

§811. Preservation of status

1. Intent. The intent of this subchapter is to minimize the disruption to the lives of persons performing service in the National Guard or the Reserves of the United States Armed Forces as well as to their employers, their fellow employees and their communities by providing for the prompt reemployment of these persons upon their satisfactory completion of military service and to prohibit discrimination against these persons because of their military service.

[PL 2001, c. 662, §11 (AMD).]

2. Military leave of absence. Any member of the National Guard or the Reserves of the United States Armed Forces is entitled to a military leave of absence from a position with any public or private employer, in response to state or federal military orders. The military member shall:

A. Give prior reasonable notice, if reasonable under the military circumstances, to the member's employer of the anticipated absence for military duty; and [PL 2001, c. 662, §11 (AMD).]

B. If the employer so requests, obtain a confirmation from the Adjutant General or applicable reserve component headquarters of the anticipated military duty and satisfactory completion of the member's military duties. [PL 2001, c. 662, §11 (AMD).]

[PL 2001, c. 662, §11 (AMD).]

3. Reinstatement. Any person who is in compliance with subsection 2 and is still qualified to perform the duties of such position must be reinstated at the same pay, seniority, benefits and status and receive any other incidences of advantages of employment as if the person had remained continuously employed. The period of absence must be construed as an absence with leave and, within the discretion of the employer, the leave may be with pay. The employer may not require any person returning from a period of military service to report back to work:

A. For periods of military service of 3 days or less, until the completion of the period of service and the expiration of 24 hours after a period allowing for the safe transportation of the person from the place of that service to the person's residence; [PL 2005, c. 524, §1 (NEW).]

B. For periods of military service of more than 3 days but not more than 15 days, until the completion of the period of service and the expiration of 48 hours after a period allowing for the safe transportation of the person from the place of that service to the person's residence; [PL 2005, c. 524, §1 (NEW).]

C. For periods of military service of more than 15 days but not more than 30 days, until the completion of the period of service and the expiration of 72 hours after a period allowing for the safe transportation of the person from the place of that service to the person's residence; [PL 2005, c. 524, §1 (NEW).]

D. For periods of military service of more than 30 days but not more than 180 days, until the completion of the period of service and the expiration of 14 days after a period allowing for the safe transportation of the person from the place of that service to the person's residence; or [PL 2005, c. 524, §1 (NEW).]

E. For periods of military service of more than 180 days, until the completion of the period of service and the expiration of 90 days after a period allowing for the safe transportation of the person from the place of that service to the person's residence. [PL 2005, c. 524, §1 (NEW).]

[PL 2005, c. 524, §1 (AMD).]

4. Disability. A person who is in compliance with subsection 2 but who has a disability incurred in or aggravated during the military service for which that person was absent and who, after reasonable efforts by the employer to accommodate the disability, is not qualified due to that disability to be employed in the position of employment in which the member would have been employed if the

member had remained continuously employed must be reinstated without loss of seniority, benefits, status and any other incidences of advantages of employment:

A. To any other position that is equivalent in pay, seniority, benefits, status and any other incidences of advantages of employment, the duties of which the person is qualified to perform or would become qualified to perform with reasonable efforts by the employer; or [PL 2001, c. 662, §11 (NEW).]

B. To a position that is the nearest approximation to a position referred to in paragraph A in terms of pay, seniority, benefits, status and any other incidences or advantages of employment consistent with circumstances of the person's case. [PL 2001, c. 662, §11 (NEW).]

[PL 2001, c. 662, §11 (NEW).]

5. Employer defined. As used in this section, "employer" means any person, institution, organization or other entity that pays salary or wages for work performed or that has control over employment opportunities, including a person, institution, organization or other entity to whom the employer has delegated the performance of employment-related responsibilities; the Federal Government; the State and any subdivision or agency of the State; and any successor in interest to a person, institution, organization, or other entity referred to in this subsection.

[PL 2001, c. 662, §11 (NEW).]

SECTION HISTORY

PL 1987, c. 285, §1 (RPR). PL 1987, c. 769, §A105 (AMD). PL 2001, c. 662, §11 (AMD). PL 2005, c. 524, §1 (AMD).

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