

CHAPTER 129

AN ACT concerning donated leave for State employees and supplementing Title 11A of the New Jersey Statutes.

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

C.11A:6-5.1 Donated leave for State employees.

1. a. A State employee shall be eligible to receive donated sick or vacation leave. The Civil Service Commission may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as the commission deems necessary to implement and enforce the provisions of this section, including the criteria that a State employee shall satisfy to be eligible to receive donated sick or vacation leave; provided, however, a State employee shall be eligible to receive donated sick or vacation leave if the employee:

- (1) has completed at least one year of continuous State service;
- (2) has exhausted all accrued sick, vacation, and administrative leave, all sick leave injury benefits, if any, and all compensatory time off;
- (3) has not, in the two-year period immediately preceding the employee's need for donated leave, been disciplined for chronic or excessive absenteeism, chronic or excessive lateness, or abuse of leave; and
- (4) meets one of the following criteria:
 - (a) suffers from a catastrophic health condition or injury;
 - (b) is needed to provide care to a member of the employee's immediate family who is suffering from a catastrophic health condition or injury;
 - (c) requires absence from work due to the donation of an organ, including, but not limited to, the donation of bone marrow; or
 - (d) requires absence from work during a period of disability due to the pregnancy of the employee which requires the care of a physician who provides a medical verification of the need for the employee's absence from work for 30 or more work days, regardless of whether the absence from work commences before the expected delivery date or after the actual delivery date.

b. A State employee may request that the appointing authority approve the employee's participation in the program, as a leave recipient or leave donor. The employee's supervisor may make a request on behalf of the employee for the employee's participation in the program as a leave recipient. The employee or supervisor requesting the employee's acceptance as a leave recipient shall submit to the appointing authority medical verification from a physician or other licensed health care provider concerning the nature and anticipated duration of the disability resulting from either the catastrophic health condition or injury, the donation of an organ, or pregnancy, as the case may be. When the appointing authority has approved an employee as a leave recipient, the appointing authority shall, with the employee's consent, or the consent of the employee's family if the employee is unable to consent, post or circulate the employee's name along with those of other eligible employees in a conspicuous manner to encourage the donation of leave time, and shall provide notice to all negotiations representatives in that appointing authority.

c. A leave recipient shall receive at least five sick days or vacation days or a combination thereof from one or more leave donors to participate in the donated leave program. A leave recipient shall receive no more than 260 sick days or vacation days, and shall not receive any days on a retroactive basis. A leave donor shall donate only whole sick days or whole vacation days and may not donate more than 30 such days to any one

recipient. A leave donor shall have remaining at least 20 days of accrued sick leave if donating sick leave and at least 12 days of accrued vacation leave if donating vacation leave. A leave donor shall not revoke the leave donation. If a leave donor is not in the same department or autonomous agency as the leave recipient, appropriate arrangements shall be made between the affected appointing authorities to verify donor eligibility and adjust leave records. The posting requirement set forth in subsection b. of this section shall be limited to the recipient's appointing authority.

d. While using donated leave time in State service, the leave recipient shall accrue sick leave and vacation leave and be entitled to retain that leave upon the leave recipient's return to work.

e. Any unused donated leave shall be returned to the leave donors on a prorated basis upon the leave recipient's return to work, except that if the proration of leave days results in less than one day per donor to be returned, the leave time shall not be returned.

f. Upon retirement, the leave recipient shall not be granted supplemental compensation for any unused sick days which the leave recipient received through the leave donation program.

g. A State employee shall be prohibited from threatening or coercing, or attempting to threaten or coerce, another employee for the purpose of interfering with rights involving donating, receiving, or using donated leave time. The acts prohibited shall include, but not be limited to, promising to confer a benefit such as an appointment or promotion, or making a threat to engage in an act of retaliation against an employee.

h. No provision of this section, or regulation promulgated to implement or enforce this section, shall be deemed to justify reducing or making less favorable to employees any benefits provided by this section or any other law or required by a collective bargaining agreement which are more favorable to the employees than those required by this section, nor shall any provision of this section, or any regulation promulgated to implement or enforce this section, be construed to prohibit appropriate negotiations through collective bargaining agreements of benefits which are more favorable to employees than those required by this section.

i. As used in this section:

“Catastrophic health condition or injury” means the following:

(1) with respect to an employee: (a) a life-threatening condition or combination of conditions; or (b) a period of disability required by his or her mental or physical health or the health of the employee's fetus which requires the care of a physician who provides a medical verification of the need for the employee's absence from work for 60 or more work days; and

(2) with respect to an employee's immediate family member: (a) a life-threatening condition or combination of conditions; or (b) a period of disability required by his or her mental or physical health which requires the care of a physician who provides a medical verification of the need for the family member's care by the employee for 60 or more work days.

j. This section shall apply to State employees in the career, senior executive, and unclassified service.

2. This act shall take effect immediately.

Approved June 21, 2019.