

New Jersey Enacts Paid Sick Leave Act and Springs Forward with Legislative Agenda

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May 2, 2018

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Expanding employee protections in New Jersey is on the agenda for the overwhelming party-majorities in the Senate and the Assembly in the Legislature and for Governor Phil Murphy. In the latest development, Governor Murphy signed The New Jersey Paid Sick Leave Act on May 2, 2018. The bill passed by 2-1 margins in both houses. The Paid Sick Leave Act will go into effect on October 29, 2018, 180 days after enactment.

The Diane B. Allen Equal Pay Act, signed by Governor Murphy on April 24, 2018, is scheduled to take effect on July 1, 2018.

The Legislature is considering bills on confidentiality in settlement agreements and on marijuana. Business operations and policies likely will be affected significantly if the legislative agenda is enacted.

Paid Sick Leave

The New Jersey Paid Sick Leave Act ([A-1827](#)) requires companies to provide employees up to 40 hours of paid sick leave each benefit year. Under the new law, employees will accrue one hour of paid sick leave for every 30 hours worked. The new law sets out specific reasons for which leave may be taken and includes notice requirements, recordkeeping provisions, anti-retaliation provisions, and potential carryover of unused leave. Businesses with paid-time-off policies already may not need to change their policies if the policies' usage and accrual provisions are at least as favorable as those under the new law. For further information, see our article, [New Jersey Legislature Passes Paid Sick Leave Bill](#).

Equal Pay Act

The Equal Pay Act ([A-1](#)) generally requires equal pay for "substantially similar work" by employees. Potential liability under the Equal Pay Act includes treble damages, costs, attorney's fees, and back pay, among other forms of relief. The new law lengthens the statute of limitations for claims based on pay equity to a period of six years (in contrast to the two years under the New Jersey Law Against Discrimination). Additionally, unlike pay equity laws in Massachusetts, Oregon, and other states, the New Jersey statute permits a private cause of action. Before July 1, businesses should evaluate their compensation and review systems to ensure compliance with the law. For further information, see our article, [New Jersey Governor Signs Pay Equity Bill into Law](#).

Confidentiality Prohibition in Certain Settlement Agreements

A bill prohibiting waiver of specific rights and confidentiality provisions in employment agreements has been reported to the Senate Labor Committee. The bill ([S-3581](#), [S-121](#)) originally was introduced prior to the close of the last legislative session and has been reintroduced in the 2018-2019 session with substantive revisions. For example, the revised bill expressly applies to "settlement agreements" as well as employment contracts. The bill would permit an employee to enforce a non-disclosure provision

against an employer; however, no such protection exists for the company under the amended bill.

Furthermore, the bill requires any settlement agreement that resolves a harassment or discrimination claim to contain notice (in bold and prominently placed) that any confidentiality provisions with respect to the underlying facts “is unenforceable against the employer if the employee publicly reveals sufficient details of the claim so that the employer is reasonably identifiable.” If passed, the bill certainly would affect business strategy related to litigation and resolution of claims asserted under the New Jersey Law Against Discrimination. For further information, see our article, [Bill Would Revise New Jersey Law Against Discrimination to Limit Employment Agreements](#).

Medical Marijuana

Assembly Bill No. 1838 ([A-1838](#)) sets forth a series of protections for medical marijuana users from adverse employment actions. The bill, reintroduced this legislative session, would prohibit an employer from taking an adverse employment action against a medical marijuana user based upon her or his status as a qualified, registered medical marijuana cardholder or upon positive drug tests for marijuana. While the employer remains free to enforce policies that prohibit possession or use of marijuana during work hours, the bill requires the employer to provide an employee the right to present a medical explanation to justify a positive drug test result for marijuana. The employer, under such circumstances, must provide the employee with written notice of the right to explain the positive drug test and, possibly, the opportunity for a confirmatory retest. If enacted, the bill likely would alter drug testing policies and procedures throughout the state.

The New Jersey Legislature continues to press forward with bills that may affect business operations in the state. Jackson Lewis will monitor and report on developments. If you have any questions, please reach out to a Jackson Lewis attorney.

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