

[First Reprint]

SENATE, No. 2177

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED SEPTEMBER 20, 2012

Sponsored by:

Senator FRED H. MADDEN, JR.

District 4 (Camden and Gloucester)

Senator JAMES BEACH

District 6 (Burlington and Camden)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Senate Health, Human Services and Senior Citizens Committee on October 1, 2012, with amendments.



(Sponsorship Updated As Of: 10/2/2012)

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 2. a. Any employee of an employer in this State ¹who was a
 11 victim of an incident of domestic violence as defined in section 3 of
 12 P.L.1991, c.261 (C.2C:25-19) or a sexually violent offense as
 13 defined in section 3 of P.L.1998, c.71 (C.30:4-27.6), or whose
 14 child, parent, or spouse was a victim,¹ shall be entitled to ¹unpaid¹
 15 leave of 20 days ¹[in any 12-month period as needed for the
 16 purpose of engaging in any of the following activities as they relate
 17 to an] , which may be taken intermittently in intervals of no less
 18 than one day, within one year of the¹ incident of domestic violence
 19 ¹[as defined in section 3 of P.L.1991, c.261 (C.2C:25-19)]¹ or
 20 ¹[a]¹ sexually violent offense ¹[as defined in section 3 of
 21 P.L.1998, c.71 (C.30:4-27.26) of which the employee or the
 22 employee's family or household member was a victim] , as needed
 23 for the purpose of engaging in any of the following activities as
 24 they relate to the incident of domestic violence or sexually violent
 25 offense¹:

26 (1) seeking medical attention for, or recovering from, physical
 27 or psychological injuries caused by domestic or sexual violence to
 28 the employee or the employee's ¹[family or household member]
 29 child, parent, or spouse¹;

30 (2) obtaining services from a victim services organization for
 31 the employee or the employee's ¹[family or household member]
 32 child, parent, or spouse¹;

33 (3) obtaining psychological or other counseling for the
 34 employee or the employee's ¹[family or household member] child,
 35 parent, or spouse¹;

36 (4) participating in safety planning, temporarily or permanently
 37 relocating, or taking other actions to increase the safety of the
 38 employee or the employee's ¹[family or household member] child,
 39 parent, or spouse¹ from future domestic or sexual violence or to
 40 ensure economic security;

41 (5) seeking legal assistance or remedies to ensure the health and
 42 safety of the employee or the employee's ¹[family or household
 43 member] child, parent, or spouse¹, including preparing for^{1, 1} or
 44 participating in^{1, 1} any civil or criminal legal proceeding related to

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:

¹Senate SHH committee amendments adopted October 1, 2012.

1 or derived from domestic or sexual violence; or

2 (6) attending, participating in^{1, 1} or preparing for a criminal or
3 civil court proceeding relating to an incident of domestic or sexual
4 violence of which the ¹individual, or the family or household
5 member of the individual] employee or the employee's child,
6 parent, or spouse¹, was a victim.

7 Nothing contained in this act shall be construed to prohibit an
8 employer from requiring the employee to exhaust accrued paid
9 leave provided by the employer, or leave provided pursuant to the
10 "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.), and the
11 federal "Family and Medical Leave Act of 1993," 29 U.S.C. 2601 et
12 seq., before using leave provided pursuant to this section.

13 b. Prior to taking the leave provided for in this section, an
14 employee shall, if the necessity for the leave is foreseeable, provide
15 the employer with written notice of the need for the leave. The
16 notice shall be provided to the employer as far in advance as is
17 reasonable and practical under the circumstances.

18 c. Nothing contained in this act shall be construed to prohibit
19 an employer from requiring that a period of leave provided pursuant
20 to this section be supported by the employee with documentation of
21 the domestic violence or sexually violent offense which is the basis
22 for the leave. If the employer requires the documentation, the
23 employee shall be regarded as having provided sufficient
24 documentation if the employee provides one or more of the
25 following:

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

28 (2) a letter or other written documentation from the county or
29 municipal prosecutor documenting the domestic violence or
30 sexually violent offense;

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

33 (4) medical documentation of the domestic violence or sexually
34 violent offense;

35 (5) certification from a certified Domestic Violence Specialist or
36 the director of a designated domestic violence agency or Rape
37 Crisis Center, that the employee or employee's family or household
38 member is a victim of domestic violence or a sexually violent
39 offense; or

40 (6) other documentation or certification of the domestic violence
41 or sexually violent offense provided by a social worker, member of
42 the clergy, shelter worker^{1, 1} or other professional who has assisted
43 the employee or employee's family or household member in
44 dealing with the domestic violence or sexually violent offenses.

45 For the purposes of this subsection:

46 "Certified Domestic Violence Specialist" means a person who
47 has fulfilled the requirements of certification as a Domestic
48 Violence Specialist established by the New Jersey Association of

1 Domestic Violence Professionals; and “designated domestic
2 violence agency” means a county-wide organization with a primary
3 purpose to provide services to victims of domestic violence, and
4 which provides services that conform to the core domestic violence
5 services profile as defined by the Division of ¹‘[Youth and Family
6 Services] Child Protection and Permanency¹ in the Department of
7 ¹‘[Human Services] Children and Families¹ and is under contract
8 with the division for the express purpose of providing ¹‘[such] the¹
9 services.

10 “Rape Crisis Center” means an office, institution^{1,1} or center
11 offering assistance to victims of sexual offenses through crisis
12 intervention, medical and legal information^{1,1} and follow-up
13 counseling.

14 d. An employee shall be entitled, at the employee’s option, to
15 take the leave provided for in this section intermittently or on a
16 reduced leave basis upon the approval of the employer.

17 e. An employer shall display conspicuous notice of its
18 employees’ rights and obligations pursuant to the provisions of this
19 act, and use other appropriate means to keep its employees so
20 informed.

21 f. No provision of this act shall be construed as requiring or
22 permitting an employer to reduce employment benefits provided by
23 the employer or required by a collective bargaining agreement
24 which are in excess of those required by this act. Nor shall any
25 provision of this act be construed to prohibit the negotiation and
26 provision through collective bargaining agreements of leave
27 policies or benefit programs which provide benefits in excess of
28 those required by this act. This provision shall apply irrespective of
29 the date that a collective bargaining agreement takes effect.

30 Nothing contained in this act shall be construed as permitting an
31 employer to ¹;

32 (1)¹ rescind or reduce any employment benefit accrued prior to
33 the date on which the leave taken pursuant to this act commenced¹;
34 or

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

39 g. All information provided to an employer pursuant to
40 subsection c. of this section, and any information regarding a leave
41 taken pursuant to this section and any failure of an employee to
42 return to work, shall be retained in the strictest confidentiality,
43 unless the disclosure is voluntarily authorized in writing by the
44 employee or is required by a federal or State law, rule^{1,1} or
45 regulation.

46 ¹h. As used in this act:

47 “employee” means a person who is employed for at least 12
48 months by an employer, with respect to whom benefits are sought

1 under this act, for not less than 1,000 base hours during the
2 immediately preceding 12-month period; and

3 “employer” means a person or corporation, partnership,
4 individual proprietorship, joint venture, firm or company, or other
5 similar legal entity, as defined in section 3 of P.L. 1989, c.261
6 (C.34:11B-3), which engages the services of an employee and
7 employs 25 or more employees.’
8

9 3. An employer shall not discharge, harass or otherwise
10 discriminate or retaliate or threaten to discharge, harass or
11 otherwise discriminate or retaliate against an employee with respect
12 to the compensation, terms, conditions or privileges of employment
13 on the basis that the employee took or requested any leave to which
14 the employee was entitled pursuant to section 2 of this act or on the
15 basis that the employee refused to authorize the release of
16 information deemed confidential pursuant to subsection g. of
17 section 2 of this act.
18

19 4. a. Upon a violation of any of the provisions of section 2 or
20 section 3 of this act, an employee or former employee may institute
21 a civil action in the Superior Court for relief. All remedies available
22 in common law tort actions shall be available to a prevailing
23 plaintiff. The court may also order any or all of the following relief:

24 (1) an assessment of a civil fine of not less than \$1,000 and not
25 more than \$2,000 for the first violation of any of the provisions of
26 section 2 or section 3 of this act and not more than \$5,000 for each
27 subsequent violation;

28 (2) an injunction to restrain the continued violation of any of the
29 provisions of section 2 or section 3 of this act;

30 (3) reinstatement of the employee to the same position or to a
31 position equivalent to that which the employee held prior to
32 unlawful discharge or retaliatory action;

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

34 (5) Compensation for any lost wages, benefits and other
35 remuneration;

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

37 b. **‘[an] An’** action brought under this section shall be
38 commenced within one year of the date of the alleged violation.

39 c. **‘[any remedies provided for in this section shall be in**
40 **addition to any legal or equitable relief provided by any other**
41 **federal or State law, rule or regulation] A private cause of action**
42 **provided for in this section shall be the sole remedy for a violation**
43 **of this act’.**
44

45 5. This act shall take effect **‘[immediately] on the first day of**
46 **the third month next following the date of enactment’.**