ASSEMBLY, No. 5809

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 1, 2021

Sponsored by:
Assemblywoman VALERIE VAINIERI HUTTLE
District 37 (Bergen)
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District 31 (Hudson)

SYNOPSIS

Concerns paid leave for bereavement.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 6/1/2021)

AN ACT concerning paid leave for bereavement and amending P.L.2018, c.10.

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

1. Section 2 of P.L.2018, c.10 (C.34:11D-2) is amended to read as follows:

2. a. Each employer shall provide earned sick leave to each employee working for the employer in the State. For every 30 hours worked, the employee shall accrue one hour of earned sick leave, except that an employer may provide an employee with the full complement of earned sick leave for a benefit year, as required under this section, on the first day of each benefit year in accordance with subsection c. or subsection d. of section 3 of this act. The employer shall not be required to permit the employee to accrue or use in any benefit year, or carry forward from one benefit year to the next, more than 40 hours of earned sick leave. Unless the employee has accrued earned sick leave prior to the effective date of this act, the earned sick leave shall begin to accrue on the effective date of this act for any employee who is hired and commences employment before the effective date of this act and the employee shall be eligible to use the earned sick leave beginning on the 120th calendar day after the employee commences employment, and if the employment commences after the effective date of this act, the earned sick leave shall begin to accrue upon the date that employment commences and the employee shall be eligible to use the earned sick leave beginning on the 120th calendar day after the employee commences employment, unless the employer agrees to an earlier date. The employee may subsequently use earned sick leave as soon as it is accrued.

b. An employer shall be in compliance with this section if the employer offers paid time off, which is fully paid and shall include, but is not limited to personal days, vacation days, and sick days, and may be used for the purposes of section 3 of this act in the manner provided by this act, and is accrued at a rate equal to or greater than the rate described in this section.

c. The employer shall pay the employee for earned sick leave at the same rate of pay with the same benefits as the employee normally earns, except that the pay rate shall not be less than the minimum wage required for the employee pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4).

d. Upon the mutual consent of the employee and employer, an employee may voluntarily choose to work additional hours or shifts during the same or following pay period, in lieu of hours or shifts

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 <u>thus</u> is new matter.

missed, but shall not be required to work additional hours or shifts or use accrued earned sick leave. An employer may not require, as a condition of an employee's using earned sick leave, that the employee search for or find a replacement worker to cover the hours during which the employee is using earned sick leave.

e. If an employee is transferred to a separate division, entity, or location, but remains employed by the same employer, then the employee shall be entitled to all earned sick leave accrued at the prior division, entity, or location, and shall be entitled to use the accrued earned sick leave as provided in this act. If an employee is terminated, laid off, furloughed, or otherwise separated from employment with the employer, any unused accrued earned sick leave shall be reinstated upon the re-hiring or reinstatement of the employee to that employment, within six months of termination, being laid off or furloughed, or separation, and prior employment with the employer shall be counted towards meeting the eligibility requirements set forth in this section. When a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all of the earned sick leave they accrued when employed by the original employer, and are entitled to use the earned sick leave previously accrued immediately.

f. An employer may choose the increments in which its employees may use earned sick leave, provided that the largest increment of earned sick leave that an employee may be required to use for each shift for which earned sick leave is used shall be the number of hours the employee was scheduled to work during that shift.

g. In addition to the 40 hours of earned sick leave provided under subsection a. of this section, each employee shall be entitled to receive a one-time paid sick leave credit for each occasion of bereavement leave with full pay and benefits of not less than:

(1) three days of paid bereavement leave for the death of a child, grandchild, sibling, spouse, domestic partner, civil union partner, parent, or grandparent of an employee, or a parent or sibling of the employee’s spouse, domestic partner, or civil union partner;

(2) three days of paid bereavement leave for the end of the pregnancy of the employee or the spouse or domestic or civil union partner of the employee because of a miscarriage or still-birth or because of a termination of the pregnancy if it is known that the fetus will not be viable if born, or that the birth will endanger the mother;

(3) one day of paid bereavement leave, with the employer’s consent, for the death of another person with which the employee has a close association.

Paid bereavement leave provided pursuant to this subsection shall be regarded as earned sick leave and subject to the provisions of P.L.2018, c.10 (C.34:11D-1 et seq.) regarding earned sick leave,

including the provisions of sections 4, 5, and 6 of that act (C.34:11D-4 through 34:11D-6), except that periods of paid bereavement leave taken shall not be counted against earned sick leave time accrued by an employee and the provisions of that act concerning the accrual of earned sick leave shall not apply to paid bereavement leave. An employee shall be eligible to use paid bereavement leave beginning on the 120th calendar day after the employee commences employment with an employer.

2. This act shall take effect immediately.

STATEMENT

This bill requires that, in addition to the 40 hours of earned sick leave provided under P.L.2018, c.10 (C34:11D-1 et seq.), each employee is entitled to receives a one-time paid sick leave credit for each occasion of bereavement leave with full pay and benefits of not less than:

1. three days of paid bereavement leave for the death of a child, grandchild, sibling, spouse, domestic partner, civil union partner, parent, or grandparent of an employee, or a parent or sibling of the employee's spouse or partner;

2. three days of paid bereavement leave for the end of the pregnancy of the employee or the employee's spouse or partner because of a miscarriage or still-birth or because of a termination of the pregnancy if it is known that the baby will not be viable if born, or the birth will endanger the mother;

3. one day of paid bereavement leave, with the employer's consent, for the death of another person with which the employee has a close association.

Paid bereavement leave provided by the bill is regarded as earned sick leave subject to the provisions of P.L.2018, c.10 regarding earned sick leave, including the enforcement provisions of that act, except that paid bereavement leave time taken is not counted against the amount of earned sick leave accrued by an employee and the provisions of the act concerning the accrual of earned sick leave do not apply to paid bereavement leave. An employee becomes eligible to use the leave 120 days after commencing employment with an employer.