

Labor and Employment Alert: Retroactive Expansion of the New Jersey Family Leave Act

Effective retroactively to March 25, 2020, New Jersey employees who take a leave from work due to certain COVID-19-related reasons are protected under the New Jersey Family Leave Act. This pre-existing law applies to employers of 30 or more employees; provides for up to 12 weeks of leave over a 24-month period; and guarantees an employee's right to reinstatement following leave.

The protections of this law have been extended to an employee who stops working so that s/he may provide care made necessary by reason of a declared state of emergency (and other similar government actions) that:

- Requires in-home care or treatment of a child due to the closure of the school or place of care of the child of the employee, by order of a public official due to the epidemic or other public health emergency;
- Prompts the issuance by a public health authority of a determination, including by mandatory quarantine, requiring or imposing responsive or prophylactic measures as a result of illness caused by an epidemic of a communicable disease or known or suspected exposure to the communicable disease because the presence in the community of a family member in need of care by the employee would jeopardize the health of others; or
- Results in the recommendation of a healthcare provider or public health authority that a family member in need of care by the employee voluntarily undergo self-quarantine as a result of suspected exposure to a communicable disease because the presence in the community of that family member in need of care by the employee would jeopardize the health of others.

The first circumstance is quite similar to the circumstance triggering up to 80 hours of paid leave under the recently passed federal Emergency Paid Sick Leave Act and up to 12 weeks of leave (the latter ten of which are paid) under the recently passed federal Emergency Family and Medical Leave Expansion Act. The second and third circumstances are somewhat similar to two of the circumstances triggering up to 80 hours of paid leave under the Emergency Paid Sick Leave Act. Please see the firm's recent alerts on these topics: "[FFCRA DOL Regulations and IRS FAQ Guidance Summary](#)" and "[COVID-19 Crisis: DOL Issues Guidance on Compliance with Families First Coronavirus Response Act \(FFCRA\)](#)." Unlike the federal scheme, where leave under both laws runs concurrently and therefore a leave cannot exceed 12 weeks, New Jersey's expansion of its family leave law can result in an employee being on paid Emergency Sick Leave for ten work days and then taking another 12 weeks of leave.

The law also describes the type of documentation an employee must provide to substantiate the need for leave; eliminates the exemption from leave rights for highly paid employees; and permits intermittent leave.

As always, we are here for you. For more information about this Alert or any other Labor and Employment issue, please contact:

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