

# New Jersey Expands Several Leave Laws and Protections Amidst COVID-19 Pandemic

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New Jersey has added several leave laws and workplace protections to address the impact of the COVID-19 outbreak on employees and employers in the State.

## [New Jersey Extends State Leave Laws During COVID-19 Pandemic](#)

On March 25, 2020, Governor Murphy signed legislation (S2304) which expanded the availability of benefits under New Jersey's leave programs to employees impacted by COVID-19. The legislative bill amendments went into effect immediately upon signing.

### [New Jersey Earned Sick Leave Law](#)

Under the New Jersey Earned Sick Leave Law ("NJESL"), employees can accrue up to 40 hours – or 5 full days – of paid sick leave. The amendments broaden the permissible use of earned sick leave to include leave when an employee cannot work because of:

- A closure of the employee's workplace, or the school or place of care of a child of the employee by order of a public official or because of a state of emergency declared by the Governor, due to an epidemic or other public health emergency; or
- A declaration of a state of emergency by the Governor, or the issuance by a health care provider or the Commissioner of Health or other public health authority of a determination that the presence in the community of the employee or family member would jeopardize the health of others; or
- A state of emergency declared by the Governor or upon the recommendation, direction, or order of a healthcare provider or the Commissioner of Health or other authorized public official, that the employee undergoes isolation or quarantine, or cares of a family member in quarantine, as a result of suspected exposure to a communicable disease and a finding by the provider of authority that the presence of the employee in the community would jeopardize the health of others.

These amendments expand the law and provide paid time off to employees who have been impacted by COVID-19. Importantly, the amendments clarify that workers who are subject to isolation or quarantine, regardless of testing positive for COVID-19, are entitled to use earned sick leave.

### [New Jersey Family Leave Act](#)

Under the New Jersey Family Leave Act ("NJFLA"), a qualifying employee can take up to 12 weeks of unpaid family leave in a 24-month period for the birth or adoption of a child or to care for a family member with a serious health condition. The recent amendments make the following change:

- It expands the definition of "serious health condition" during a Governor declared state of emergency or similar health crisis to include an illness caused by an epidemic of communicable disease, a known or suspected exposure to a communicable disease, or an effort to prevent the spread of a communicable disease.

These amendments protect employees with family members that are known or suspected to have been exposed to coronavirus and therefore must self-quarantine.

### New Jersey Temporary Disability Benefits

Under the New Jersey Temporary Disability Benefits (“NJTDB”), qualifying employees can receive wage replacements. The benefits are paid through the state or a state-approved private plan, if established by the employer, and are funded through payroll deductions. The amendments make the following changes:

- It expands the definition of “serious health condition” during a Governor declared state of emergency or similar health crisis to include an illness caused by an epidemic of communicable disease, a known or suspected exposure to a communicable disease, or an effort to prevent the spread of a communicable disease.
- It eliminates the seven-day waiting period for benefit eligibility when benefits are sought related to an employee’s own serious health condition if it falls within the newly expanded definition.

It is important to note that the amendments to New Jersey’s leave laws are permanent changes and employers should update their policies and notices to ensure compliance.

### New Jersey Prohibits Employers from Terminating or Refusing to Reinstate Employees Who Miss Work Due to Infectious Disease

On March 20, 2020, Governor Murphy signed legislation (A3848) which prohibits an employer during an ongoing public health emergency and state of emergency declared by the Governor, from terminating or otherwise penalizing an employee if the employee requests to take time off from work based on the recommendation of a medical professional that the employee take time off because the employee has, or likely has, an infectious disease which may infect others at the employee’s workplace.

Employers are prohibited from refusing to reinstate the employee to the position that he or she held when the leave commenced, and the employee may not be subjected to a reduction in seniority, status, employment benefits, pay, or other terms and conditions of employment.

If an employer violates these provisions, the employee may:

- File a complaint with the Commission of Labor and Workforce Development; or
- Initiate an action in a court of contempt jurisdiction to seek reinstatement.

If the employer is found to be in violation, the employee is entitled to reinstatement to the position previously held with no diminution in any terms and conditions of employment. Violations also subject employers to fines of \$2,500 for each violation of the Act.

The State’s guidance can be accessed at:

<https://www.nj.gov/labor/worker-protections/earnedsick/covid.shtml>

<https://www.nj.gov/labor/assets/PDFs/COVID-19%20SCENARIOS.pdf>

Additionally, the New Jersey FAQs on unemployment insurance and federal leave laws can be accessed at:

<https://www.nj.gov/labor/worker-protections/earnedsick/covidFAQ.shtml>

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