¹;
2 or

3 (2) rescind or reduce any employment benefit, unless the
4 rescission or reduction of the benefit is based on changes that would
5 have occurred if an employee continued to work without taking the
6 leave provided pursuant to this section¹.

7 ³[g.]³f.³ All information provided to an employer pursuant to
8 subsection c. of this section, and any information regarding a leave
9 taken pursuant to this section and any failure of an employee to
10 return to work, shall be retained in the strictest confidentiality,
11 unless the disclosure is voluntarily authorized in writing by the
12 employee or is required by a federal or State law, rule¹,¹ or
13 regulation.

14 ³[¹h. As used in this act:

15 "employer" means a person or corporation, partnership,
16 individual proprietorship, joint venture, firm or company, or other
17 similar legal entity, as defined in section 3 of P.L. 1989, c.261
18 (C.34:11B-3), which engages the services of an employee and
19 employs 25 or more employees.¹]³

20

21 ³[3.]³4.³ An employer shall not discharge, harass or otherwise
22 discriminate or retaliate or threaten to discharge, harass or
23 otherwise discriminate or retaliate against an employee with respect
24 to the compensation, terms, conditions or privileges of employment
25 on the basis that the employee took or requested any leave to which
26 the employee was entitled pursuant to section ³[2] ³3³ of this act or
27 on the basis that the employee refused to authorize the release of
28 information deemed confidential pursuant to subsection ³[g.] ³f.³ of
29 section ³[2] ³3³ of this act.

30

31 ³[4.]³5.³ a. Upon a violation of any of the provisions of
32 section ³[2] ³3³ or section ³[3] ³4³ of this act, an employee or
33 former employee may institute a civil action in the Superior Court
34 for relief. All remedies available in common law tort actions shall
35 be available to a prevailing plaintiff. The court may also order any
36 or all of the following relief:

37 (1) an assessment of a civil fine of not less than \$1,000 and not
38 more than \$2,000 for the first violation of any of the provisions of
39 section ³[2] ³3³ or section ³[3] ³4³ of this act and not more than
40 \$5,000 for each subsequent violation;

41 (2) an injunction to restrain the continued violation of any of the
42 provisions of section ³[2] ³3³ or section ³[3] ³4³ of this act;

43 (3) reinstatement of the employee to the same position or to a
44 position equivalent to that which the employee held prior to
45 unlawful discharge or retaliatory action;

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

47 (5) Compensation for any lost wages, benefits and other

1 remuneration;

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

3 b. ³[an] An³ action brought under this section shall be
4 commenced within one year of the date of the alleged violation.

5 c. ³[any remedies provided for in this section shall be in
6 addition to any legal or equitable relief provided by any other
7 federal or State law, rule or regulation] A private cause of action
8 provided for in this section shall be the sole remedy for a violation
9 of this act.³

10

11 ³[5.] 6.³ This act shall take effect ²[immediately] on the first
12 day of the third month next following the date of enactment².