

# New Jersey Enacts Leave for Organ and Bone Marrow Donors

By James M. McDonnell & Justin B. Cutlip

January 22, 2020

## Meet the Authors



**James M. McDonnell**

Principal

908-795-5208

James.McDonnell@jacksonlewis.com



**Justin B. Cutlip**

Of Counsel

908-795-5136

Justin.Cutlip@jacksonlewis.com

## Related Services

Disability, Leave and Health  
Management

Technology

©2020 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on labor and employment law since 1958, Jackson Lewis P.C.'s 1000+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged, stable and diverse, and share our clients' goals to emphasize inclusivity and respect for the contribution of every employee. For more information, visit <https://www.jacksonlewis.com>.

New Jersey has amended its Temporary Disability Benefits Law (TDB) to provide job-protected leave during “a period of disability” resulting from the donation of any organ or bone marrow. The new law will take effect on May 20, 2020.

Although the Legislature acknowledged that the TDB does not expressly guarantee job security, it decided to amend the law to provide employees job security only when the disability is due to the donation of any organ or bone marrow.

Similar to a leave covered under the New Jersey Family Leave Act, an employee on disability due to the donation of any organ or bone marrow must be restored to the former position at the time the disability commenced or to an equivalent position of like seniority, status, employment benefits, pay, and other terms and conditions of employment.

However, the new law does not expressly state who is an eligible employee or the length of permitted leave. The Legislature’s statement of the bill indicated support for the position that an employee must be eligible for benefits under the TDB and that the length of leave would be for the period of disability under the law.

Currently, to be eligible for benefits under the TDB, employees must work 20 weeks earning at least \$200 weekly *or* have earned a combined total of \$10,000 in the base year (defined as the first four of the last five completed calendar quarters before the employee files a claim). If eligible, employees may receive up to 26 weeks of benefits, which could mean employees are now entitled to up to 26 weeks of job-protected leave if the reason for the disability is the donation of any organ or bone marrow.

In addition to providing job-protected leave, the amendment clarified that a disability resulting from the donation of any organ or bone marrow would qualify the employee for benefits under the TDB. It also eliminated the one-week waiting period typically assigned to disability benefit payments. Thus, employees on disability for the donation of any organ or bone marrow will have benefits payable during the first seven days.

Jackson Lewis attorneys are available to answer inquiries regarding the new law and assist employers with any questions regarding its requirements.