NEW JERSEY EXPANDS RIGHTS UNDER THE NEW JERSEY FAMILY LEAVE ACT

Date: 10 February 2026

US Labor, Employment, and Workplace Safety Alert

By: George P. Barbatsuly

On 17 January 2026, outgoing New Jersey Governor Phil Murphy signed into law Assembly Bill No. 3451 (AB 3451), expanding the category of employers covered by the New Jersey Family Leave Act (NJFLA) and the employees eligible to take leave under the NJFLA. Previously, the NJFLA applied only to employers with 30 or more employees; starting on 17 July 2026, the NJFLA will now cover employers with 15 or more employees. The changes also will broaden employee eligibility by reducing the length of service requirements. AB 3451 also introduces amendments regarding employees who use Temporary Disability Insurance (TDI) or Family Leave Insurance (FLI) benefits that raise a question regarding job reinstatement rights for those employees.

NJFLA SUMMARY

The NJFLA affords eligible employees with up to 12 weeks of unpaid job-protected leave during a 24-month period (1) to care for or bond with a child within the first year of the child's birth or placement through adoption or foster care, (2) to care for a family member or a family member-equivalent with a serious health condition, and (3) during a state of emergency to either care for a family member or a family member-equivalent who has been isolated or quarantined because of suspected exposure to a communicable disease, or to provide care or treatment for a child if the child's school or place of care is closed by order of a public official due to an epidemic of a communicable disease or other public health emergency. Employees returning from NJFLA leave generally must be restored to the position they held immediately before they started NJFLA leave or reinstated to an equivalent position of like seniority, status, employment benefits, pay, and other terms and conditions of employment. Notably, the NJFLA does not provide eligible employees with job-protected leave for their own serious health condition.

EXPANSION OF NJFLA COVERAGE

At present, only employers employing at least 30 employees for each working day during each of 20 or more calendar weeks in the current or immediately preceding calendar year are covered by the NJFLA. When the amendments to the NJFLA take effect on 17 July 2026, that employee threshold will be reduced to 15 employees. Additionally, employees are currently eligible to take NJFLA leave if they worked for their current employer for at least 12 months and worked at least 1,000 hours in the 12 months immediately preceding the requested leave start date. The amended NJFLA will allow employees to become eligible for NJFLA leave after working for their current employer for at least three months and working at least 250 hours in the 12 months immediately preceding the requested leave start date.

©2005-2026 K&L Gates LLP. All Rights Reserved.

TDI AND FLI BENEFIT AMENDMENTS

AB 3451 also provides that for any employee who takes a leave for which they receive TDI or FLI benefits, that employee “shall” be entitled to the same job protections as provided for under the NJFLA. However, AB 3451 also states that “nothing [in AB 3451] shall be construed as increasing, reducing or otherwise modifying any entitlement provided to a worker by the provisions of the 'Family Leave Act'... to be restored to employment by the employer after a period of family temporary disability leave.” As noted above, the NJFLA does not provide eligible employees with the right to take job-protected leave for their own serious health condition, although an employee may receive TDI benefits during a period of leave for their own serious health condition. Additionally, employees are eligible for up to 26 weeks of TDI benefits, 14 more weeks than the amount of leave to which an eligible employee may be entitled under the NJFLA. Thus, it is not clear whether AB 3451 has created job protection rights for employees who take TDI or FLI benefits or whether AB 3451 simply confirms the job protections for those eligible employees who take NJFLA leave and receive TDI or FLI benefits during NJFLA leave.

EMPLOYEE CHOICE OF BENEFITS

AB 3451 also provides that employees who are eligible for paid sick leave under New Jersey's Earned Sick and Safe Leave Law and either TDI or FLI benefits are permitted to choose between using paid sick leave or the applicable TDI or FLI benefits, and they may select the sequence in which they take the different kinds of leave available. AB 3451 clarifies, however, that employees shall not receive more than one kind of paid leave simultaneously during any period of time.

CONSIDERATIONS FOR EMPLOYERS

New Jersey employers employing between 15 and 29 employees who are currently not covered by the NJFLA will have obligations under the NJFLA beginning 17 July 2026. Employers both currently and newly covered by the NJFLA will need to consider the significantly reduced criteria for employees to become eligible for NJFLA leave. In preparation for the upcoming 17 July 2026 effective date, employers should update their handbooks and leave policies to incorporate the reduced NJFLA eligibility criteria. Employers also should train human resources personnel on the new rules and communicate changes to employees before July 2026. Finally, employers should be on the lookout for further guidance from the state on the open questions created by the amendments regarding TDI and FLI benefits. Our lawyers in the Labor, Employment and Workplace Safety practice will continue to monitor the implementation of rules, additional amendments, and other updates.

KEY CONTACTS



GEORGE P. BARBATSULY
PARTNER

NEWARK
+1.973.848.4104
GEORGE.BARBATSULY@KLGATES.COM

©2005-2026 K&L Gates LLP. All Rights Reserved.

This publication/newsletter is for informational purposes and does not contain or convey legal advice. The information herein should not be used or relied upon in regard to any particular facts or circumstances without first consulting a lawyer. Any views expressed herein are those of the author(s) and not necessarily those of the law firm's clients.

©2005-2026 K&L Gates LLP. All Rights Reserved.