

SURVIVOR STATE EMPLOYMENT GUIDE

NEW JERSEY

INTRODUCTION

The resource below is for informational purposes only and may not reflect new protections enacted after its publication date. While this resource is not intended to provide legal advice, it can be used as a starting point to guide you in identifying workplace protections for survivors of domestic violence, sexual assault, and stalking in your state. Note that in addition to possible other protections enacted since this resource was last updated, there may be local or federal protections available. Employers may also provide additional protections that may be reflected in employee handbooks or policies.

ANTI-DISCRIMINATION PROTECTIONS

At the time of publication, New Jersey has not enacted a state law regarding anti-discrimination protections for domestic violence, sexual assault and/or stalking.

New Jersey law does prohibit discrimination against an employee who elects to take safe leave to address circumstances related to domestic or sexual violence as is permitted by New Jersey law (see below).

Note that federal law, local law and/or employers' internal policies may provide other applicable protections.

REASONABLE ACCOMMODATIONS

At the time of publication, New Jersey has not enacted a state law affording reasonable accommodations for domestic violence, sexual assault, or stalking. However, individuals may be eligible for reasonable accommodations under other laws or policies, including those that might afford reasonable accommodations for a disability related to domestic violence or sexual assault. Note that federal law, local law and/or employers' internal policies may provide other applicable protections.

LEAVE/TIME OFF WORK

- **Paid Sick Days:** In New Jersey, ([NJ Rev. Stat. §34:11D-2; D-3](#)), employers of all sizes are required to provide up to 40 hours of paid sick time for full-time, part-time and temporary employees (to be accrued at 1 hour for every 30 hours worked). The law expressly provides that accrued paid sick leave can be taken to address certain circumstances resulting from domestic violence (defined in [NJ Rev. Stat. §2C:25-19](#)) or sexual violence offense (as defined in [NJ Rev. Stat. §30:4-27.26](#)) perpetrated against themselves or certain family members.¹

The leave may be taken to:

- Seek medical attention for, or recover from, physical or psychological injuries resulting from domestic or sexual violence to the employee or qualifying family member of the employee;
- Obtain services from a victim services organization for the employee or qualifying family member of the employee;
- Obtain psychological or other counseling for the employee or qualifying family member of the employee;
- Participate in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the employee or qualifying family member of the employee from future acts of domestic or sexual violence or to ensure economic security;

- Seek legal assistance or remedies to ensure the health and safety of the employee or qualifying family member of the employee including preparing for, or participating in, any civil or criminal legal proceeding related to or derived from domestic or sexual violence;
- Attend, participate in, or prepare for a criminal or civil court proceeding relating to an incident of domestic or sexual violence of which the employee or qualifying family member of the employee was the victim.
- **Family Leave Insurance and Temporary Disability Insurance:** In New Jersey, eligible individuals also have access to family leave insurance and temporary disability insurance that can be used by survivors of domestic or sexual violence. Survivors may be able to claim benefits related to leave for domestic or sexual violence under either of these programs. Both of these programs provide wage replacement for missed work but do not provide job protection.

Under New Jersey law, temporary disability benefits are available to domestic or sexual violence survivors that can't work due to a physical or mental illness, injury, or disability. An eligible individual can claim this benefit for up to 26 weeks if a medical professional certifies their illness, injury, or disability. To qualify for temporary disability insurance benefits, an individual must earn a certain amount of income and work a certain number of hours. This changes every year. For 2022, an individual must have worked 20 weeks earning at least \$240 weekly or have earned a combined total of \$12,000 in the year. Individuals are paid an amount based on their wages.

Family leave insurance benefits are available to survivors or family members of survivor. Eligible individuals can claim up to 12 weeks or 56 individual days in a 12-month period. An individual can use the leave to: seek medical attention, therapy, victim advocacy, or legal services, safety plan or escape abuse, attend or prepare for court, recover at home. An individual can also be considered a "family caregiver" and care for a loved one who is a survivor and needs assistance. To qualify for family leave insurance an individual must earn a certain amount of income and work a certain number of hours. This changes every year. For 2022, an individual must have worked 20 weeks earning at least \$240 weekly or have earned a combined total of \$12,000 in the year. Individuals are paid an amount based on their wages.

- **Unpaid Leave for Victims of Domestic Violence or Sexual Assault:** In New Jersey, ([NJ Rev. Stat. §34:11C-3](#)) an employee² may be eligible to take up to 20 days of unpaid leave to address certain circumstances resulting from domestic violence (defined in [NJ Rev. Stat. §2C:25-19](#)) or a sexual violence offense (as defined in [NJ Rev. Stat. §30:4-27.26](#)) perpetrated against themselves or certain family members³ within the 12-months following an incident of domestic violence. The leave can be taken intermittently and each incident of domestic violence constitutes a separate incident for which an employee may take leave, so long as the 20 days unpaid leave has not been exhausted in the preceding 12 months.

The leave may be taken to:

- Seek medical attention for, or recover from, physical or psychological injuries resulting from domestic or sexual violence to the employee or qualifying family member of the employee;
- Obtain services from a victim services organization for the employee or qualifying family member of the employee;
- Obtain psychological or other counseling for the employee or qualifying family member of the employee;
- Participate in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the employee or qualifying family member of the employee from future acts of domestic or sexual violence or to ensure economic security;
- Seek legal assistance or remedies to ensure the health and safety of the employee or qualifying family member of the employee including preparing for, or participating in, any civil or criminal legal proceeding related to or derived from domestic or sexual violence;

- Attend, participate in, or prepare for a criminal or civil court proceeding relating to an incident of domestic or sexual violence of which the employee or qualifying family member of the employee was the victim.

An employee who qualifies for this leave can elect to take accrued paid time off (sick, personal, vacation) but the employer can run that paid leave concurrently with available unpaid safe leave. Likewise, an employer can run unpaid safe leave taken with other eligible leave, such as Family and Medical Leave Act (FMLA).

An employee is required to give advanced notice, if possible. An employer is permitted to request documentation to support the reason for safe leave and one of the following documents must be regarded as sufficient:

- A domestic violence restraining order or other relief ordered by a court;
- A letter or other written documentation from the county or municipal prosecutor documenting the domestic or sexual violence;
- Documentation of conviction of a person for domestic violence or sexual violent offense;
- Medical documentation of domestic or sexual violence;
- Certification from a certified Domestic Violence Specialist or the director of a designated domestic violence agency or rape crisis center, that the employee or qualifying family member of the employee is a victim of domestic violence or a sexually violent offense;
- Documentation or certification of the domestic violence or sexually violent offense provided by a social worker, member of the clergy, shelter worker, or other professional who has assisted the employee or qualifying family member of the employee in dealing with the domestic violence or sexually violent offenses.

Any documentation provided must be kept confidentially by the employer.

An employer is prohibited from discharging, harassing or otherwise discriminating or retaliating or threatening to discharge, harass or otherwise discriminate against an employee with respect to the compensation, terms, conditions or privileges of employment on the basis that the employee took or requested safe leave to which the employee was entitled or because the employee refused to provide documentation that the safe leave law permits to remain confidential.

Note that individuals may also be eligible to take time off under their employer's policy, including vacation time, sick time, personal days, under other state laws or protections, or under federal protections such as the Family and Medical Leave Act, which may afford unpaid leave for a severe medical condition.

UNEMPLOYMENT INSURANCE

In New Jersey (**NJ Rev. Stat § 43:21-5(j)**), an otherwise eligible individual cannot be denied unemployment benefits if they left work or were discharged due to circumstances resulting from being the victim of domestic violence (defined in **NJ Rev. Stat. §2C:25-19**).

- *Do I have to show proof of domestic violence?* The individual must provide documentation which can be: a restraining order or other documentation of equitable relief issued by a court of competent jurisdiction; a police record documenting the domestic violence; documentation that the perpetrator of the domestic violence has been convicted of domestic violence; medical documentation of the domestic violence; certification from a certified domestic violence specialist or the director of a designated domestic violence agency that the individual is a victim of domestic violence; or other documentation or certification of the domestic violence provided by a social worker, member of the clergy, shelter worker or other professional who has assisted the individual in dealing with the domestic violence.

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- ¹ Parent-in-law, sibling, grandparent, grandchild, child, parent, spouse, domestic partner, or civil union partner individual, or any other individual related by blood to the employee, and any other individual that the employee shows to have a close association with the employee which is the equivalent of a family relationship.
 - ² Someone who worked at least 1,000 hours during the immediately preceding 12-month period for an employer who has 25 or more employees for each day during 20 or more workweeks in the then-current or immediately preceding calendar year.
 - ³ Parent-in-law, sibling, grandparent, grandchild, child, parent, spouse, domestic partner, or civil union partner individual, or any other individual related by blood to the employee, and any other individual that the employee shows to have a close association with the employee which is the equivalent of a family relationship.