

ASSEMBLY, No. 4927

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED JUNE 1, 2017

Sponsored by:

Assemblyman VINCENT PRIETO

District 32 (Bergen and Hudson)

Assemblywoman SHEILA Y. OLIVER

District 34 (Essex and Passaic)

Assemblyman REED GUSCIORA

District 15 (Hunterdon and Mercer)

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Co-Sponsored by:

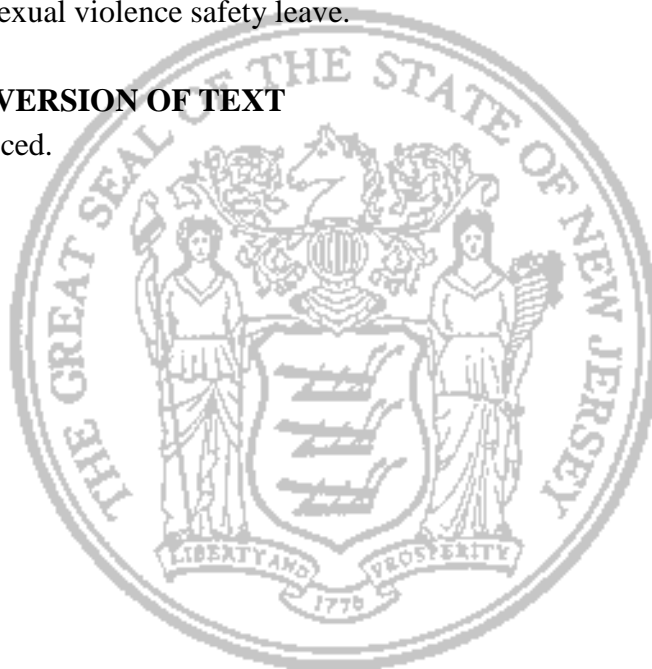
**Assemblyman Holley, Assemblywoman Muoio, Assemblyman Kennedy,
Assemblywoman Tucker, Assemblyman Egan, Senators Codey and
Greenstein**

SYNOPSIS

Revises law concerning family leave, family temporary disability leave, and domestic or sexual violence safety leave.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/16/2017)

1 AN ACT concerning family leave, family temporary disability leave,
2 and domestic or sexual violence safety leave, amending various
3 parts of the statutory law and supplementing P.L.2008, c.17
4 (C.43:21-39.1 et al.).

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

8
9 1. Section 3 of P.L.1989, c.261 (C.34:11B-3) is amended to
10 read as follows:

11 3. As used in this act:

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

16 (1) under 18 years of age; or

17 (2) 18 years of age or older but incapable of self-care because of
18 a mental or physical impairment.

19 b. "Director" means the Director of the Division on Civil
20 Rights.

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

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

28 e. "Employee" means a person who is employed for at least 12
29 months by an employer, with respect to whom benefits are sought
30 under this act, for not less than 1,000 base hours during the
31 immediately preceding 12-month period. Any time, up to a
32 maximum of 90 calendar days, during which a person is laid off or
33 furloughed by an employer due to that employer curtailing
34 operations because of a state of emergency declared after October
35 22, 2012, shall be regarded as time in which the person is employed
36 for the purpose of determining eligibility for leave time under this
37 act. In making the determination, the base hours per week during
38 the layoff or furlough shall be deemed to be the same as the average
39 number of hours worked per week during the rest of the 12-month
40 period.

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

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.

1 (1) With respect to the period of time from the effective date of
2 this act until the 365th day following the effective date of this act,
3 employs 100 or more employees for each working day during each
4 of 20 or more calendar workweeks in the then current or
5 immediately preceding calendar year;

6 (2) With respect to the period of time from the 366th day
7 following the effective date of this act until the 1,095th day
8 following the effective date of this act, employs 75 or more
9 employees for each working day during each of 20 or more calendar
10 workweeks in the then current or immediately preceding calendar
11 year; and

12 (3) With respect to any time after the 1,095th day following the
13 effective date of this act, employs 50 or more employees for each
14 working day during each of 20 or more calendar workweeks in the
15 then current or immediately preceding calendar year. "Employer"
16 includes the State, any political subdivision thereof, and all public
17 offices, agencies, boards or bodies.

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

22 h. "Parent" means a person who is the biological parent,
23 adoptive parent, resource family parent, step-parent, parent-in-law
24 or legal guardian, having a "parent-child relationship" with a child
25 as defined by law, or having sole or joint legal or physical custody,
26 care, guardianship, or visitation with a child, or who became the
27 parent of the child pursuant to a valid written agreement between
28 the parent and a gestational carrier.

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

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

34 (2) the placement of a child with the employee in connection
35 with adoption of such child by the employee; or

36 (3) the serious health condition of a family member of the
37 employee.

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

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

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

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

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

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

8 (cf: P.L.2013, c.221, s.1)

9

10 2. Section 3 of P.L.2013, c.82 (C.34:11C-3) is amended to read
11 as follows:

12 3. a. Any employee of an employer in the State who was a
13 victim of an incident of domestic violence as defined in section 3 of
14 P.L.1991, c.261 (C.2C:25-19) or a sexually violent offense as
15 defined in section 3 of P.L.1998, c.71 (C.30:4-27.26), or whose
16 parent-in-law, sibling, grandparent, grandchild, child, parent,
17 spouse, domestic partner, or civil union partner was a victim shall
18 be entitled to unpaid leave of no more than 20 days in one 12-month
19 period, to be used in the 12-month period next following any
20 incident of domestic violence or any sexually violent offense as
21 provided in this section. For purposes of this section, each incident
22 of domestic violence or any sexually violent offense shall constitute
23 a separate offense for which an employee is entitled to unpaid
24 leave, provided that the employee has not exhausted the allotted 20
25 days for the 12-month period. The unpaid leave may be taken
26 intermittently in intervals of no less than one day, as needed for the
27 purpose of engaging in any of the following activities as they relate
28 to the incident of domestic violence or sexually violent offense:

29 (1) seeking medical attention for, or recovering from, physical
30 or psychological injuries caused by domestic or sexual violence to
31 the employee or the employee's parent-in-law, sibling, grandparent,
32 grandchild, child, parent, spouse, domestic partner, or civil union
33 partner;

34 (2) obtaining services from a victim services organization for
35 the employee or the employee's parent-in-law, sibling, grandparent,
36 grandchild, child, parent, spouse, domestic partner, or civil union
37 partner;

38 (3) obtaining psychological or other counseling for the
39 employee or the employee's parent-in-law, sibling, grandparent,
40 grandchild, child, parent, spouse, domestic partner, or civil union
41 partner;

42 (4) participating in safety planning, temporarily or permanently
43 relocating, or taking other actions to increase the safety of the
44 employee or the employee's parent-in-law, sibling, grandparent,
45 grandchild, child, parent, spouse, domestic partner, or civil union
46 partner from future domestic or sexual violence or to ensure
47 economic security;

1 (5) seeking legal assistance or remedies to ensure the health and
2 safety of the employee or the employee's parent-in-law, sibling,
3 grandparent, grandchild, child, parent, spouse, domestic partner, or
4 civil union partner, including preparing for, or participating in, any
5 civil or criminal legal proceeding related to or derived from
6 domestic or sexual violence; or

7 (6) attending, participating in, or preparing for a criminal or
8 civil court proceeding relating to an incident of domestic or sexual
9 violence of which the employee or the employee's parent-in-law,
10 sibling, grandparent, grandchild, child, parent, spouse, domestic
11 partner, or civil union partner, was a victim.

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

27 Leave granted under this section shall not conflict with any
28 rights pursuant to the "Family Leave Act," P.L.1989, c.261
29 (C.34:11B-1 et seq.), the "Temporary Disability Benefits Law,"
30 P.L.1948, c.110 (C.43:21-25 et seq.), or the federal "Family and
31 Medical Leave Act of 1993," Pub.L.103-3 (29 U.S.C. s.2601 et
32 seq.).

33 b. Prior to taking the leave provided for in this section, an
34 employee shall, if the necessity for the leave is foreseeable, provide
35 the employer with written notice of the need for the leave. The
36 notice shall be provided to the employer as far in advance as is
37 reasonable and practical under the circumstances.

38 c. Nothing contained in this act shall be construed to prohibit
39 an employer from requiring that a period of leave provided pursuant
40 to this section be supported by the employee with documentation of
41 the domestic violence or sexually violent offense which is the basis
42 for the leave. If the employer requires the documentation, the
43 employee shall be regarded as having provided sufficient
44 documentation if the employee provides one or more of the
45 following:

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

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

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

6 (4) medical documentation of the domestic violence or sexually
7 violent offense;

8 (5) certification from a certified Domestic Violence Specialist or
9 the director of a designated domestic violence agency or Rape
10 Crisis Center, that the employee or employee's parent-in-law,
11 sibling, grandparent, grandchild, child, parent, spouse, domestic
12 partner, or civil union partner is a victim of domestic violence or a
13 sexually violent offense; or

14 (6) other documentation or certification of the domestic violence
15 or sexually violent offense provided by a social worker, member of
16 the clergy, shelter worker, or other professional who has assisted
17 the employee or employee's parent-in-law, sibling, grandparent,
18 grandchild, child, parent, spouse, domestic partner, or civil union
19 partner in dealing with the domestic violence or sexually violent
20 offenses.

21 For the purposes of this subsection:

22 "Certified Domestic Violence Specialist" means a person who
23 has fulfilled the requirements of certification as a Domestic
24 Violence Specialist established by the New Jersey Association of
25 Domestic Violence Professionals; and "designated domestic
26 violence agency" means a county-wide organization with a primary
27 purpose to provide services to victims of domestic violence, and
28 which provides services that conform to the core domestic violence
29 services profile as defined by the Division of Child Protection and
30 Permanency in the Department of Children and Families and is
31 under contract with the division for the express purpose of
32 providing the services.

33 "Rape Crisis Center" means an office, institution, or center
34 offering assistance to victims of sexual offenses through crisis
35 intervention, medical and legal information, and follow-up
36 counseling.

37 d. An employer shall display conspicuous notice of its
38 employees' rights and obligations pursuant to the provisions of this
39 act, in such form and in such manner as the Commissioner of Labor
40 and Workforce Development shall prescribe, and use other
41 appropriate means to keep its employees so informed.

42 e. No provision of this act shall be construed as requiring or
43 permitting an employer to reduce employment benefits provided by
44 the employer or required by a collective bargaining agreement
45 which are in excess of those required by this act. Nor shall any
46 provision of this act be construed to prohibit the negotiation and
47 provision through collective bargaining agreements of leave
48 policies or benefit programs which provide benefits in excess of

1 those required by this act. This provision shall apply irrespective of
2 the date that a collective bargaining agreement takes effect.

3 Nothing contained in this act shall be construed as permitting an
4 employer to:

5 (1) rescind or reduce any employment benefit accrued prior to
6 the date on which the leave taken pursuant to this act commenced;
7 or

8 (2) rescind or reduce any employment benefit, unless the
9 rescission or reduction of the benefit is based on changes that would
10 have occurred if an employee continued to work without taking the
11 leave provided pursuant to this section.

12 f. All information provided to an employer pursuant to
13 subsection c. of this section, and any information regarding a leave
14 taken pursuant to this section and any failure of an employee to
15 return to work, shall be retained in the strictest confidentiality,
16 unless the disclosure is voluntarily authorized in writing by the
17 employee or is required by a federal or State law, rule, or
18 regulation.

19 (cf: P.L.2013, c.82, s.3)

20

21 3. Section 3 of P.L.1948, c.110 (C.43:21-27) is amended to
22 read as follows:

23 3. As used in this act, unless the context clearly requires
24 otherwise:

25 (a) (1) "Covered employer" means, with respect to whether an
26 employer is required to provide benefits during an employee's own
27 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any
28 individual or type of organization, including any partnership,
29 association, trust, estate, joint-stock company, insurance company
30 or corporation, whether domestic or foreign, or the receiver, trustee
31 in bankruptcy, trustee or successor thereof, or the legal
32 representative of a deceased person, who is an employer subject to
33 the "unemployment compensation law" (R.S.43:21-1 et seq.),
34 except the State, its political subdivisions, and any instrumentality
35 of the State unless such governmental entity elects to become a
36 covered employer pursuant to paragraph (2) of this subsection (a);
37 provided, however, that commencing with the effective date of this
38 act, the State of New Jersey, including Rutgers, The State
39 University and the New Jersey Institute of Technology, shall be
40 deemed a covered employer, as defined herein.

41 "Covered employer" means, after June 30, 2009, with respect to
42 whether the employer is an employer whose employees are eligible
43 for benefits during periods of family temporary disability leave
44 pursuant to P.L.1948, c.110 (C.43:21-25 et al.), and, after December
45 31, 2008, whether employees of the employer are required to make
46 contributions pursuant to R.S.43:21-7(d)(1)(G)(ii), any individual
47 or type of organization, including any partnership, association,
48 trust, estate, joint-stock company, insurance company or domestic

1 or foreign corporation, or the receiver, trustee in bankruptcy, trustee
2 or successor thereof, or the legal representative of a deceased
3 person, who is an employer subject to the "unemployment
4 compensation law" (R.S.43:21-1 et seq.), including any
5 governmental entity or instrumentality which is an employer under
6 R.S.43:21-19(h)(5), notwithstanding that the governmental entity or
7 instrumentality has not elected to be a covered employer pursuant to
8 paragraph (2) of this subsection (a).

9 (2) Any governmental entity or instrumentality which is an
10 employer under R.S.43:21-19(h)(5) may, with respect to the
11 provision of benefits during an employee's own disability pursuant
12 to P.L.1948, c.110 (C.43:21-25 et al.), elect to become a "covered
13 employer" under this subsection beginning with the date on which
14 its coverage under R.S.43:21-19(h)(5) begins or as of January 1 of
15 any year thereafter by filing written notice of such election with the
16 division within at least 30 days of the effective date. Such election
17 shall remain in effect for at least two full calendar years and may be
18 terminated as of January 1 of any year thereafter by filing with the
19 division a written notice of termination at least 30 days prior to the
20 termination date.

21 (b) (1) "Covered individual" means, with respect to whether an
22 individual is eligible for benefits during an individual's own
23 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any
24 person who is in employment, as defined in the "unemployment
25 compensation law" (R.S.43:21-1 et seq.), for which the individual is
26 entitled to remuneration from a covered employer, or who has been
27 out of such employment for less than two weeks, except that a
28 "covered individual" who is employed by the State of New Jersey,
29 including Rutgers, The State University or the New Jersey Institute
30 of Technology, or by any governmental entity or instrumentality
31 which elects to become a "covered employer" pursuant to this
32 amendatory act, shall not be eligible to receive any benefits under
33 the "Temporary Disability Benefits Law" until such individual has
34 exhausted all sick leave accumulated as an employee in the
35 classified service of the State or accumulated under terms and
36 conditions similar to classified employees or accumulated under the
37 terms and conditions pursuant to the laws of this State or as the
38 result of a negotiated contract with any governmental entity or
39 instrumentality which elects to become a "covered employer."

40 "Covered individual" shall not mean, with respect to whether an
41 individual is eligible for benefits during an individual's own
42 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any
43 member of the Division of State Police in the Department of Law
44 and Public Safety.

45 (2) "Covered individual" means, with respect to whether an
46 individual is eligible for benefits during the individual's period of
47 family temporary disability leave pursuant to P.L.1948, c.110
48 (C.43:21-25 et al.), any individual who is in employment, as

1 defined in the "unemployment compensation law" (R.S.43:21-1 et
2 seq.), for which the individual is entitled to remuneration from a
3 covered employer, or who has been out of that employment for less
4 than two weeks.

5 (3) "Covered individual" means, with respect to whether an
6 individual is eligible for benefits during the individual's period of
7 family temporary disability leave pursuant to P.L.1948, c.110
8 (C.43:21-25 et al.), any self-employed individual who is approved
9 for participation in the family temporary disability leave program
10 pursuant to section 9 of P.L. , c. (C.)(pending before the
11 Legislature as this bill).

12 (c) "Division" or "commission" means the Division of
13 Temporary Disability Insurance of the Department of Labor and
14 Workforce Development, and any transaction or exercise of
15 authority by the director of the division shall be deemed to be
16 performed by the division.

17 (d) "Day" shall mean a full calendar day beginning and ending
18 at midnight.

19 (e) "Disability" shall mean such disability as is compensable
20 under section 5 of P.L.1948, c.110 (C.43:21-29).

21 (f) "Disability benefits" shall mean any cash payments which
22 are payable to a covered individual for all or part of a period of
23 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.).

24 (g) "Period of disability" with respect to any covered individual
25 shall mean:

26 (1) The entire period of time during which the covered
27 individual is continuously and totally unable to perform the duties
28 of the covered individual's employment because of the covered
29 individual's own disability, except that two periods of disability due
30 to the same or related cause or condition and separated by a period
31 of not more than 14 days shall be considered as one continuous
32 period of disability; provided the individual has earned wages
33 during such 14-day period with the employer who was the
34 individual's last employer immediately preceding the first period of
35 disability; and

36 (2) On or after July 1, 2009, the entire period of family
37 temporary disability leave taken from employment by the covered
38 individual.

39 (h) "Wages" shall mean all compensation payable by covered
40 employers to covered individuals for personal services, including
41 commissions and bonuses and the cash value of all compensation
42 payable in any medium other than cash.

43 (i) (1) (Deleted by amendment, P.L.2001, c.17).

44 (2) (Deleted by amendment, P.L.2001, c.17).

45 (3) (Deleted by amendment, P.L.2013, c.221).

46 (4) "Base week" with respect to periods of disability
47 commencing on or after January 1, 2001, means any calendar week
48 of a covered individual's base year during which the covered

1 individual earned in employment from a covered employer
2 remuneration not less than an amount 20 times the minimum wage
3 in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on
4 October 1 of the calendar year preceding the calendar year in which
5 the benefit year commences, which amount shall be adjusted to the
6 next higher multiple of \$1.00 if not already a multiple thereof,
7 except that if in any calendar week an individual subject to this
8 paragraph is in employment with more than one employer, the
9 covered individual may in that calendar week establish a base week
10 with respect to each of the employers from whom the covered
11 individual earns remuneration equal to not less than the amount
12 defined in this paragraph during that week.

13 (5) In the case of an individual who is laid off or furloughed by
14 an employer curtailing operations because of a state of emergency
15 declared after October 22, 2012, any week in which the individual
16 is separated from employment due to that layoff or furlough, up to a
17 maximum of 13 weeks, shall be regarded as a week which is a "base
18 week" for the purpose of determining whether the individual
19 becomes eligible for benefits pursuant to subsection (d) or (e) of
20 section 17 of P.L.1948, c.110 (C.43:21-41), but shall not be
21 regarded as a base week when calculating the "average weekly
22 wage" pursuant to subsection (j) of this section.

23 (j) (1) "Average weekly wage" means the amount derived by
24 dividing a covered individual's total wages earned from the
25 individual's most recent covered employer during the base weeks in
26 the eight calendar weeks immediately preceding the calendar week
27 in which a period of disability commenced, by the number of such
28 base weeks.

29 (2) If the computation in paragraph (1) of this subsection (j)
30 yields a result which is less than the individual's average weekly
31 earnings in employment with all covered employers during the base
32 weeks in such eight calendar weeks, then the average weekly wage
33 shall be computed on the basis of earnings from all covered
34 employers during the base weeks in the eight calendar weeks
35 immediately preceding the week in which the period of disability
36 commenced.

37 (3) For periods of disability commencing on or after July 1,
38 2009, if the computations in paragraphs (1) and (2) of this
39 subsection (j) both yield a result which is less than the individual's
40 average weekly earnings in employment with all covered employers
41 during the base weeks in the 26 calendar weeks immediately
42 preceding the week in which the period of disability commenced,
43 then the average weekly wage shall, upon a written request to the
44 department by the individual on a form provided by the department,
45 be computed by the department on the basis of earnings from all
46 covered employers of the individual during the base weeks in those
47 26 calendar weeks, and, in the case of a claim for benefits from a
48 private plan, that computation of the average weekly wage shall be

1 provided by the department to the individual and the individual's
2 employer.

3 When determining the "average weekly wage" with respect to a
4 period of family temporary disability leave for an individual who
5 has a period of family temporary disability immediately after the
6 individual has a period of disability for the individual's own
7 disability, the period of disability is deemed to have commenced at
8 the beginning of the period of disability for the individual's own
9 disability, not the period of family temporary disability.

10 (k) "Child" means a biological, adopted, or foster child,
11 stepchild or legal ward of a covered individual, child of a domestic
12 partner of the covered individual, or child of a civil union partner of
13 the covered individual, including a child who becomes the child of
14 a parent pursuant to a valid written agreement between the parent
15 and a gestational carrier, who is less than 19 years of age or is 19
16 years of age or older but incapable of self-care because of mental or
17 physical impairment.

18 (l) "Domestic partner" means a domestic partner as defined in
19 section 3 of P.L.2003, c.246 (C.26:8A-3).

20 (m) "Civil union" means a civil union as defined in section 2 of
21 P.L.2006, c.103 (C.37:1-29).

22 (n) "Family member" means a sibling, grandparent, grandchild,
23 child, spouse, domestic partner, civil union partner, parent-in-law,
24 or parent of a covered individual.

25 (o) "Family temporary disability leave" means leave taken by a
26 covered individual from work with an employer to:

27 (1) participate in the providing of care **[,]**:

28 (A) as defined in the "Family Leave Act," P.L.1989, c.261
29 (C.34:11B-1 et seq.) and regulations adopted pursuant to that act,
30 for a family member of the individual made necessary by a serious
31 health condition of the family member; or

32 (B) as defined in the "New Jersey Security and Financial
33 Empowerment Act," P.L.2013, c.82 (C.34:11C-1 et seq.), for a
34 family member of the individual who has been a victim of an
35 incident of domestic violence as defined in section 3 of P.L.1991,
36 c.261 (C.2C:25-19) or a sexually violent offense as defined in
37 section 3 of P.L.1998, c.71 (C.30:4-27.26); or

38 (2) be with a child during the first 12 months after the child's
39 birth, if the individual, or the domestic partner or civil union partner
40 of the individual, is a biological parent of the child, or is a parent of
41 the child pursuant to a valid gestational carrier agreement or the
42 first 12 months after the placement of the child for adoption with
43 the individual.

44 "Family temporary disability leave" does not include any period
45 of time in which a covered individual is paid benefits pursuant to
46 P.L.1948, c.110 (C.43:21-25 et al.) because the individual is unable
47 to perform the duties of the individual's employment due to the
48 individual's own disability.

1 (p) "Health care provider" means a health care provider as
2 defined in the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et
3 seq.), and any regulations adopted pursuant to that act.

4 (q) "Parent of a covered individual" means a biological parent,
5 foster parent, adoptive parent, or stepparent of the covered
6 individual or a person who was a legal guardian of the covered
7 individual when the covered individual was a child, or who became
8 a parent of the covered individual pursuant to a valid gestational
9 carrier agreement.

10 (r) "Placement for adoption" means the time when a covered
11 individual adopts a child or becomes responsible for a child pending
12 adoption by the covered individual.

13 (s) "Serious health condition" means an illness, injury,
14 impairment or physical or mental condition which requires:
15 inpatient care in a hospital, hospice, or residential medical care
16 facility; or continuing medical treatment or continuing supervision
17 by a health care provider.

18 (t) "12-month period" means, with respect to an individual who
19 establishes a valid claim for disability benefits during a period of
20 family temporary disability leave, the 365 consecutive days that
21 begin with the first day that the individual first establishes the
22 claim.

23 (u) "State of emergency" means a natural or man-made disaster
24 or emergency for which a state of emergency has been declared by
25 the President of the United States or the Governor, or for which a
26 state of emergency has been declared by a municipal emergency
27 management coordinator.

28 (v) "Normally and continuously engaged in a regular trade,
29 business, or occupation" means:

30 (1) regularly performing services and engaging in an
31 uninterrupted pattern of work that is customary for the individual's
32 trade, business, or occupation; and

33 (2) in the case of a self-employed individual in a trade, business,
34 or occupation that requires a valid and active license, that the
35 individual has been issued that license. An individual operating a
36 business without a required license shall not be considered normally
37 engaged in a trade, business, or occupation.

38 (w) "Seasonal in its operations" means:

39 (1) the trade, business, or occupation is not continuous or
40 carried on throughout the year;

41 (2) the operation of the trade, business, or occupation is
42 temporarily or intermittently suspended for regularly recurring
43 periods of time; or

44 (3) the performance of services in the trade, business, or
45 occupation is regularly suspended due to weather, climate, or other
46 conditions.

47 (cf: P.L.2013, c.221, s.3)

1 4. Section 14 of P.L.1948, c.110 (C.43:21-38) is amended to
2 read as follows:

3 14. With respect to any period of disability for an individual's
4 own disability commencing on or after January 1, 1953, disability
5 benefits, not in excess of an individual's maximum benefits, shall be
6 payable with respect to disability which commences while a person
7 is a covered individual under the Temporary Disability Benefits
8 Law, and shall be payable with respect to the eighth consecutive
9 day of such disability and each day thereafter that such period of
10 disability continues; and if benefits shall be payable for three
11 consecutive weeks with respect to any period of disability
12 commencing on or after January 1, 1968, then benefits shall also be
13 payable with respect to the first seven days thereof. With respect to
14 any period of family temporary disability leave commencing on or
15 after July 1, 2009 and while an individual is a covered individual,
16 family temporary disability benefits, not in excess of the
17 individual's maximum benefits, shall be payable with respect to the
18 first day of leave taken after the first one-week period following the
19 commencement of the period of family temporary disability leave
20 and each subsequent day of leave during that period of family
21 temporary disability leave; and if benefits become payable on any
22 day after the first three weeks in which leave is taken, then benefits
23 shall also be payable with respect to any leave taken during the first
24 one-week period in which leave is taken. The maximum total
25 benefits payable to any eligible individual for any period of
26 disability of the individual commencing on or after January 1, 1968,
27 shall be either 26 times his weekly benefit amount or 1/3 of his total
28 wages in his base year, whichever is the lesser; provided that such
29 maximum amount shall be computed in the next lower multiple of
30 \$1.00 if not already a multiple thereof. The maximum total benefits
31 payable to any eligible individual for any period of family
32 temporary disability leave commencing on or after July 1, 2009 and
33 before July 1, 2018, shall be six times the individual's weekly
34 benefit amount or 1/3 of his total wages in his base year, whichever
35 is the lesser; provided that the maximum amount shall be computed
36 in the next lower multiple of \$1.00, if not already a multiple
37 thereof. The maximum total benefits payable to any eligible
38 individual for any period of family temporary disability leave
39 commencing on or after July 1, 2018, shall be twelve times the
40 individual's weekly benefit amount or 1/3 of the individual's total
41 wages in the individual's base year, whichever is the lesser;
42 provided that the maximum amount shall be computed in the next
43 lower multiple of \$1.00, if not already a multiple thereof.

44 (cf: P.L.2008, c.17, s.5)

45

46 5. Section 15 of P.L.1948, c.110 (C.43:21-39) is amended to
47 read as follows:

1 15. Limitation of benefits. Notwithstanding any other provision
2 of the "Temporary Disability Benefits Law," P.L.1948, c.110
3 (C.43:21-25 et al.), no benefits shall be payable under the State plan
4 to any individual:

5 (a) for the first seven consecutive days of each period of
6 disability; except that:

7 (1) if benefits shall be payable for three consecutive weeks with
8 respect to any period of disability, then benefits shall also be
9 payable with respect to the first seven days thereof;

10 (2) in the case of intermittent leave in a single period of family
11 temporary disability leave taken to provide care for a family
12 member of the individual with a serious health condition, benefits
13 shall be payable with respect to the first day of leave taken after the
14 first one-week period following the commencement of the period of
15 family temporary disability leave and each subsequent day of leave
16 during that period of family temporary disability leave; and if
17 benefits become payable on any day after the first three weeks in
18 which leave is taken, then benefits shall also be payable with
19 respect to any leave taken during the first one-week period in which
20 leave is taken; and

21 (3) in the case of an individual taking family temporary
22 disability leave immediately after the individual has a period of
23 disability for the individual's own disability, there shall be no
24 waiting period between the period of the individual's own disability
25 and the period of family temporary disability;

26 (b) (1) for more than 26 weeks with respect to any one period of
27 disability of the individual;

28 (2) for more than six weeks with respect to any one period of
29 family temporary disability leave commencing before July 1, 2018
30 and more than 12 weeks if the period of leave commences on or
31 after July 1, 2018, or more than 42 days with respect to any one
32 period of family temporary disability leave commencing before July
33 1, 2018 and more than 84 days if the period of leave commences on
34 or after July 1, 2018, in the case of leave taken on an intermittent
35 basis to provide care for a family member of the individual with a
36 serious health condition; and

37 (3) for more than six weeks of family temporary disability leave
38 during any 12-month period commencing before July 1, 2018 and
39 more than 12 weeks for any 12-month period commencing on or
40 after July 1, 2018, or for more than 42 days of family temporary
41 disability leave taken during any 12-month period commencing
42 before July 1, 2018 and more than 84 days if the period of leave
43 commences on or after July 1, 2018, on an intermittent basis to
44 provide care for a family member of the individual with a serious
45 health condition, including family temporary disability leave taken
46 pursuant to R.S.43:21-4(f)(2) while unemployed;

47 (c) for any period of disability which did not commence while
48 the claimant was a covered individual;

1 (d) for any period of disability of a claimant during which the
2 claimant is not under the care of a legally licensed physician,
3 dentist, optometrist, podiatrist, practicing psychologist, advanced
4 practice nurse, certified nurse midwife, or chiropractor, who, when
5 requested by the division, shall certify within the scope of the
6 practitioner's practice, the disability of the claimant, the probable
7 duration thereof, and, where applicable, the medical facts within the
8 practitioner's knowledge or for any period of family temporary
9 disability leave for a serious health condition of a family member of
10 the claimant, during which the family member is not receiving
11 inpatient care in a hospital, hospice, or residential medical care
12 facility or is not subject to continuing medical treatment or
13 continuing supervision by a health care provider, who, when
14 requested by the division, shall certify within the scope of the
15 provider's practice, the serious health condition of the family
16 member, the probable duration thereof, and, where applicable, the
17 medical facts within the provider's knowledge;

18 (e) (Deleted by amendment, P.L.1980, c.90.)

19 (f) for any period of disability due to willfully and intentionally
20 self-inflicted injury, or to injury sustained in the perpetration by the
21 claimant of a crime of the first, second, third, or fourth degree, or
22 for any period during which a covered individual would be
23 disqualified for unemployment compensation benefits for gross
24 misconduct under subsection (b) of R.S.43:21-5;

25 (g) for any period during which the claimant performs any work
26 for remuneration or profit;

27 (h) in a weekly amount which together with any remuneration
28 the claimant continues to receive from the employer would exceed
29 regular weekly wages immediately prior to disability;

30 (i) for any period during which a covered individual would be
31 disqualified for unemployment compensation benefits under
32 subsection (d) of R.S.43:21-5, unless the disability commenced
33 prior to such disqualification;

34 and there shall be no other cause of disqualification or ineligibility
35 to receive disability benefits hereunder except as may be
36 specifically provided in this act.

37 (cf: P.L.2009, c.114, s.1)

38

39 6. Section 12 of P.L.2008, c.17 (C.43:21-39.3) is amended to
40 read as follows:

41 12. a. (1) All of the disability benefits paid to a covered
42 individual during a period of family temporary disability leave with
43 respect to any one birth or adoption shall be for a single continuous
44 period of time **】, except that the employer of the covered individual**
45 **may permit the covered individual to receive the disability benefits】**
46 **or during non-consecutive weeks 【in a manner mutually agreed to**
47 **by the employer and the covered individual and】 on an intermittent**

1 basis pursuant to paragraph (2) of this subsection, which shall be
2 disclosed to the division by the employer.

3 (2) In the case of intermittent benefits for family temporary
4 disability leave with respect to a birth or adoption, the covered
5 individual shall provide the employer with prior notice of the leave
6 not less than 15 days before the first day on which benefits are paid
7 for the intermittent leave, unless an emergency or other unforeseen
8 circumstance precludes prior notice; and the covered individual
9 makes a reasonable effort to schedule the leave so as not to unduly
10 disrupt the operations of the employer and, if possible, provide the
11 employer, prior to the commencement of intermittent leave, with a
12 regular schedule of the days or days of the week on which the
13 intermittent leave will be taken.

14 b. **【The】** In the case of single continuous benefits for family
15 temporary disability leave with respect to birth or adoption, the
16 covered individual shall provide the employer with prior notice of
17 the 【period of family temporary disability】 leave 【with respect to
18 birth or adoption】 not less than 30 days before the leave
19 commences, unless it commences while the individual is receiving
20 unemployment benefits, in which case the covered individual shall
21 notify the division. The amount of benefits shall be reduced by two
22 weeks worth of benefits if the individual does not provide notice to
23 an employer as required by this subsection b., unless the time of the
24 leave is unforeseeable or the time of the leave changes for
25 unforeseeable reasons.

26 c. Family temporary disability leave taken because of the birth
27 or placement for adoption of a child may be taken at any time
28 within a year after the date of the birth or placement for adoption.

29 (cf: P.L.2008, c.17, s.12)

30

31 7. Section 16 of P.L.1948, c.110 (C.43:21-40) is amended to
32 read as follows:

33 16. a. With respect to periods of disability commencing on or
34 after July 1, 1961, an individual's weekly benefit amount shall be
35 determined and computed by the division on the same basis as the
36 weekly benefit rate is determined and computed pursuant to
37 subsection (c) of R.S. 43:21-3, except that for periods of disability
38 commencing on or after October 1, 1984, an individual's weekly
39 benefit rate shall be two-thirds of his average weekly wage, subject
40 to a maximum of 53% of the Statewide average weekly
41 remuneration paid to workers by employers, as determined under
42 subsection (c) of R.S. 43:21-3; provided, however, that such
43 individual's benefit rate shall be computed to the next lower
44 multiple of \$1.00 if not already a multiple thereof.

45 b. For periods of family temporary disability leave
46 commencing on or after the effective date of P.L. , c. ()
47 (pending before the Legislature as this bill), an individual's weekly
48 benefit rate, subject to a maximum of 78% of the Statewide average

1 weekly remuneration paid to workers by employers, as determined
2 under subsection (c) of R.S. 43:21-3, shall be:

3 (1) For an individual with a household income at or below 200%
4 of the federal poverty level for a family of four, 90% of the
5 individual's average weekly wage; or

6 (2) For an individual with a household income above 200% of
7 the federal poverty level for a family of four, 80% of the
8 individual's average weekly wage.

9 c. The amount of benefits for each day of disability for which
10 benefits are payable shall be one-seventh of the corresponding
11 weekly benefit amount; provided that the total benefits for a
12 fractional part of a week shall be computed to the next lower
13 multiple of \$1.00 if not already a multiple thereof.

14 (cf: P.L.1984, c. 104, s.3)

15

16 8. (New section) a. An employer shall not discharge, harass,
17 threaten, or otherwise discriminate or retaliate against an employee
18 with respect to the compensation, terms, conditions, or privileges of
19 employment on the basis that the employee took or requested any
20 family temporary disability leave to which the employee was
21 entitled to pursuant to P.L.2008, c.17 (C.43:21-39.1 et al.).

22 b. Upon a violation of subsection a. of this section, an
23 employee or former employee may institute a civil action in the
24 Superior Court for relief. All remedies available in common law
25 tort actions shall be available to a prevailing plaintiff. The court
26 may also order any or all of the following relief:

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

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

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

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

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

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

39

40 9. (New section) a. (1) Any individual who is self-employed,
41 who is not a covered employer, and who receives the major part of
42 total remuneration from the trade, business, or occupation in which
43 the individual is normally and continuously engaged, may file with
44 the division a written election that the individual be considered a
45 covered individual for the purposes of family temporary disability
46 leave pursuant to P.L.2008, c.17 (C.43:21-39.1 et al.).
47 Notwithstanding any law to the contrary, upon approval of the
48 election by the division, the services of the individual in connection

1 with the trade, business, or occupation shall be deemed to constitute
2 employment for an employer for purposes of family temporary
3 disability leave under P.L.2008, c.17 (C.43:21-39.1 et al.) only.

4 (2) An individual participating in elective coverage shall make
5 quarterly contributions to the State disability benefits fund, which
6 shall be deposited into the account of that fund reserved for
7 payment of benefits during periods of family temporary disability
8 leave. The quarterly contribution amount shall be the product of
9 one-fourth of the amount of the annual net profit of the individual,
10 but not less than \$1,150, and the contribution rate established
11 pursuant to R.S.43:21-7(d)(1)(G)(ii).

12 b. (1) An individual applying for or continuing elective
13 coverage under this section shall be requested to sign an annual
14 statement authorizing the division to verify the net profit declared
15 on the individual's Internal Revenue Service Schedule SE. Failure
16 of the individual to sign a statement authorizing the division to
17 verify income shall result in the individual being assigned an annual
18 income level of \$8,400 for contribution and benefit purposes.

19 (2) Any individual applying for elective coverage shall submit a
20 copy of that individual's Internal Revenue Service Schedule SE
21 filed on or before April 15 of the preceding year with the
22 application for elective coverage in order to establish first-year
23 contributions and benefits in excess of the minimum required to
24 qualify for elective coverage.

25 (3) Any self-employed individual continuing elective coverage
26 who fails to file an Internal Revenue Service Schedule SE by April
27 15 of each calendar year is required to remit contributions based
28 upon the last year the self-employed individual filed an Internal
29 Revenue Service Schedule SE.

30 (4) Any self-employed individual who has not yet filed an
31 Internal Revenue Service Schedule SE shall be assigned an annual
32 income level of \$8,400 for contribution and benefit purposes.

33 c. Worker contributions required under this section are payable
34 on and after the date stated in the approval by the division. The
35 division may levy assessments under this section for any amount
36 due when an elective coverage agreement has been in effect for less
37 than two complete calendar years.

38 d. The weekly benefit amount for a self-employed individual
39 electing coverage pursuant to this section shall be determined
40 pursuant to section 16 of P.L.1948, c.110 (C.43:21-40), using the
41 individual's quarterly net profit divided by 4 to determine the
42 individual's average weekly wage.

43
44 10. (New section) a. The division may terminate any elective
45 coverage agreement issued pursuant to section 9 of P.L. , c. (C.)
46 (pending before the Legislature as this bill) if any of the following
47 conditions exist:

- 1 (1) The self-employed individual is not normally and
2 continuously engaged in a regular trade, business, or occupation.
- 3 (2) The self-employed individual has discontinued the regular
4 trade, business, or occupation.
- 5 (3) The regular trade, business, or occupation of the self-
6 employed individual is seasonal in its operations.
- 7 (4) The major portion of the self-employed individual's
8 remuneration is not derived from that individual's trade, business,
9 or occupation.
- 10 (5) The self-employed individual reports a net profit of less than
11 \$8,400 on the individual's Internal Revenue Service Schedule SE
12 for a third consecutive year.
- 13 (6) The self-employed individual has failed to make a return or
14 report, or to pay contributions and there is an unpaid amount of
15 contributions owing by the self-employed individual.
- 16 (7) The self-employed individual, or a representative thereof, is
17 found by the director to have filed a false statement in order to be
18 considered eligible for elective coverage.
- 19 (8) The self-employed individual is subject to a violation of
20 section 31 of P.L.1948, c.110 (C.43:21-55).
- 21 b. The division shall give to the self-employed individual, a
22 written notice of the division's decision of termination of the
23 elective coverage agreement under this section. The date of
24 termination may be the end of the calendar quarter immediately
25 preceding the existence of any condition specified in subsection a.
26 of this section, or the end of any subsequent calendar quarter
27 thereafter, as determined by the division.
- 28 c. Any termination of elective coverage shall not affect the
29 liability of the self-employed individual for any contributions due,
30 owing, and unpaid to the division.
- 31
- 32 11. (New section) The division shall not approve an elective
33 coverage agreement pursuant to section 9 of P.L. , c. (C.)
34 (pending before the Legislature as this bill) if any of the following
35 conditions exist:
 - 36 a. The self-employed individual is currently unable to perform
37 regular and customary work due to injury or illness.
 - 38 b. The self-employed individual is not normally and
39 continuously engaged in a regular trade, business, or occupation.
 - 40 c. The self-employed individual intends to discontinue the
41 regular trade, business or occupation within eight calendar quarters.
 - 42 d. The regular trade, business, or occupation of the self-
43 employed individual is seasonal in its operations.
 - 44 e. The major portion of the self-employed individual's
45 remuneration is not derived from that individual's trade, business,
46 or occupation.
 - 47 f. The self-employed individual is unable to provide a copy of
48 the Internal Revenue Service Schedule SE as reported on or before

1 April 15 of the preceding year showing a net profit of at least
2 \$8,400 or to certify to an average net profit of at least \$1,150 per
3 quarter since becoming self-employed or for the preceding four
4 quarters, whichever period is less.

5 g. The self-employed individual has failed to make a return or
6 report, or to pay contributions within the time required by the
7 division and there is an unpaid amount of contributions owing by
8 the employing unit or self-employed individual.

9 h. (1) A prior elective coverage agreement entered into
10 pursuant to section 9 of P.L. , c. (C.)(pending before the
11 Legislature as this bill) has been terminated by the division under
12 section 10 of P.L. , c. (C.)(pending before the Legislature as
13 this bill), and the individual has not completed a waiting period of
14 18 consecutive months from the date of termination.

15 (2) The waiting period for reinstatement to the elective coverage
16 program may be waived for any individual who becomes eligible
17 for coverage after being terminated under paragraph (1), (2), (4), or
18 (5) of subsection a. of section 10 of P.L. , c. (C.)(pending
19 before the Legislature as this bill), upon receipt by the division of
20 an application for coverage to be effective on the first day of the
21 quarter in which the application is received.

22 i. The self-employed individual has been subject to a violation
23 of section 31 of P.L.1948, c.110 (C.43:21-55) within the preceding
24 eight consecutive calendar quarters.

25

26 12. (New section) a. The division shall implement disability
27 insurance goals for the timely payment of family temporary
28 disability benefits under the State plan, that provide, in each
29 calendar year:

30 (1) not less than 50 percent of the original benefit
31 determinations shall be completed within seven days after the
32 receipt of the benefit claims by the division;

33 (2) not less than 75 percent of the original benefit
34 determinations shall be completed within 14 days after the receipt
35 of the benefit claims by the division;

36 (3) not less than 85 percent of the original benefit
37 determinations shall be completed within 21 days after the receipt
38 of the benefit claims by the division; and

39 (4) not less than 95 percent of the original benefit
40 determinations shall be completed within 28 days after the receipt
41 of the benefit claims by the division.

42 b. The commissioner shall, not later than September 30 of 2018
43 and each subsequent year, issue, provide to the Legislature, and
44 make available to the public on the department's webpage, a report
45 regarding those efforts for family temporary disability benefits.
46 Each report shall include:

47 (1) the total number of claims and the number and percentage of
48 original determinations completed within each number of days

1 specified in the goals set pursuant to this section, and the number
2 and percentage of original determinations completed within the
3 following number of days after the receipt of the benefit claims: 35
4 days, 42 days, 49 days and 56 days, and the number and percentage
5 of original determinations completed more than 56 days after the
6 receipt of the claims and the average number of days to make the
7 determinations for the claims that took more than 56 days;

8 (2) the number and percentage of claims received with
9 insufficient information, what portion of those claims were because
10 of failure of claimants to provide sufficient information, what
11 portion of those claims were because of failures of medical
12 providers of claimants to provide sufficient information, and what
13 portion of those claims were because of failures of employers to
14 provide sufficient information;

15 (3) the number and percentage of claims for which
16 determinations were delayed because of a failure of the employer to
17 make the notifications or disclosures to employees and the division
18 within the amount of time required by subsection (a) of section 25
19 of P.L.1948, c.110 (C.43:21-49) or subsections f. or g. of section 10
20 of P.L.2008, c.17 (C.43:21-39.1), the number of complaints
21 received related to employer noncompliance with those
22 requirements, and the number of employers which have been,
23 because of the failures, required, pursuant to section 31 of
24 P.L.1948, c.110 (C.43:21-55), to pay fines or penalties to the
25 division or added amounts to claimants, the total amount of
26 payments to the division, and the total amount of payments to
27 claimants;

28 (4) the number of personnel in the division and the budgeted
29 cost of salaries and benefits for those personnel; the number of
30 personnel who are processing family temporary disability benefit
31 claims and the budgeted cost of salaries and benefits for those
32 personnel; what percentage of total division administrative costs is
33 comprised of those categories of personnel costs; and a comparison
34 of total division administrative costs to the maximum amount
35 permitted to be expended for those division administrative costs
36 pursuant to section 22 of P.L.1948, c.110 (C.43:21-46); and

37 (5) if any of the disability insurance goals set pursuant to this
38 section were not attained during the year, the report shall provide an
39 evaluation of the causes of the deficiencies and a plan to correct
40 them and that plan shall include:

41 (a) any increase in personnel needed to process claims;

42 (b) any measures needed to enforce notification and reporting
43 requirements;

44 (c) any measures needed to inform employees of their
45 responsibilities to facilitate the timely provision of benefits; and

46 (d) any improvements needed in data processing and other
47 administrative services and equipment.

1 The plan shall specify any added costs entailed in implementing
2 the plan, which shall be regarded as costs of administration of
3 family temporary disability benefits, and shall specify the amount
4 of any resulting increase in the estimate made pursuant to
5 R.S.43:21-7(d)(1)(G)(i) and (ii) of the amount needed to provide
6 100 percent of the cost of administration of family temporary
7 disability benefits.

8 The commissioner shall use that increased estimate in setting the
9 rate of contributions pursuant to those subsections, except that the
10 increase may not result in the total amount credited to those
11 administrative costs exceeding the maximum amount permitted
12 pursuant to subsection (a) of section 22 of P.L.1948, c.110
13 (C.43:21-46).

14 c. (1) The division shall disseminate information about the
15 rights and responsibilities of employers and employees regarding
16 temporary disability benefits and family temporary disability
17 benefits by means of programs of educational outreach in
18 communities and workplaces. The division may enter into contracts
19 with community-based organizations to disseminate information to
20 workers regarding temporary disability benefits and family
21 temporary disability benefits.

22 (2) The commissioner shall, not later than September 30 of 2018
23 and each subsequent year, issue, provide to the Legislature, and
24 make available to the public on the department's webpage, a report
25 regarding efforts made during the preceding calendar year by the
26 division and by community-based organizations to disseminate
27 information about the rights and responsibilities of employers and
28 employees regarding temporary disability and family temporary
29 disability benefits. Each report shall include, for that preceding
30 calendar year:

31 (a) an accounting of all funds and expenditures made by the
32 division and each community-based organization entering into
33 contracts with the division pursuant to this subsection, and
34 estimates of the number of employers and the number of workers to
35 which the information was disseminated;

36 (b) an estimate of the number of workers who were eligible for
37 temporary disability and family temporary disability benefits and
38 what percentage of those workers received those benefits, including
39 an assessment of whatever progress was made to increase that
40 percentage; and

41 (c) a plan to increase the percentage of workers who are aware
42 of the benefits which specifies the amounts to be allocated to the
43 division and community-based organizations for the purposes of
44 this subsection during the subsequent calendar year.

45 d. The commissioner shall, not later than September 30 of 2018
46 and each subsequent year, collect and issue a report on the
47 following information:

- 1 (1) the number of claims for bonding, and care for family
- 2 members, broken down by relationship;
- 3 (2) demographic information: income, age, gender, ethnicity,
- 4 occupation, full or part-time employment status;
- 5 (3) length of leave, intermittent basis or not;
- 6 (4) percentage of bonding leave applicants who report providing
- 7 their employer with at least 30 days' notice of leave-taking;
- 8 (5) the percentage of employers who reduced an employee's
- 9 maximum entitlement by up to two weeks, if the employee is
- 10 required to use paid time off; and
- 11 (6) for all claims, the percentage of employers who reported that
- 12 the employee will have additional paid time off with the source
- 13 being the difference between their regular weekly wages and the
- 14 maximum benefit provided under P.L.2008, c.17 (C.43:21-39.1 et
- 15 al.).

16
17 13. This act shall take effect on the first day of the third month
18 next following enactment.

19
20
21 STATEMENT

22
23 This bill revises the law concerning family leave, family
24 temporary disability leave, and domestic or sexual violence safety
25 leave.

26 The bill expands the family members for whom individuals
27 covered under the family temporary disability law may receive paid
28 benefits during periods of leave from employment to care for to
29 include siblings, grandparents, grandchildren, and parents-in-law.
30 Family members for whom covered individuals may currently use
31 family leave benefits include children, spouses, domestic partners,
32 civil union partners, or parents of covered individuals.

33 The bill also expands the "Family Leave Act" and the "NJ SAFE
34 Act" to include siblings, grandparents, grandchildren, and parents-
35 in-law. Additionally, the bill provides that family temporary
36 disability leave may be taken by a covered individual from work
37 with an employer to participate in the providing of care as defined
38 in the "NJ SAFE Act," for a family member of the individual who
39 has been a victim of an incident of domestic violence or a sexually
40 violent offense.

41 The bill amends the "Family Leave Act" and the family
42 temporary disability leave law to provide to an employee who
43 becomes a parent of a child pursuant to a gestational carrier
44 agreement with the same rights to unpaid and paid family leave as
45 those laws currently provide to an employee who is a parent of a
46 newborn child.

47 The bill expands the maximum total benefits payable to any
48 eligible individual for a period of family temporary disability leave,

1 and expands the length of time for which benefits will be paid. The
2 bill increases the maximum number of weeks of family temporary
3 disability leave benefits for a period of family temporary disability
4 leave, or for any given 12-month period, to twelve weeks from the
5 current six weeks. In cases of intermittent leave, the maximum
6 leave is increased from 42 days to 84 days.

7 The bill provides that family temporary disability leave benefits
8 with respect to a birth or adoption may be taken on an intermittent
9 basis. The bill requires the covered individual seeking the
10 intermittent benefits to provide the employer with prior notice of
11 the leave not less than 15 days before the first day on which
12 benefits are paid for the intermittent leave, unless an emergency or
13 other unforeseen circumstance precludes prior notice. The covered
14 individual must make a reasonable effort to schedule the leave so as
15 not to unduly disrupt the operations of the employer and, if
16 possible, to provide the employer, prior to the commencement of
17 intermittent leave, with a regular schedule of the days or days of the
18 week on which the intermittent leave will be taken.

19 The bill expands the amount that covered individuals would
20 collect in benefits. Under the bill, an individual's weekly benefit
21 rate, subject to a maximum of 78% of the Statewide average weekly
22 remuneration paid to workers by employers will be:

23 (1) For an individual with a household income at or below 200%
24 of the federal poverty level for a family of four, 90% of the
25 individual's average weekly wage; or

26 (2) For an individual with a household income above 200% of
27 the federal poverty level for a family of four, 80% of the
28 individual's average weekly wage.

29 The bill also provides that an employer may not discharge,
30 harass, threaten, or otherwise discriminate or retaliate against an
31 employee with respect to the compensation, terms, conditions, or
32 privileges of employment on the basis that the employee took or
33 requested any family temporary disability leave to which the
34 employee was entitled. The bill provides for various remedies in
35 case of violations.

36 The bill also provides that any individual who is self-employed,
37 who is not a covered employer, and who receives the major part of
38 total remuneration from the trade, business, or occupation in which
39 he or she is self-employed, may file with the division a written
40 election that the individual be considered a covered individual for
41 the purposes of the family temporary disability leave law.

42 The bill provides that, upon approval of the election by the
43 division, the individual must make quarterly contributions to the
44 State disability benefits fund. The quarterly contribution amount is
45 the product of one-fourth of the amount of annual net profit of the
46 individual, but not less than \$1,150, and the contribution rate
47 established pursuant to current law. The worker contribution rate to

1 the family leave insurance program is currently .001000 of worker
2 wages. There is no employer contribution.

3 Under the bill, an individual applying for or continuing elective
4 coverage must sign an annual statement authorizing the division to
5 verify the net profit declared on the individual's Internal Revenue
6 Service Schedule SE. Failure of the individual to sign a statement
7 authorizing the division to verify income results in the individual
8 being assigned an annual income level of \$8,400 for contribution
9 and benefit purposes.

10 Any individual applying for elective coverage under the bill must
11 submit a copy of that individual's Internal Revenue Service
12 Schedule SE filed on or before April 15 of the preceding year with
13 the application for elective coverage in order to establish first-year
14 contributions and benefits in excess of the minimum required to
15 qualify for elective coverage.

16 The bill provides that worker contributions are payable on and
17 after the date stated in the approval by the division. The division
18 may levy assessments for any amount due when an elective
19 coverage agreement has been in effect for less than two complete
20 calendar years.

21 The bill provides that the weekly benefit amount for a self-
22 employed individual electing coverage shall be determined pursuant
23 to the formula for calculating family leave insurance benefits used
24 for other family leave benefits claimants under the bill, using the
25 individual's quarterly net profit divided by 14 to determine the
26 individual's average weekly wage.

27 The bill also establishes procedures for the division to terminate
28 elective coverage and to disapprove applications for elective
29 coverage under certain circumstances.

30 The bill also requires the division to implement goals for the
31 timely payment of family temporary disability benefits. The goals
32 specified by the bill set the minimum percentages at 50% within
33 seven days, 75% within 14 days, 85% within 21 days, and 95%
34 within 28 days.

35 The bill requires the Commissioner of Labor and Workforce
36 Development to issue annual reports regarding efforts to attain
37 these goals. Each report is required to contain certain details
38 related to the family leave disability claims and completion.

39 Finally, the bill directs the Division of Temporary Disability
40 Insurance to disseminate information about the rights and
41 responsibilities of employers and employees regarding family
42 temporary disability benefits. The bill also requires the
43 commissioner to collect and issue a report containing certain
44 demographic information.