

# A Brief Review of the New Jersey SAFE Act & Related Leave Laws

By:

Armando V. Riccio, Esq.  
Raymond, Coleman, Heinold & Norman, LLP  
609.634.2784  
[avriccio@gmail.com](mailto:avriccio@gmail.com)

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## NJ SAFE – Effective 10/1/13

- ▶ Employers with 25+ employees
- ▶ Employee:
  - Employed 12 months (*non-consecutive*)
  - 1,000 *base hours* (*worker's comp. counts!*) during the last 12 months
- ▶ Unpaid leave: 20 days during a 12 month period
  - Circumstances resulting from domestic violence or a sexually violent offense.
    - Defined by criminal code
  - Applies to the employee or the employee's child, parent, spouse, domestic partner or civil union partner
- ▶ Global changes to any employment benefit apply

## NJ SAFE PROTECTED LEAVE

- ▶ (1) Seek medical attention and recovery for physical or psychological injuries;
- ▶ (2) Obtain services from a victim services organization;
- ▶ (3) Obtaining psychological or other counseling;
- ▶ (4) Safety planning, relocation, or *other actions* to increase safety from future domestic violence or sexual violence or to ensure economic security;
- ▶ (5) Seek legal assistance or remedies to ensure health and safety (e.g., Restraining Orders)
  - Includes preparing for or participating in any related legal proceeding
- ▶ (6) Attending, participating in or preparing for a related court proceeding.

## Notice & Certification

- Employee must provide written notice if foreseeable
- Documentation or certification limited to:
  - Restraining order or other documentation of a Court Order of relief;
  - Writing from County or Municipal prosecutor documenting the offense;
  - Medical documentation documenting the offense;
  - Certification from a Domestic Violence Specialist, director of domestic violence agency or Rape crisis center;
  - Other documentation or certification from a social worker, clergy, shelter worker, "other professional" who assisted in dealing with the domestic violence or violent sexual offense

## Confidentiality & Reporting

- ▶ NJ SAFE: All information provided or regarding a leave taken and any failure of an employee to return to work, must be maintained in “the strictest confidentiality”, unless:
  - voluntarily authorized in writing by the employee, or;
  - is required by Federal or State law, rule or regulation.
- ▶ N.J.S.A. 9:6–8.10 states: Any person having reasonable cause to believe that a child has been subjected to child abuse or acts of child abuse shall report same immediately to the Division of Child Protection and Permanency.
- ▶ N.J.S.A. 9:6–8.14 states: Any person knowingly violating the provisions of this act including failure to report an act of child abuse having reasonable cause to believe that an act of child abuse has been committed is a disorderly person.
- ▶ Medical privacy rights

## Interplay with other leave/time off

- Employer *may* require or employee may elect to use accrued paid time off at the same time (negotiable)
- Time off under NJ SAFE *shall* run concurrently with other leave time provided by law (e.g., TDB, NJFLA, FMLA)
- No provision for employer designation of leave as NJ SAFE leave.
- *See chart for comparison/interplay*

## Anti-Retaliation

- ▶ ***VERY BROAD!***
  - Prohibits:
    - termination, harassment, discrimination & retaliation;
    - *threats* of the above
      - Not indicia of a claim, a threat is a basis for a claim!
- ▶ **TRAIN OR AT LEAST UPDATE SUPERVISORS/MANAGEMENT**

**THANK YOU!**

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