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KD Alert: New Jersey Significantly Expands Paid Family Leave

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On February 19, 2019, a new bill signed into law in New Jersey greatly expands paid family leave provided to employees under the New Jersey Family Leave Act and New Jersey Family Leave Insurance Law. Effective June 30, 2019, a "covered employer" under the new law will now include employers with 30 or more employees for each calendar day of 20 or more calendar work weeks, which is a significant reduction from the 50 or more employees under the prior law. Additionally, the new law expands the definition of "parent" to include foster parents and those who became parents pursuant to a valid written agreement with a gestational carrier, and expands "family leave" to include care for foster children and children born via gestational carrier.

The definition of "family member" is also much more inclusive under the new law, as it now includes parents-in-law, siblings, grandparents, grandchildren, domestic partners and any individual related to the employee by blood or any other individual that the employee "shows to have a close association with the employee which is the equivalent of a family relationship." The new law also permits an employee to take leave to care for any of these individuals who have been a victim of domestic violence or a sexually violent offense.

The new law entitles employees to a reduced leave schedule for up to 12 consecutive months for any one period of leave, an increase from the 24 consecutive weeks previously available. Other highlights of the new law include permitting temporary disability leave benefits for the birth or adoption of a child on an intermittent basis, doubling the maximum number of weeks of family temporary disability leave benefits from 6 to 12 weeks, and increasing permitted intermittent leave from 42 days to 56 days for any period of leave commencing on or after July 1, 2020. Additionally, for those employees taking family temporary disability leave or intermittent leave beginning on July 1, 2020, the new law increases the amount of weekly benefits provided to the employee from two-thirds of the employee's average weekly wage to 85% of the employee's average weekly wage, up to a maximum of 70% of the Statewide average weekly wage.

Since paid family leave laws were first put into effect in New Jersey in 2009, a relatively small percentage of eligible employees have actually taken advantage of their benefits. The new law provides employees with protected family leave to care for a much broader subset of individuals, which will likely increase the number of employees actually using temporary family leave. Additionally, the increase in the cap on the percentage of the employee's wage an employee can recover while taking protected leave will potentially allow lower-income individuals, who could not afford to take leave under the old law, to now afford to take temporary family leave when they need it. Employees of covered employers are, however, paying for the increased percentage of wages an employee can recover while on leave through increased payroll deductions to fund the program.

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