

SENATE, No. 4144

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED NOVEMBER 12, 2021

Sponsored by:

Senator JOSEPH P. CRYAN

District 20 (Union)

SYNOPSIS

Requires certain notices to be provided to individuals applying for temporary disability leave benefits.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning temporary disability and family temporary
2 disability leave and amending P.L.2019, c.37.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 24 of P.L.2019, c.37 (C.43:21-55.2) is amended to
8 read as follows:

9 24. a. An employer shall not discharge, harass, threaten, or
10 otherwise discriminate or retaliate against an employee with respect
11 to the compensation, terms, conditions, or privileges of employment
12 on the basis that the employee requested or took any temporary
13 disability benefits pursuant to P.L.1948, c.110 (C.43:21-25 et al.), or
14 family temporary disability leave benefits pursuant to P.L.2008, c.17
15 (C.43:21-39.1 et al.), including retaliation by refusing to restore the
16 employee to employment following a period of leave, except that,
17 pursuant to section 2 of P.L.1948, c.110 (C.43:21-26), nothing in this
18 section or any other section of P.L.1948, c.110 (C.43:21-25 et al.) or
19 P.L.2008, c.17 (C.43:21-39.1 et al.) shall be construed as increasing,
20 reducing or otherwise modifying any entitlement provided to a
21 worker by the provisions of the "Family Leave Act," P.L.1989, c.261
22 (C.34:11B-1 et seq.) to be restored to employment by the employer
23 after a period of family temporary disability leave.

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

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

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

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

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

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

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

41 c. When a covered individual applies for temporary disability
42 benefits the plan administering the covered individual's benefits shall
43 provide notice of the application to the division.

44 d. Upon receiving notice of an individual applying for temporary
45 disability benefits from a plan or upon receiving an application from

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 an individual for benefits under the State plan, the division shall
2 provide the individual with information concerning job protection
3 during the period of disability, including the protections afforded by
4 this section, the federal "Family and Medical Leave Act of 1993,"
5 Pub.L.103-3 (29 U.S.C. s.2601 et seq.), the "Family Leave Act,"
6 P.L.1989, c.261 (C.34:11B-1 et seq.), and the "New Jersey Security
7 and Financial Empowerment Act," P.L.2013, c.82 (C.34:11C-1 et
8 seq.). The information provided shall include an explanation of the
9 types of employers subject to each of those acts and an explanation
10 of an employee's rights if the employer is not subject to those acts,
11 and shall emphasize the provisions of subsection a. of this section
12 prohibiting any employer subject to the provisions of P.L.1948, c.110
13 (C.43:21-25 et al.) or P.L.2008, c.17 (C.43:21-39.1 et al.) from
14 retaliating against an employee for taking benefits under those acts
15 by refusing to restore the employee to employment following a
16 period of leave, unless the employer is expressly exempted by the
17 provisions of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1
18 et seq.) from any requirement to restore the employee to employment
19 after leave, and shall include a description of the remedies provided
20 to employees by subsection b. of this section.

21 (cf: P.L.2019, c.37, s.24)

22
23 2. Pursuant to the "Administrative Procedure Act," P.L.1968,
24 c.410 (C.52:14B-1 et seq.), the Division of Temporary Disability
25 Insurance of the Department of Labor and Workforce Development,
26 in consultation with the Division of Civil Rights in the Department
27 of Law and Public Safety, shall promulgate rules and regulations to
28 effectuate the purposes of this act.

29
30 3. This act shall take effect on the first day of the fourth month
31 next following enactment.

32 33 34 STATEMENT

35
36 This bill requires certain notices to be provided to individuals
37 applying for temporary disability leave benefits.

38 The bill provides that, when a covered individual applies for
39 temporary disability benefits, the plan administering the covered
40 individual's benefits shall provide notice of the application to the
41 division. Upon receiving notice of an individual applying for
42 temporary disability benefits from a plan, the division shall provide
43 the individual with information concerning job protection during the
44 period of disability, including the protections afforded by State and
45 federal law, with an emphasis on the prohibition under State law
46 against employer retaliation.