

ASSEMBLY, No. 113

STATE OF NEW JERSEY

222nd LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2026 SESSION

Sponsored by:

Assemblyman AL BARLAS

District 40 (Bergen, Essex and Passaic)

SYNOPSIS

Concerns bereavement leave for miscarriage and stillbirth.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



A113 BARLAS

2

1 AN ACT concerning bereavement leave for miscarriage and stillbirth
2 and amending P.L.1989, c.261 and P.L.1948, c.110.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 3 of P.L.1989, c.261 (C.34:11B-3) is amended to
8 read as follows:

9 3. As used in **[this act]** P.L.1989, c.261 (C.34:11B-3):

10 a. "Child" means a biological, adopted, foster child, or resource
11 family child, stepchild, legal ward, or child of a parent, including a
12 child who becomes the child of a parent pursuant to a valid written
13 agreement between the parent and a gestational carrier.

14 b. "Director" means the Director of the Division on Civil
15 Rights.

16 c. "Division" means the Division on Civil Rights in the
17 Department of Law and Public Safety.

18 d. "Employ" means to suffer or permit to work for
19 compensation, and includes ongoing, contractual relationships in
20 which the employer retains substantial direct or indirect control
21 over the employee's employment opportunities or terms and
22 conditions of employment.

23 e. "Employee" means a person who is employed for at least 12
24 months by an employer, with respect to whom benefits are sought
25 under this act, for not less than 1,000 base hours during the
26 immediately preceding 12-month period. Any time, up to a
27 maximum of 90 calendar days, during which a person is laid off or
28 furloughed by an employer due to that employer curtailing
29 operations because of a state of emergency declared after October
30 22, 2012, shall be regarded as time in which the person is employed
31 for the purpose of determining eligibility for leave time under this
32 act. In making the determination, the base hours per week during
33 the layoff or furlough shall be deemed to be the same as the average
34 number of hours worked per week during the rest of the 12-month
35 period.

36 f. "Employer" means a person or corporation, partnership,
37 individual proprietorship, joint venture, firm or company or other
38 similar legal entity which engages the services of an employee and
39 which:

40 (1) (Deleted by amendment, P.L.2019, c.37);

41 (2) (Deleted by amendment, P.L.2019, c.37);

42 (3) With respect to the period of time from the 1,095th day
43 following the effective date of P.L.1989, c.261 (C.34:11B-1 et seq.)
44 through June 30, 2019, employs 50 or more employees for each

EXPLANATION – Matter enclosed in bold-faced brackets **[thus] in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 working day during each of 20 or more calendar workweeks in the
2 then current or immediately preceding calendar year; and

3 (4) With respect to any period of time on or after June 30, 2019,
4 employs 30 or more employees for each working day during each of
5 20 or more calendar workweeks in the then current or immediately
6 preceding calendar year.

7 "Employer" includes the State, any political subdivision thereof,
8 and all public offices, agencies, boards or bodies.

9 g. "Employment benefits" means all benefits and policies
10 provided or made available to employees by an employer, and
11 includes group life insurance, health insurance, disability insurance,
12 sick leave, annual leave, pensions, or other similar benefits.

13 h. "Parent" means a person who is the biological parent,
14 adoptive parent, foster parent, resource family parent, step-parent,
15 parent-in-law or legal guardian, having a "parent-child relationship"
16 with a child as defined by law, or having sole or joint legal or
17 physical custody, care, guardianship, or visitation with a child, or
18 who became the parent of the child pursuant to a valid written
19 agreement between the parent and a gestational carrier.

20 i. "Family leave" means leave from employment so that the
21 employee may provide care or may take time to grieve that is made
22 necessary by reason of:

23 (1) the birth of a child of the employee, including a child born
24 pursuant to a valid written agreement between the employee and a
25 gestational carrier;

26 (2) the placement of a child into foster care with the employee
27 or in connection with adoption of such child by the employee;

28 (3) the serious health condition of a family member of the
29 employee ; or

30 (4) in the event of a state of emergency declared by the
31 Governor, or when indicated to be needed by the Commissioner of
32 Health or other public health authority, an epidemic of a
33 communicable disease, a known or suspected exposure to the
34 communicable disease, or efforts to prevent spread of a
35 communicable disease, which:

36 (a) requires in-home care or treatment of a child due to the
37 closure of the school or place of care of the child of the employee,
38 by order of a public official due to the epidemic or other public
39 health emergency;

40 (b) prompts the issuance by a public health authority of a
41 determination, including by mandatory quarantine, requiring or
42 imposing responsive or prophylactic measures as a result of illness
43 caused by an epidemic of a communicable disease or known or
44 suspected exposure to the communicable disease because the
45 presence in the community of a family member in need of care by
46 the employee, would jeopardize the health of others; or

47 (c) results in the recommendation of a health care provider or
48 public health authority, that a family member in need of care by the

1 employee voluntarily undergo self-quarantine as a result of
2 suspected exposure to a communicable disease because the presence
3 in the community of that family member in need of care by the
4 employee, would jeopardize the health of others.

5 “Family leave” also means leave from employment due to the
6 death of a child or the miscarriage or stillbirth of a child of the
7 employee or a gestational carrier.

8 j. "Family member" means a child, parent, parent-in-law,
9 sibling, grandparent, grandchild, spouse, domestic partner, or one
10 partner in a civil union couple, or any other individual related by
11 blood to the employee, and any other individual that the employee
12 shows to have a close association with the employee which is the
13 equivalent of a family relationship.

14 k. "Reduced leave schedule" means leave scheduled for fewer
15 than an employee's usual number of hours worked per workweek
16 but not for fewer than an employee's usual number of hours worked
17 per workday, unless agreed to by the employee and the employer.

18 l. "Serious health condition" means an illness, injury,
19 impairment, or physical or mental condition which requires:

20 (1) inpatient care in a hospital, hospice, or residential medical
21 care facility; or

22 (2) continuing medical treatment or continuing supervision by a
23 health care provider.

24 m. "State of emergency" means a natural or man-made disaster
25 or emergency for which a state of emergency has been declared by
26 the President of the United States or the Governor, or for which a
27 state of emergency has been declared by a municipal emergency
28 management coordinator.

29 n. "Health care provider" means a duly licensed health care
30 provider or other health care provider deemed appropriate by the
31 director.

32 (cf: P.L.2020, c.23, s.1)

33

34 2. Section 4 of P.L.1989, c.261 (C.34:11B-4) is amended to
35 read as follows:

36 4. An employee of an employer in this State subject to the
37 provisions of this act shall be entitled to a family leave of 12 weeks
38 in any 24-month period upon advance notice to the employer in the
39 manner specified by the provisions of sections 11 and 12 of
40 P.L.2008, c.17 (C.43:21-39.2 and 43:21-39.3), unless the employer
41 denies family leave to the employee pursuant to subsection h. of
42 this section.

43 a. In the case of a family member who has a serious health
44 condition, the leave may be taken intermittently when medically
45 necessary, in the manner specified by the provisions of section 11
46 of P.L.2008, c.17 (C.43:21-39.2).

47 b. In the case of the foster care placement, birth or adoption of
48 a healthy child, the leave may be taken intermittently in the manner

1 specified by the provisions of paragraph (2) of subsection a. of
2 section 12 of P.L.2008, c.17 (C.43:21-39.3).

3 c. Leave taken because of the birth or placement for adoption
4 of a child may commence at any time within a year after the date of
5 the foster care placement, birth or placement for adoption.

6 d. Family leave required by this act may be paid, unpaid, or a
7 combination of paid and unpaid leave. If an employer provides paid
8 family leave for fewer than 12 workweeks, the additional weeks of
9 leave added to attain the 12-workweek total required by this act
10 may be unpaid.

11 e. An employer may require that any period of family leave be
12 supported by certification issued by a duly licensed health care
13 provider or any other health care provider determined by the
14 director to be capable of providing adequate certification as
15 described in paragraphs (1) and (2) of this subsection, or where the
16 leave is for an epidemic of a communicable disease, a known or
17 suspected exposure to a communicable disease, or efforts to prevent
18 spread of a communicable disease, certification issued by a school,
19 place of care for children, public health authority, public official, or
20 health care provider, as described in paragraph (3) of this
21 subsection.

22 (1) Where the certification is for the serious health condition of
23 a family member of the employee, the certification shall be
24 sufficient if it states: (a) the date on which the serious health
25 condition commenced; (b) the probable duration of the condition;
26 and (c) the medical facts within the provider's knowledge regarding
27 the condition;

28 (2) Where the certification is for the birth or placement of the
29 child, the certification need only state the date of birth or date of
30 placement, whichever is appropriate;

31 (3) Where the certification is for an epidemic of a
32 communicable disease, a known or suspected exposure to the
33 communicable disease, or efforts to prevent spread of the
34 communicable disease, the certification shall be sufficient if it
35 includes:

36 (a) for leave taken to provide in-home care or treatment of a
37 child due to the closure of the school or place of care of the child of
38 the employee, by order of a public official due to the epidemic or
39 other public health emergency, the date on which the closure of the
40 school or place of care of the child of the employee commenced and
41 the reason for such closure;

42 (b) for leave taken due to a public health authority's issuance of
43 a determination requiring or imposing responsive or prophylactic
44 measures as a result of illness caused by an epidemic of a
45 communicable disease or known or suspected exposure to the
46 communicable disease because the presence in the community of a
47 family member in need of care by the employee would jeopardize

1 the health of others, the date of issuance of the determination and
2 the probable duration of the determination; or

3 (c) for leave taken because a health care provider or public
4 health authority recommends that a family member in need of care
5 by the employee voluntarily undergo self-quarantine as a result of
6 suspected exposure to a communicable disease because the presence
7 in the community of that family member in need of care by the
8 employee would jeopardize the health of others, the date of the
9 recommendation, the probable duration of the condition, and the
10 medical or other facts within the health care provider or public
11 health authority's knowledge regarding the condition.

12 (4) Where the certification is for the death, miscarriage, or
13 stillbirth of the child, the certification need only state the date of
14 death, miscarriage, or stillbirth, whichever is appropriate.

15 In any case in which the employer has reason to doubt the
16 validity of the certification provided pursuant to paragraph (1) of
17 this subsection, the employer may require, at its own expense, that
18 an employee obtain an opinion regarding the serious health
19 condition from a second health care provider designated or
20 approved, but not employed on a regular basis, by the employer. If
21 the second opinion differs from the certification provided pursuant
22 to paragraph (1) of this subsection, the employer may require, at its
23 own expense, that the employee obtain the opinion of a third health
24 care provider designated or approved jointly by the employer and
25 the employee concerning the serious health condition. The opinion
26 of the third health care provider shall be considered to be final and
27 shall be binding on the employer and the employee.

28 f. In any case in which the necessity for leave under this act is
29 foreseeable, based upon placement of a child into foster care an
30 expected birth or placement of the child for adoption, the employee
31 shall provide the employer with prior notice of the expected birth or
32 placement of the child for adoption or foster care in the manner
33 specified by the provisions of section 11 of P.L.2008, c.17
34 (C.43:21-39.2).

35 g. No employee shall, during any period of leave taken
36 pursuant to this section, perform services on a full-time basis for
37 any person for whom the employee did not provide those services
38 immediately prior to commencement of the leave.

39 h. An employer may deny family leave to the employee if:

40 (1) The employee is a salaried employee who is among the
41 highest paid 5% of the employer's employees or the seven highest
42 paid employees of the employer, whichever is greater;

43 (2) The denial is necessary to prevent substantial and grievous
44 economic injury to the employer's operations; and

45 (3) The employer notifies the employee of its intent to deny the
46 leave at the time the employer determines that the denial is
47 necessary.

1 The provisions of this subsection shall not apply when, in the
2 event of a state of emergency declared by the Governor or when
3 indicated to be needed by the Commissioner of Health or other
4 public health authority, the family leave is for an epidemic of a
5 communicable disease, a known or suspected exposure to a
6 communicable disease, or efforts to prevent spread of a
7 communicable disease.

8 i. In any case in which the leave has already commenced at the
9 time of the notification pursuant to paragraph (3) of subsection h. of
10 this section, the employee shall return to work within 10 working
11 days of the date of notification.

12 j. In the case of leave taken due to an epidemic of a
13 communicable disease, a known or suspected exposure to the
14 communicable disease, or efforts to prevent spread of the
15 communicable disease, the leave may be taken intermittently if: (1)
16 the covered individual provides the employer with prior notice of
17 the leave as soon as practicable; and (2) the covered individual
18 makes a reasonable effort to schedule the leave so as not to unduly
19 disrupt the operations of the employer and, if possible, provide the
20 employer, prior to the commencement of the intermittent leave,
21 with a regular schedule of the day or days of the week on which the
22 intermittent leave will be taken.

23 (cf: P.L.2020, c.23, s.2)

24
25 3. Section 3 of P.L.1948, c.110 (C.43:21-27) is amended to
26 read as follows:

27 3. As used in **[this act]** P.L.1948, c.110 (C.43:21-25 et al.),
28 unless the context clearly requires otherwise:

29 (a) (1) "Covered employer" means, with respect to whether an
30 employer is required to provide benefits during an employee's own
31 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any
32 individual or type of organization, including any partnership,
33 association, trust, estate, joint-stock company, insurance company
34 or corporation, whether domestic or foreign, or the receiver, trustee
35 in bankruptcy, trustee or successor thereof, or the legal
36 representative of a deceased person, who is an employer subject to
37 the "unemployment compensation law" (R.S.43:21-1 et seq.),
38 except the State, its political subdivisions, and any instrumentality
39 of the State unless such governmental entity elects to become a
40 covered employer pursuant to paragraph (2) of this subsection (a);
41 provided, however, that commencing with the effective date of this
42 act, the State of New Jersey, including Rutgers, The State
43 University and the New Jersey Institute of Technology, shall be
44 deemed a covered employer, as defined herein.

45 "Covered employer" means, after June 30, 2009, with respect to
46 whether the employer is an employer whose employees are eligible
47 for benefits during periods of family temporary disability leave
48 pursuant to P.L.1948, c.110 (C.43:21-25 et al.), and, after December

1 31, 2008, whether employees of the employer are required to make
2 contributions pursuant to R.S.43:21-7(d)(1)(G)(ii), any individual
3 or type of organization, including any partnership, association,
4 trust, estate, joint-stock company, insurance company or domestic
5 or foreign corporation, or the receiver, trustee in bankruptcy, trustee
6 or successor thereof, or the legal representative of a deceased
7 person, who is an employer subject to the "unemployment
8 compensation law" (R.S.43:21-1 et seq.), including any
9 governmental entity or instrumentality which is an employer under
10 R.S.43:21-19(h)(5), notwithstanding that the governmental entity or
11 instrumentality has not elected to be a covered employer pursuant to
12 paragraph (2) of this subsection (a).

13 (2) Any governmental entity or instrumentality which is an
14 employer under R.S.43:21-19(h)(5) may, with respect to the
15 provision of benefits during an employee's own disability pursuant
16 to P.L.1948, c.110 (C.43:21-25 et al.), elect to become a "covered
17 employer" under this subsection beginning with the date on which
18 its coverage under R.S.43:21-19(h)(5) begins or as of January 1 of
19 any year thereafter by filing written notice of such election with the
20 division within at least 30 days of the effective date. Such election
21 shall remain in effect for at least two full calendar years and may be
22 terminated as of January 1 of any year thereafter by filing with the
23 division a written notice of termination at least 30 days prior to the
24 termination date.

25 (b) (1) "Covered individual" means, with respect to whether an
26 individual is eligible for benefits during an individual's own
27 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any
28 person who is in employment, as defined in the "unemployment
29 compensation law" (R.S.43:21-1 et seq.), for which the individual is
30 entitled to remuneration from a covered employer, or who has been
31 out of such employment for less than two weeks, except that a
32 "covered individual" who is employed by the State of New Jersey,
33 including Rutgers, The State University or the New Jersey Institute
34 of Technology, or by any governmental entity or instrumentality
35 which elects to become a "covered employer" pursuant to P.L.1948.
36 c.110 (C.43:21-25 et al.) prior to July 1, 2019 shall not be eligible
37 to receive any benefits under the "Temporary Disability Benefits
38 Law" until such individual has exhausted all sick leave accumulated
39 as an employee in the classified service of the State or accumulated
40 under terms and conditions similar to classified employees or
41 accumulated under the terms and conditions pursuant to the laws of
42 this State or as the result of a negotiated contract with any
43 governmental entity or instrumentality which elects to become a
44 "covered employer"; and, after June 30, 2019 may be required, prior
45 to receiving any benefits under the "Temporary Disability Benefits
46 Law," to use up to two weeks of sick leave accumulated as an
47 employee in the classified service of the State or accumulated under
48 terms and conditions similar to classified employees or accumulated

1 under the terms and conditions pursuant to the laws of this State or
2 as the result of a negotiated contract with any governmental entity
3 or instrumentality which elects to become a "covered employer,"
4 except that the individual shall not be required to use the
5 individual's last week's worth of accumulated sick time before
6 receiving the benefits.

7 "Covered individual" shall not mean, with respect to whether an
8 individual is eligible for benefits during an individual's own
9 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any
10 member of the Division of State Police in the Department of Law
11 and Public Safety.

12 (2) "Covered individual" means, with respect to whether an
13 individual is eligible for benefits during the individual's period of
14 family temporary disability leave pursuant to P.L.1948, c.110
15 (C.43:21-25 et al.), any individual who is in employment, as
16 defined in the "unemployment compensation law" (R.S.43:21-1 et
17 seq.), for which the individual is entitled to remuneration from a
18 covered employer, or who has been out of that employment for less
19 than two weeks.

20 (c) "Division" or "commission" means the Division of
21 **【Unemployment and】** Temporary Disability and Family Leave
22 Insurance of the Department of Labor and Workforce Development,
23 and any transaction or exercise of authority by the director of the
24 division shall be deemed to be performed by the division.

25 (d) "Day" shall mean a full calendar day beginning and ending
26 at midnight.

27 (e) "Disability" shall mean such disability as is compensable
28 under section 5 of P.L.1948, c.110 (C.43:21-29).

29 (1) "Disability" shall, in the event of a state of emergency
30 declared by the Governor, or when indicated to be needed by the
31 Commissioner of Health or other public health authority, also
32 include an illness caused by an epidemic of a communicable
33 disease, a known or suspected exposure to the communicable
34 disease, or efforts to prevent spread of the communicable disease,
35 which requires in-home care or treatment of the employee due to:

36 (i) the issuance by a healthcare provider or the commissioner or
37 other public health authority of a determination that the presence in
38 the community of the employee may jeopardize the health of others;
39 and

40 (ii) the recommendation, direction, or order of the provider or
41 authority that the employee be isolated or quarantined as a result of
42 suspected exposure to a communicable disease.

43 (f) "Disability benefits" shall mean any cash payments which
44 are payable to a covered individual for all or part of a period of
45 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.).

46 (g) "Period of disability" with respect to any covered individual
47 shall mean:

1 (1) The entire period of time during which the covered
2 individual is continuously and totally unable to perform the duties
3 of the covered individual's employment because of the covered
4 individual's own disability, except that two periods of disability due
5 to the same or related cause or condition and separated by a period
6 of not more than 14 days shall be considered as one continuous
7 period of disability; provided the individual has earned wages
8 during such 14-day period with the employer who was the
9 individual's last employer immediately preceding the first period of
10 disability; and

11 (2) On or after July 1, 2009, the entire period of family
12 temporary disability leave taken from employment by the covered
13 individual.

14 (h) "Wages" shall mean all compensation payable by covered
15 employers to covered individuals for personal services, including
16 commissions and bonuses and the cash value of all compensation
17 payable in any medium other than cash.

18 (i) (1) (Deleted by amendment, P.L.2001, c.17).

19 (2) (Deleted by amendment, P.L.2001, c.17).

20 (3) (Deleted by amendment, P.L.2013, c.221).

21 (4) "Base week" with respect to periods of disability
22 commencing on or after January 1, 2001, means any calendar week
23 of a covered individual's base year during which the covered
24 individual earned in employment from a covered employer
25 remuneration not less than an amount 20 times the minimum wage
26 in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on
27 October 1 of the calendar year preceding the calendar year in which
28 the benefit year commences, which amount shall be adjusted to the
29 next higher multiple of \$1.00 if not already a multiple thereof,
30 except that if in any calendar week an individual subject to this
31 paragraph is in employment with more than one employer, the
32 covered individual may in that calendar week establish a base week
33 with respect to each of the employers from whom the covered
34 individual earns remuneration equal to not less than the amount
35 defined in this paragraph during that week.

36 (5) In the case of an individual who is laid off or furloughed by
37 an employer curtailing operations because of a state of emergency
38 declared after October 22, 2012, any week in which the individual
39 is separated from employment due to that layoff or furlough, up to a
40 maximum of 13 weeks, shall be regarded as a week which is a "base
41 week" for the purpose of determining whether the individual
42 becomes eligible for benefits pursuant to subsection (d) or (e) of
43 section 17 of P.L.1948, c.110 (C.43:21-41), but shall not be
44 regarded as a base week when calculating the "average weekly
45 wage" pursuant to subsection (j) of this section.

46 (j) (1) "Average weekly wage" means, with respect to the
47 payment of benefits commencing before the effective date of
48 P.L.2019, c.37 (C.43:21-45.2 et al.), the amount derived by dividing

1 a covered individual's total wages earned from the individual's most
2 recent covered employer during the base weeks in the eight calendar
3 weeks immediately preceding the calendar week in which a period
4 of disability commenced, by the number of such base weeks, and,
5 with respect to the payment of benefits commencing on or after the
6 effective date of P.L.2019, c.37 (C.43:21-45.2 et al.), the amount
7 derived by dividing a covered individual's total wages earned from
8 the individual's most recent covered employer during the base
9 weeks in the base year immediately preceding the calendar week in
10 which a period of disability commenced, or in which the individual
11 submits a claim for the benefits pursuant to subsection h. of section
12 10 of P.L.2008, c.17 (C.43:21-39.1) or paragraph (3) of subsection
13 (a) of section 25 of P.L.1948, c.110 (C.43:21-49), by the number of
14 base weeks.

15 (2) With respect to the payment of benefits commencing before
16 the effective date of P.L.2019, c.37 (C.43:21-45.2 et al.), if the
17 computation in paragraph (1) of this subsection (j) yields a result
18 which is less than the individual's average weekly earnings in
19 employment with all covered employers during the base weeks in
20 such eight calendar weeks, then the average weekly wage shall be
21 computed on the basis of earnings from all covered employers
22 during the base weeks in the eight calendar weeks immediately
23 preceding the week in which the period of disability commenced,
24 and, with respect to the payment of benefits commencing on or after
25 the effective date of P.L.2019, c.37 (C.43:21-45.2 et al.), if the
26 computation in paragraph (1) of this subsection (j) yields a result
27 which is less than the individual's average weekly earnings in
28 employment with all covered employers during the base weeks in
29 the base year, then the average weekly wage shall be computed on
30 the basis of earnings from all covered employers during the base
31 weeks in the base year immediately preceding the week in which
32 the period of disability commences, or in which the individual
33 submits a claim for the benefits pursuant to subsection h. of section
34 10 of P.L.2008, c.17 (C.43:21-39.1) or paragraph (3) of subsection
35 (a) of section 25 of P.L.1948, c.110 (C.43:21-49).

36 (3) For periods of disability commencing on or after July 1,
37 2009 and before the effective date of P.L.2019, c.37 (C.43:21-45.2
38 et al.), if the computations in paragraphs (1) and (2) of this
39 subsection (j) both yield a result which is less than the individual's
40 average weekly earnings in employment with all covered employers
41 during the base weeks in the 26 calendar weeks immediately
42 preceding the week in which the period of disability commenced,
43 then the average weekly wage shall, upon a written request to the
44 department by the individual on a form provided by the department,
45 be computed by the department on the basis of earnings from all
46 covered employers of the individual during the base weeks in those
47 26 calendar weeks, and, in the case of a claim for benefits from a
48 private plan, that computation of the average weekly wage shall be

1 provided by the department to the individual and the individual's
2 employer.

3 When determining the "average weekly wage" with respect to a
4 period of family temporary disability leave for an individual who
5 has a period of family temporary disability immediately after the
6 individual has a period of disability for the individual's own
7 disability, the period of disability is deemed to have commenced at
8 the beginning of the period of disability for the individual's own
9 disability, not the period of family temporary disability.

10 (k) "Child" means a biological, adopted, or foster child,
11 stepchild or legal ward of a covered individual, child of a domestic
12 partner of the covered individual, or child of a civil union partner of
13 the covered individual, including a child who becomes the child of
14 a parent pursuant to a valid written agreement between the parent
15 and a gestational carrier.

16 (l) "Domestic partner" means a domestic partner as defined in
17 section 3 of P.L.2003, c.246 (C.26:8A-3).

18 (m) "Civil union" means a civil union as defined in section 2 of
19 P.L.2006, c.103 (C.37:1-29).

20 (n) "Family member" means a sibling, grandparent, grandchild,
21 child, spouse, domestic partner, civil union partner, parent-in-law,
22 or parent of a covered individual, or any other individual related by
23 blood to the employee, and any other individual that the employee
24 shows to have a close association with the employee which is the
25 equivalent of a family relationship.

26 (o) "Family temporary disability leave" means leave taken by a
27 covered individual from work with an employer to:

28 (1) participate in the providing of care, as defined in the "Family
29 Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) and regulations
30 adopted pursuant to that act, for a family member of the individual
31 made necessary by a serious health condition of the family member;

32 (2) be with a child during the first 12 months after the child's
33 birth, if the individual, or the domestic partner or civil union partner
34 of the individual, is a biological parent of the child, or is a parent of
35 the child pursuant to a valid gestational carrier agreement, or the
36 first 12 months after the placement of the child for adoption or as a
37 foster child with the individual;

38 (3) engage in activities for which unpaid leave may be taken
39 pursuant to section 3 of the "New Jersey Security and Financial
40 Empowerment Act," P.L.2013, c.82 (C.34:11C-3), on the
41 individual's own behalf, if the individual is a victim of an incident
42 of domestic violence, a sexually violent offense, or to assist a
43 family member of the individual who has been a victim of an
44 incident of domestic violence, or a sexually violent offense,
45 provided that any time taken by an individual who has been a victim
46 of an incident of domestic violence, or a sexually violent offense for
47 which the individual receives benefits for a disability caused by the
48 violence or offense shall be regarded as a period of disability of the

1 individual and not as a period of family temporary disability
2 leave;[or]

3 (4) in the event of a state of emergency declared by the
4 Governor, or when indicated to be needed by the Commissioner of
5 Health or other public health authority, an epidemic of a
6 communicable disease, a known or suspected exposure to the
7 communicable disease, or efforts to prevent spread of the
8 communicable disease, provide in-home care or treatment of the
9 family member of the employee required due to:

10 (i) the issuance by a healthcare provider or the commissioner or
11 other public health authority of a determination that the presence in
12 the community of the family member may jeopardize the health of
13 others; and

14 (ii) the recommendation, direction, or order of the provider or
15 authority that the family member be isolated or quarantined as a
16 result of suspected exposure to a communicable disease.

17 (5) grieve the death of a child or the loss of a child due to
18 miscarriage or stillbirth, if the individual, or the domestic partner or
19 civil union partner of the individual, is a biological parent of the
20 child, or is a parent of the child pursuant to a valid gestational
21 carrier agreement.

22 "Family temporary disability leave" does not include any period
23 of time in which a covered individual is paid benefits pursuant to
24 P.L.1948, c.110 (C.43:21-25 et al.) because the individual is unable
25 to perform the duties of the individual's employment due to the
26 individual's own disability.

27 (p) "Health care provider" means a health care provider as
28 defined in the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et
29 seq.), and any regulations adopted pursuant to that act.

30 (q) "Parent of a covered individual" means a biological parent,
31 foster parent, adoptive parent, or stepparent of the covered
32 individual or a person who was a legal guardian of the covered
33 individual when the covered individual was a child, or who became
34 the parent of the covered individual pursuant to a valid written
35 agreement between the parent and a gestational carrier.

36 (r) "Placement for adoption" means the time when a covered
37 individual adopts a child or becomes responsible for a child pending
38 adoption by the covered individual.

39 (s) "Serious health condition" means an illness, injury,
40 impairment or physical or mental condition which requires:
41 inpatient care in a hospital, hospice, or residential medical care
42 facility; or continuing medical treatment or continuing supervision
43 by a health care provider.

44 (t) "12-month period" means, with respect to an individual who
45 establishes a valid claim for disability benefits during a period of
46 family temporary disability leave, the 365 consecutive days that
47 begin with the first day that the individual first establishes the
48 claim.

1 (u) "State of emergency" means a natural or man-made disaster
2 or emergency for which a state of emergency has been declared by
3 the President of the United States or the Governor, or for which a
4 state of emergency has been declared by a municipal emergency
5 management coordinator.

6 (v) "Base year" with respect to benefit years commencing on or
7 after the effective date of P.L.2019, c.37 (C.43:21-45.2 et al.),
8 means the first four of the last five completed calendar quarters
9 immediately preceding the period of disability, except that, if the
10 individual does not have sufficient qualifying weeks or wages in the
11 individual's base year to qualify for benefits, the individual shall
12 have the option of designating that the individual's base year shall
13 be the "alternative base year," which means the last four completed
14 calendar quarters immediately preceding the period of disability;
15 and except that if the individual also does not have sufficient
16 qualifying weeks or wages in the last four completed calendar
17 quarters immediately preceding the period of disability, "alternative
18 base year" means the last three completed calendar quarters
19 immediately preceding the individual's benefit year and, of the
20 calendar quarter in which the period of disability commences, the
21 portion of the quarter which occurs before the commencing of the
22 period of disability. The division shall inform the individual of the
23 individual's options under this subsection. If information regarding
24 weeks and wages for the calendar quarter or quarters immediately
25 preceding the period of disability is not available to the division
26 from the regular quarterly reports of wage information and the
27 division is not able to obtain the information using other means
28 pursuant to State or federal law, the division may base the
29 determination of eligibility for benefits on the affidavit of an
30 individual with respect to weeks and wages for that calendar
31 quarter. The individual shall furnish payroll documentation, if
32 available, in support of the affidavit. A determination of benefits
33 based on an alternative base year shall be adjusted when the
34 quarterly report of wage information from the employer is received
35 if that information causes a change in the determination.

36 (cf: P.L.2020, c.23, s.3)

37
38 4. This act shall take effect immediately.
39
40

41 STATEMENT 42

43 This bill provides that an employee shall be permitted to take
44 family leave granted by the "New Jersey Family Leave Act" to
45 grieve the loss of a child due to miscarriage or stillbirth. This bill
46 allows an employee to take family temporary disability leave
47 granted by the "Temporary Disability Benefits Law" to bereave the
48 loss of a child due to miscarriage or stillbirth if the individual, or

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- 1 the domestic partner or civil union partner of the individual, is a
- 2 biological parent of the child or is a parent of the child pursuant to a
- 3 valid gestational carrier agreement.