

Governor Murphy Signs New Legislation to Protect Employees Who Take Time Off From Work Due to COVID-19 Symptoms

Client Alert

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On March 20, 2020, New Jersey Governor Phil Murphy signed Assembly Bill No. A3848 into law after it was unanimously approved by both the State Assembly and Senate. The legislation, which became effective immediately, prohibits an employer from terminating, or refusing to reinstate, an employee who takes time off from work at the recommendation of a medical professional due to an infectious disease.

Specifically, A3848 states that employers may not "terminate or otherwise penalize an employee if the employee requests or takes time off from work based on the written or electronically transmitted recommendation of a medical professional licensed in New Jersey that the employee take that time off for a specified period of time because the employee has, or is likely to have, an infectious disease . . . which may infect others at the employee's workplace."

Additionally, under A3848 the employer may not "refuse to reinstate" employees to their original positions, and must not alter employees' "seniority, status, employment benefits, pay or other terms and conditions of employment."

Employees whose rights are violated under this legislation may file written complaints with the New Jersey Department of Labor and Workforce Development or "initiate an action in a court of competent jurisdiction" to seek reinstatement to their previously held positions. Employers who violate this legislation are subject to a \$2,500 fine.

The Governor's March 20, 2020 press release affirmed his standing policy that "if you're sick, stay home" and emphasized that employees should not fear retribution for missing work due to COVID-19-related symptoms. Employees may not have sufficient vacation and/or sick leave to cover a period of quarantine. A3848 is a measure to protect employees who are symptomatic of COVID-19 and to prevent the spread of the virus in the workplace.

Unfortunately, many employers will be unable to continue regular operations of their businesses due to the economic impacts of the COVID-19 pandemic. It should be noted that A3848 does not prohibit employers from

terminating their employees' positions based on legitimate business reasons. Employers, however, may not discriminate against employees who receive a doctor's recommendation to not attend work due to COVID-19. Additionally, employers may not violate any of the protections afforded to employees under existing laws and prior to the adoption of A3848. The newly enacted legislation is designed to curb the spread of COVID-19 and protect employees from discrimination, rather than to discourage businesses from exercising reasonable business judgment.