



New Jersey Time to Care Coalition

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A4927/S3085: Legislation to Expand and Improve New Jersey's Family Leave Insurance

In 2009, New Jersey became the second state in the nation to provide paid family leave to workers to care for a seriously ill family member or bond with a new child. Despite the overall success of New Jersey's Family Leave Insurance (FLI) program, there are many challenges in making the program accessible to all of the state's working families with caregiving responsibilities. Assembly bill A-4927 (Prieto) and Senate bill S-3085 (Sweeney) improve and expand the NJ paid family leave program so that more working families, especially lower income families, can afford to take time to care for loved ones when they need them most. Every employee in New Jersey pays for the program through a small payroll tax (the maximum deduction for 2017 is \$33.50 per year). Despite the fact that employees fully fund the program, for many it is still out of reach.

A4927/S3085, the Family Leave Insurance bill to expand and improve paid family leave in New Jersey remedies a vast majority of the barriers in accessing the program and will bring New Jersey's paid family leave program more in line with what is available in other states that have a program (California, Rhode Island, and in 2018 - New York) and those now under consideration in more than ten cities and states across the US.

The set of key provisions in the legislation includes greater benefits, increased leave times and flexibility, more family members covered, increased job protections, and greater program efficiency, promotion, and reporting of program data. **The legislation expands and improves the New Jersey Family Leave Insurance Program in the follow key areas:**

1. Increases the Weekly Wage Replacement Rate and Maximum Benefit Amount

Currently, the New Jersey Family Leave Insurance (NJ FLI) program provides New Jersey workers *with 66.7% of their average weekly wage* up to a maximum benefit of 53% of the statewide average weekly wage (from two years prior), for 2017 this is \$633 a week.

A4927/S3085 will increase the wage replacement rate to 90% of a worker's average weekly wage and set the maximum benefit at 78% of the statewide average weekly wage, which for 2017 would equal \$932 a week.

Increasing the amount available to workers in need of paid family leave would mean that many more families will be able to afford to take the time off. The current maximum benefit of \$633 is the equivalent of an annual salary of \$32,000 a year and is not enough to make ends meet in New Jersey. And the two-third wage replacement rate for lower-wage workers means they would not even receive as much as \$633, potentially pushing already struggling workers deeper into poverty. Even for higher earning families, losing a few weeks of pay can lead to financial instability. Increasing the weekly wage replacement rate and maximum benefit amount will help low and middle income workers afford to take the time off they need.

2. Increases the Number of Weeks Available and Allows for Intermittent Use for Bonding

Currently, the NJ FLI program is available to workers with bonding and caregiving responsibilities for up to 6 weeks during a 12-month period. Additionally, intermittent use (day increments) of the program is only available for those who use the program to care for a seriously ill family member. Those that take

leave for bonding must use the benefit in at least one week (seven days) increments and only then with approval from their employer.

A4927/S3085 will increase the time available to 12 weeks in a 12 month period. FLI benefits will be available on an intermittent or daily basis when used for bonding. Employees must provide their employer with 15 days prior notice (unless an emergency precludes prior notice), a schedule of the days or days of the week when intermittent leave is to be taken, and make a reasonable effort to schedule the leave so as not to disrupt the operations of the employer. In general, workers will have the right to determine when to use their bonding leave in the 12 months following a child's birth or placement for adoption, either in a single contiguous period or intermittently in non-consecutive weeks or day increments.

With short leave times, workers often do not feel ready to return to work and are more likely to consider dropping out of the labor force entirely. The Federal Medical Leave Act (FMLA) and the NJ Family Leave Act set a baseline of 12 weeks for caregiving. Research shows significant health benefits of longer leaves for family caregiving and bonding with a new child, in fact, the American Academy of Pediatrics has recommended that 12 weeks is the bare minimum for family leave to care for a new baby. Additionally, research has shown that providing bonding leave on intermittent, daily basis for bonding increases the likelihood that both parents will be able to utilize the program.

3. Provides Additional Job Protection

Currently, NJ FLI does not provide any job protection. Workers are only guaranteed their job back after taking an NJ FLI qualifying leave if they are covered under the Federal Medical Leave Act (FMLA) or the NJ Family Leave Act. Those laws cover workers who have been at their jobs at least one year, worked a minimum number of hours, and their employer has at least 50 employees.

A4927/S3085 amends the NJ Family Leave Act to cover employees in companies that have 20 or more employees. The bill also provides that an employer may not retaliate against any employee who takes or requests NJ FLI or NJ Temporary Disability Insurance benefits.

Many workers are unable to take leave without guarantee of job security. Research shows that the lack of job protection is one of the most significant barriers in deciding to take paid family leave. Workers choose not to take leave out of fear that they will lose their job or will be less likely to receive promotions. Approximately 1 in 3 NJ workers do not currently have job projections (under FMLA or NJFLA) when they use NJ FLI.

4. Expands the Definition of Family and Provides Benefits in Cases of Caring for Family Members who are Victims of Domestic or Sexual Assault.

Currently, NJ FLI allows workers to access benefits when providing care for seriously ill children (under 19 or unable to care for themselves due to a mental or physical impairment), parents, spouses, and domestic or civil union partners. Additionally, workers can only use NJ FLI to care for family members who have a serious health condition, as certified by a health care provider

A4927/S3085 will expand the definition of family to include grandparents, grandchildren, siblings and parents-in-law. Additionally the bill provides that FLI benefits can be taken to care for or assist a family member who is a victim of domestic or sexual violence.



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As the population ages and people live longer it is more common for workers to serve as caregivers to older family members – increasing their need for paid leave. According to the AARP, in New Jersey over 58,000 grandparents report they are responsible for and have their grandchildren living with them. The expanded definition of family is an important update to the program that recognizes that today's families go beyond the traditional nuclear family, and that caregivers can often be daughters or sons-in-law, grandparents, brothers or sisters, and more. It is also crucial that family members can take leave to help a family member who is a victim of domestic violence or sexual assault so that they can obtain the needed treatment or services.

5. Increases Public Awareness, Program Efficiency, and Reporting of Program Data

A4927/S3085 will require that the NJ Department of Labor and Workforce Development (NJ LWD), the state agency which administers the program, conduct community and workplace educational outreach about the rights and responsibilities of employers and employees regarding NJ FLI. Additionally, NJ LWD must implement goals for timely payment of benefits and release annual reports regarding achievement of those goals. Lastly, the NJ LWD must include relevant data on usage and characteristics of program participants in its annual reports. A4183 (Greenwald) will also require the NJ LWD include additional data points in their annual report.

Many New Jerseyans cannot access the New Jersey Family Leave Insurance program because they simply do not know it is available to them; in a 2013 poll, 6 out of 10 New Jersey residents were unaware of the NJ FLI program. Outreach and education is a necessary and important component to ensure that all working families, businesses, and the community are aware of NJ FLI and their rights and responsibilities under the law. Additionally, for those workers who are aware of the program and have submitted a claim, they often experience significant delays in receipt of their benefits. Many workers report not receiving a check until they have returned to work. An analysis by the offices of Legislative Services found that it took an average of 15 days to make an initial eligibility determination in 2015. More than 55% of claims took more than 15 days, and 31% took more than three weeks. It is critical that the NJ LWD process claims in a timely fashion so that working families, struggling to make ends meet, are able to receive their benefits when they need them most. Finally, the NJ LWD currently provides minimal data on NJ FLI program usage data in their annual reports. The collection and timely reporting of detailed data on program usage and characteristics of program participants will help policymakers make informed decisions on future changes to the program.