

Looking Out For Your Legal Rights®

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Cuáles son sus derechos legales
La versión en español la encontrará al reverso.

New Jersey Paid Sick Leave Law

ON MAY 2, 2018, New Jersey became the 10th state to enact a law guaranteeing employees paid sick leave. The law applies to most, but not all employees (for example, it does not apply to employees working under a collective bargaining agreement). The New Jersey Paid Sick Leave Act requires employers to provide one hour of paid sick leave for every 30 hours worked. Employees may accrue up to 40 hours of sick leave per year and carry over up to 40 hours to the next benefit year unless the employer allows the employee to accept payment instead of carrying over sick days. Under the new law, employers must pay the same rate for sick leave as an employee's usual pay.

Under the new law, employers must pay the same rate for sick leave as an employee's usual pay.

The new law will take effect on October 29, 2018, 180 days after enactment. Workers may begin using paid sick leave 120 days after it is accrued, unless the employer offers paid sick leave up front, without requiring employees to wait until they have accrued the leave. Employers may also offer more paid sick leave than the law requires. Employers that already have policies with at least the same paid leave as the law

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requires are already in compliance with the law.

Under the new law, employers are required to provide sick leave to workers experiencing their own mental or physical health issues. It also covers other scenarios. Workers are entitled to paid sick leave to care for an ailing family member. Paid sick leave may be used when a workplace or school/day care is closed due to a public health emergency or when the worker or worker’s family member poses a threat to the health of others. Employees who must take leave to address circumstances related to domestic or sexual violence (for example, medical attention, psychological ser-



vices, legal services, court proceedings) for themselves or a family member are also covered by the law. Finally, employees may use paid sick leave to attend school-related conferences regarding a child’s health condition or disability.

If the sick leave is foreseeable, the employee is expected to give advanced notice (seven calendar days) to the employer. The employer may prohibit employees from taking foreseeable sick leave on particular dates. If the leave is not foreseeable, the employee must give notice to the employer as soon as practicable. For absences of three or more days, employers may require documentation from a medical professional.

Violations of the new law (for example, an employer refuses to pay for sick leave) will be treated as wage violations. The law provides a private right of action and liquidated damages for violations. It explicitly prohibits retaliation against workers asserting their rights under the new law. □

*By Sarah Hymowitz, Chief Counsel,
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Looking Out For Your Legal Rights®

About Looking Out

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Fines and Fees in Municipal Court

THERE ARE MANY fines, fees, and surcharges associated with municipal court-level offenses in New Jersey. People of color are disproportionately affected, since they are over-represented and over-punished in the criminal and juvenile justice system. Fines and fees are especially overwhelming to people in poverty, who may not have the means to make payment.

Case Example: Terry was issued several municipal ordinance violations when he was 19 years old. All violations related to a single incident of underage drinking. After the court found him guilty, Terry was sentenced to pay over one thousand dollars in fines and fees. It took him almost six years to pay off this massive debt.

What happens if I can't pay my fines?

If you can't pay your court debts, you may face other penalties. This may include more fines and fees or other forms of punishment. If the court finds that your failure to pay is a "willful violation," you may even face incarceration.

The court also has the power to suspend your driver's license if you fail to make court-ordered payments. A suspended license can affect your ability to get to work, school, medical appointments, or court. People may have their licenses suspended due to their inability to make payments from jail or prison.

Your driver's license may be suspended if you do not make payments or fail to appear in court. This is true even if the original fines were from minor offenses, such as unpaid parking tickets. If you fail to pay surcharges—which are is-

sued once a year for three years by the MVC for certain violations—your license will be suspended.

Will the court consider waiving fines and fees?

Municipal court judges can reduce or waive fines, offer payment plans, allow community service, or give credit for time served. The judge may ask you to complete a financial questionnaire to determine your ability to make payments and provide a payment plan. If you default (fail to make payment) on your payment plan, and are subject to license suspension or arrest, the court may decide that you are unable to pay. The court may then choose to:

- Reduce the penalty;
- Order credit for time served;
- Forgive any unpaid portion due to changed circumstances;
- Order community service; or
- Impose any other penalty allowed by law.

The court can only incarcerate you if it finds that default was "willful" and



The court has the power to suspend your driver's license if you fail to make court-ordered payments.

“without good cause.” A person in poverty should not be found guilty of a “willful” or “without good cause” violation if the sole reason for non-payment was inability to pay. If you do serve jail time for default, the court may order credit of not less than \$50 a day for the time served.

How will the court collect payment if the debt isn’t reduced?

A municipal court can only arrange for a private company to collect debt after it has “exhausted” all enforcement remedies. This means that you are delinquent on your payments and that your license has been suspended or there has been a warrant for your arrest for a full

year. If the court does hire a private company, the collection company may charge up to 22% of the principal debt in collection fees.

Is there anything I can do to convince the court to reduce my fines?

If you cannot afford to pay fines and fees, inform the court immediately. Be prepared to provide financial information and ask about alternate ways to satisfy the sentence. For additional information, contact Legal Services of New Jersey’s statewide, toll-free legal hotline, at 1-888-LSNJ-LAW (1-888-576-5529). □

By Akil Roper, Chief Counsel, LSNJ Reentry

THE SERVICEMEMBERS CIVIL RELIEF ACT: Legal Protections for Armed Forces Members on Active Duty

THE SERVICEMEMBERS Civil Relief Act (SCRA) is a federal law that provides special legal protections and help to members of the Armed Forces who are on active duty. Congress passed the law so that legal actions may be put on hold for servicemembers during military service. SCRA only applies to civil legal matters—not criminal matters.



Who is considered a servicemember?

A servicemember is a member of any of the following: Army, Navy, Air Force, Marine Corps, National Guard, Coast Guard, the Commissioned Corps of the National Oceanic and Atmospheric Administration, and the Commissioned Corps of the Public Health Service. SCRA applies to servicemembers in all 50 states and all U.S. territories (Puerto Rico, U.S. Virgin Islands, Guam, and the Marianas Islands).

When does SCRA apply?

SCRA does not apply automatically. A person must be on active duty or deployed and must request the protections of SCRA in order to benefit

from its protections. Active duty includes annual training duty.

If a person is on active duty, the SCRA protections usually begin the first date of active duty and end on the last day of the active duty period. However, they may be extended from 30 to 180 days beyond the last day of active duty.

What protection and assistance does SCRA offer to servicemembers?

The main protection SCRA offers is that it stops (the legal term is *stays*) lawsuits—primarily divorces. Many people think that SCRA protects servicemembers from being sued. SCRA does not keep servicemembers from being sued or from being a witness in a legal proceeding. SCRA also provides the following protections.

LAWSUIT PROTECTIONS

Preventing default judgments against servicemembers: A default judgment is a judgment that is entered against a person (the defendant) who has failed to defend him- or herself in a lawsuit. Because a servicemember may have good reasons for not appearing and defending him- or herself in a lawsuit while on active duty, SCRA requires the plaintiff (the person filing the suit) to file a document called an *affidavit*, stating whether or not the defendant is in the service. The court cannot enter a default judgment until it receives that affidavit. If the defendant is in military service, the court must appoint an attorney to represent the defendant before entering a default judgment against the defendant. Also, the defendant must have notice of (know about) the lawsuit in order to get the protection of SCRA.

Stopping civil court or administrative proceedings against servicemembers: SCRA permits a servicemember to stay (stop or delay) a legal action if the court determines that:

- The servicemember might have a defense to the action;
- The servicemember cannot defend him- or herself without being present; and
- The servicemember has honestly tried to appear in court but cannot. (If a court determines that a servicemember could have appeared but does not try to appear, this is an example of acting in bad faith. If a court finds that a servicemember has acted in bad faith, it will not grant a stay of the legal action.)

The servicemember must make this request in writing while on a tour of military service, or within 90 days after termination of or release from military service, by sending:

- A letter or other type of communication explaining the servicemember's military duties and the need for a stay;
- A starting date when the servicemember will be able to appear; and
- A letter from the servicemember's commanding officer, supporting his or her request for a stay.

If a request for a stay is denied, the servicemember cannot then invoke the protections of SCRA to try to set aside the default judgment.

In New Jersey, lawsuits in the family division of the Superior Court may

continue, but the family division works with servicemembers by allowing them to testify by telephone during periods of authorized leave. This way, the servicemember is protected and the other members of the family are allowed to continue to seek relief in family court.

Giving servicemembers more time to bring lawsuits: There are rules for how and when different types of civil lawsuits may be filed. For example, a personal injury lawsuit must be filed within two years of the date of the discovery of the injury. However, SCRA requires that the “clock” stop for servicemembers on active duty.

INSURANCE PROTECTIONS

Suspending life insurance payments: Under SCRA, servicemembers may stop payment of life insurance premiums during active duty. SCRA also requires that commercial life insurance coverage continue during the period of military service and for two years thereafter.

Reinstatement of health insurance after period of active duty is completed: SCRA requires that civilian health insurance be reinstated when servicemembers return home after active duty.

Preventing increases in professional liability insurance premiums: Under SCRA, professional liability insurance may be suspended for servicemembers during a period of active duty, and insurance providers may not increase premiums when the insurance is reinstated.

DEBT PROTECTIONS

Garnishment of pay: In certain situations, a servicemember may be able to avoid having his or her pay garnished. This is especially true if he or she is able

to show that there was an absence from a judicial proceeding as a result of military assignment or essential military duty.

Interest rate on credit card or other debt: A servicemember may reduce to 6% the higher interest rate he or she pays for any financial obligation (credit card, loan, and mortgage) individually or jointly entered into before active service, if active service materially affects the servicemember’s ability to repay the financial obligation. This reduced interest rate is effective only during the period of active military duty. This reduced rate does not apply to financial obligations entered into while in active service, federally guaranteed student loans, refinancing, or credit card balance increases.

Installment contracts: An installment contract is an agreement to pay for goods or services over time in multiple payments. A servicemember who enters into an installment contract before beginning active duty to purchase real or personal property, including a car, is protected under SCRA from making payments if:

- The servicemember has paid a deposit or installment before entering into active duty, and
- Military service “materially affects” the servicemember’s ability to make payments. A court may compare a servicemember’s financial condition before and during active duty to determine if he or she qualifies.

If the servicemember meets those conditions, the seller may not end the contract, take possession of the property for nonpayment, or break the terms of

SCRA requires that civilian health insurance be reinstated when servicemembers return home after active duty.

the contract. Only a court can give the seller permission to repossess the property or end the contract.

LEASE AND MORTGAGE PROTECTIONS

Leased vehicles: SCRA allows a servicemember to terminate a car lease signed either before or during active duty if, after agreeing to the terms of a lease, he or she:

- Receives orders for a permanent change of station to a location outside the continental U.S., or
- Is deployed for 180 days or more.

Preventing eviction: Under SCRA, a landlord may not evict a servicemember on active status, or his or her dependents, from their primary residence without a court order. However, in New Jersey, the Anti-Eviction Act already provides this protection for all tenants—so SCRA is not as important here as it is in other states. Once in court, SCRA permits the court to stay proceedings or adjust obligations in applications for eviction.

Ending a residential lease: SCRA permits servicemembers to terminate a residential lease of property that is occupied, or intended to be occupied, by a servicemember or his or her dependents.

Paying a mortgage: If a servicemember entered into a mortgage before the period of military service began and still

owes money on that mortgage, the court may stay proceedings to enforce that mortgage obligation.

HELP WITH PAYING TAXES

SCRA may defer collection of taxes (but not filing of tax returns) for up to 180 days after termination of or release from military service if the servicemember's ability to pay that tax is materially affected by military service.


VOTING RIGHTS

SCRA protects a servicemember's right to vote in elections in his or her home state.

DRIVER'S LICENSES

A servicemember who has registered and licensed his or her vehicle in his or her home state is not required to license and register the vehicle in the host state where he or she is stationed.

Legal Services of New Jersey's Veterans Legal Assistance Project

For additional information about SCRA and other legal rights for veterans, contact the Veterans Legal Assistance Project at Legal Services of New Jersey by calling LSNJLAWSM, LSNJ's statewide, toll-free legal hotline, at 1-888-LSNJ-LAW (1-888-576-5529). Hotline hours are Monday through Friday, 8 a.m. to 5:30 p.m. 

*By Kevin Liebkmann, Chief Counsel,
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Cuáles son sus derechos legales

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Nueva Jersey es el 10º estado en promulgar una ley que le garantiza al empleado días de enfermedad remunerados.

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Para las personas, en una situación de pobreza, que no cuentan con los medios para efectuar un pago, las multas y costas procesales del tribunal municipal son especialmente aterradoras. *Página 3*

*Looking Out
For Your Legal Rights*
Flip issue over for the
English edition of
*Looking Out for Your
Legal Rights.*

La ley de Nueva Jersey para el pago por días de enfermedad

EL 2 DE MAYO de 2018, Nueva Jersey se convirtió en el 10º estado en promulgar una ley que le garantiza al empleado días de enfermedad remunerados. Esta ley se aplica a la mayoría, pero no a todos los empleados (por ejemplo, no se aplica en el caso de los empleados que trabajan bajo un acuerdo de negociación colectiva). La ley de Nueva Jersey para el pago por días de enfermedad exige que el empleador proporcione una hora de licencia por enfermedad remunerada por cada 30 horas

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El boletín de educación jurídica para los habitantes de Nueva Jersey

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trabajadas. El empleado puede acumular hasta 40 horas de licencia por enfermedad al año y traspasar hasta 40 horas para ser usadas con las prestaciones del año siguiente a menos que el empleador le permita al empleado aceptar el pago en lugar de transferir los días por enfermedad. Bajo la nueva ley, el empleador tiene que pagar la misma tasa por enfermedad que el pago habitual del empleado.

La nueva ley entrará en efecto el 29 de octubre de 2018, 180 días después de su promulgación. El trabajador podrá comenzar a utilizar dicho permiso 120 días después de haber acumulado días por enfermedad, a menos que el patrón



ofrezca la licencia paga por enfermedad, sin necesidad de esperar a que el empleado los haya acumulado. El empleador también puede ofrecer más días remunerados por enfermedad de los que exige la ley. El patrón que ya tenga una política con al menos la misma cantidad de días por enfermedad pagos como exige la ley ya estará en cumplimiento con la ley.

La nueva ley exige que el empleador proporcione la licencia por enfermedad a los trabajadores que estén experimentando problemas de salud mental o física. También cubre otros escenarios. El trabajador tiene derecho a una licencia remunerada para cuidar a un miembro de su familia que esté enfermo. Este permiso por enfermedad se puede utilizar cuando un lugar de trabajo, escuela o guardería tiene que cerrar debido a una emergencia de salud pública o cuando el trabajador o un miembro de la familia del mismo presenta una amenaza para la salud de los demás. El empleado que tiene que tomar una licencia para abordar circunstancias relacionadas con la

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Comentarios

Si tiene alguna sugerencia o comentario con respecto a *Looking Out*, nos gustaría oírlo. Envíe toda correspondencia a:

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Este boletín de noticias es sólo una información general. Si tiene un problema jurídico, usted debería ver a un abogado.

Una parte del costo de esta publicación se cubrió con la ayuda proporcionada por el fondo IOLTA del colegio de abogados de Nueva Jersey.

Si la ausencia es previsible, se espera que el empleado le informe por adelantado (siete días) al patrón.

violencia doméstica o sexual (por ejemplo, atención médica, servicios psicológicos, servicios jurídicos, procesos judiciales) de sí mismo o de un miembro de su familia también estará amparado por la ley. Finalmente, el empleado puede utilizar la licencia por enfermedad para asistir a conferencias relacionadas con la escuela respecto a la salud o discapacidad de un hijo.

Si la ausencia es previsible, se espera que el empleado le informe por adelantado (siete días) al patrón. El empleador podría prohibirle al empleado tomar una licencia por enfermedad previsible durante determinadas fechas. Si la ausencia no es previsible, el empleado debe darle aviso al empleador, tan pronto como le

sea posible. En el caso de ausencias de tres o más días, el empleador podría exigir que se le presente documentación expedida por un profesional médico.

Todo quebrantamiento a esta nueva ley (por ejemplo, un empleador se niega a pagar por días de enfermedad) será tratado como una infracción salarial. La ley prevé un derecho privado a tomar medidas y el pago por daños y perjuicios en caso de dichas infracciones. Las represalias contra un trabajador que haga valer sus derechos en virtud de la nueva ley están expresamente prohibidas. □

Este artículo fue traducido del inglés por Al Moreno, coordinador del servicio lingüístico en LSNJ.

El pago de las multas y costas procesales en el tribunal municipal

HAY MUCHAS multas, costas y recargos relacionados con las infracciones que los tribunales municipales tienen que procesar en Nueva Jersey. Las personas de color están afectadas en una forma desproporcionada ya que estas están excesivamente representadas y sancionadas en el sistema judicial penal y de menores. Para las personas que se encuentran en una situación de pobreza y que no cuentan con los medios para efectuar un pago, las multas y costas son especialmente aterradoras.

Por ejemplo: a Terry, cuando tenía 19 años, le responsabilizaron de varias

infracciones por actuar contra las ordenanzas municipales. Todas estas estaban relacionadas con una única incidencia, consumir alcohol siendo un menor de edad. Después de que un juez lo declaró culpable, Terry fue condenado a pagar más de mil dólares en multas y costas procesales. Le tardó casi seis años para poder pagar esta inmensa deuda.

¿Qué ocurre si no puedo pagar las multas que me impusieron?

Si usted no puede pagar sus deudas jurídicas, debe esperar que le impongan

nuevas sanciones. Lo cual podría incluir más costas y multas u otras formas de castigo. Si el tribunal considera que su falta de pago es un “quebrantamiento intencional”, puede que incluso tenga que encarar un encarcelamiento.

Si usted no hace los pagos ordenados por un juez, el tribunal también tiene la facultad de suspender su licencia de conducir. La suspensión de la licencia puede afectar su capacidad para ir al trabajo, la escuela, las citas médicas, o el tribunal mismo. Obviamente, tal resultado debería ser evitado, pero, para muchas personas, esto puede ser difícil. Hay individuos a quienes se les suspenden sus licencias debido a su incapacidad para hacer pagos por estar en la cárcel o la prisión.

Si usted no hace los pagos o no comparece ante el tribunal, se le podría suspender la licencia de conducir. Esto es cierto incluso si las sanciones originales eran por infracciones menores, tales como no pagar multas de estacionamiento. No pagar los recargos- los cuales la oficina de vehículos motorizados, MVC, impone una vez al año durante tres años por ciertas

infracciones-también resultará en una suspensión de la licencia.

¿Considerará el juez la exoneración del pago de las multas y costas?

Los jueces municipales pueden reducir o eximir multas, ofrecer planes de pago, permitir que se preste servicio comunitario, o dar crédito por tiempo servido en detención. El juez puede pedirle que complete un cuestionario financiero para determinar su capacidad para hacer pagos y proporcionarle un plan de pago. Si no hace un pago a su plan de pago, y está sujeto a la suspensión de la licencia o una detención, el juez podría decidir que usted es insolvente. El juez puede entonces elegir si:

- Reduce la multa.
- Ordena que se le dé crédito por el tiempo servido en detención.
- Debido al cambio de circunstancias, perdona cualquier porción que adeude.
- Ordena que lleve a cabo servicio comunitario; o
- Impone otras sanciones permitidas por la ley.



Si usted no hace los pagos ordenados por un juez, el tribunal tiene la facultad de suspender su licencia de conducir.

El tribunal sólo le puede encarcelar si este considera que su falta de pago fue “intencional” y “sin causa justificada”. A una persona en la pobreza no se le deberá declarar culpable de un quebrantamiento “intencional” o “sin causa justificada” si la insolvencia fue la única razón para no hacer el pago. Si pasa tiempo en la cárcel por la falta de pago, el juez podría ordenar que se le dé un crédito de no menos de 50 dólares al día por el tiempo pasado en detención.

¿Si no se rebaja la deuda, cómo cobrará el tribunal el pago?

Después de haber “agotado” todos los recursos de ejecución, el tribunal municipal sólo puede hacer arreglos con una compañía privada para cobrar la deuda. Esto significa que usted está atrasado en sus pagos y que su licencia ha sido suspendida o ha existido una orden de arresto en su contra por un año entero. Si el tribunal contrata a una empresa privada, la compañía podría quedarse con hasta el 22% de la deuda principal para cubrir los honorarios de cobranza.

¿Hay algo que pueda hacer para convencer al juez para que me rebaje las multas?

Si usted no puede costearse el pago de las multas y costas, infórmele al juez de inmediato. Debe estar preparado para proporcionar



Si usted no puede costearse el pago de las multas y costas, infórmele al juez de inmediato.

información financiera y preguntar acerca de las formas alternativas que existen para cumplir el fallo. Para obtener información adicional, póngase en contacto con la línea directa gratuita de asistencia jurídica de los Servicios Legales de Nueva Jersey para todo el estado, marcando el 1-888-LSNJ-LAW (1-888-576-5529). □

Este artículo fue traducido del inglés por Al Moreno, coordinador del servicio lingüístico en LSNJ.

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LSNJLAWSM es operado por los Servicios Legales de Nueva Jersey.



¿Si no puedo encontrar un abogado, a dónde puedo acudir?

Llame a LSNJLAWSM, la línea directa gratuita de asistencia jurídica de los Servicios Legales de Nueva Jersey para todo el estado, al 1-888-LSNJ-LAW (1-888-576-5529) o solicite por medio de la Internet (sólo en inglés por el momento) en www.lsnjlawhotline.org. El horario de la línea directa es de lunes a viernes, desde las 8 de la mañana hasta las 5:30 de la tarde. Si no llena los requisitos para recibir asistencia de los Servicios Legales, la línea directa le enviará a otras posibles fuentes de información.