



1995 ASSEMBLY BILL 307

April 8, 1995 - Introduced by Representatives GROBSCHMIDT, BELL, BALDUS, BOCK, BOYLE, KRUSICK, LA FAVE, NOTESTEIN, PLOMBON, ROBSON and R. YOUNG, cosponsored by Senators BURKE, ANDREA and MOORE. Referred to Committee on Labor and Employment.

1 **AN ACT to repeal** 103.10 (1) (a) 1. and 2.; **to renumber and amend** 103.10 (1)
2 (a) (intro.) and 103.10 (5) (b); **to amend** 103.10 (title), 103.10 (2) (a), 103.10 (5)
3 (a), 103.10 (8) (a) (intro.), 103.10 (8) (a) 1., 103.10 (8) (a) 2., 103.10 (8) (b), 103.10
4 (8) (c), 103.10 (9) (a), 103.10 (9) (b), 103.10 (9) (c) 4., 103.10 (9) (d), 103.10 (10),
5 103.10 (12) (d), 103.10 (14) (b), 108.04 (1) (b) 3. (intro.), 111.91 (2) (f) and 230.35
6 (2m); **to repeal and recreate** 893.96 (title); and **to create** 103.10 (1) (fr),
7 103.10 (4m), 103.10 (5) (b) 2., 103.10 (6) (c) and 230.35 (2n) of the statutes;
8 **relating to:** leave for school activities.

Analysis by the Legislative Reference Bureau

Under current law, an employe of an employer employing at least 50 individuals on a permanent basis in this state may take no more than 6 weeks of family leave in a 12-month period and no more than 2 weeks of medical leave in a 12-month period. Family leave may be taken for the birth or adoptive placement of a new child or to care for a child, spouse or parent who has a serious health condition. Medical leave may be taken when the employe has a serious health condition which makes the employe unable to perform the employe's employment duties. An employe is not entitled to receive wages or salary while taking family leave or medical leave, but may substitute, for portions of family or medical leave, other types of paid or unpaid leave provided by the employer. An employe who intends to take family or medical leave for the birth or adoptive placement of a child or for planned medical treatment must give the employer advance notice of the birth or adoptive placement or planned medical treatment. In addition, for planned medical treatment, the employe must make a reasonable effort to schedule the medical treatment so that it does not unduly disrupt the operations of the employer.

This bill allows an employe of an employer employing at least 50 individuals on a permanent basis in this state to take no more than 4 hours of school activities leave in a 12-month period. School activities leave may be taken to attend activities of the school that the employe's child attends. An employe is not entitled to receive wages or salary while taking school activities leave, but may substitute, for portions of school activities leave, other types of paid or unpaid leave provided by the employer, except that an employe may not substitute paid leave for school activities leave for attending a school activity for less than one hour. An employe who intends to take leave to attend a school activity must give the employer notice of the activity at least 2 weeks before the date of the activity. For purposes of this bill, "child" includes a person 18 years of age or older who is a natural, adopted or foster child, a stepchild or a legal ward of an employe and "school" means a day care center licensed by the department of health and social services, a day care provider certified for funding by a county department of human services or social services, a day care program established or contracted for by a school board, a public, parochial or private preschool or a public, parochial or private school that provides an educational program for one or more grades between kindergarten and 12.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 103.10 (title) of the statutes is amended to read:

2 **103.10** (title) **Family, medical and school activities leave.**

3 **SECTION 2.** 103.10 (1) (a) (intro.) of the statutes is renumbered 103.10 (1) (a) and
4 amended to read:

5 103.10 (1) (a) "Child" means a natural, adopted, foster or treatment foster
6 child, a stepchild or a legal ward ~~to whom any of the following applies:~~ of an employe
7 and includes a person 18 years of age or over who is a natural, adopted, foster or
8 treatment foster child, a stepchild or a legal ward of an employe.

9 **SECTION 3.** 103.10 (1) (a) 1. and 2. of the statutes are repealed.

10 **SECTION 4.** 103.10 (1) (fr) of the statutes is created to read:

11 103.10 (1) (fr) "School" means a child care provider as defined in s. 46.98 (1)
12 (am), a public, parochial or private preschool or a public, parochial or private school

1 which provides an educational program for one or more grades between
2 kindergarten and 12 and which is commonly known as a kindergarten, elementary
3 school, middle school, junior high school, senior high school or high school.

4 **SECTION 5.** 103.10 (2) (a) of the statutes is amended to read:

5 103.10 (2) (a) Nothing in this section prohibits an employer from providing
6 employes with rights to family leave ~~or~~, medical leave ~~which~~ or school activities leave
7 that are more generous to the employe than the rights provided under this section.

8 **SECTION 6.** 103.10 (4m) of the statutes is created to read:

9 103.10 (4m) SCHOOL ACTIVITIES LEAVE. Subject to sub. (6) (c), an employe may
10 take no more than 4 hours of school activities leave in a 12-month period for the
11 purpose of attending activities of the school that the employe's child attends.

12 **SECTION 7.** 103.10 (5) (a) of the statutes is amended to read:

13 103.10 (5) (a) This section does not entitle an employe to receive wages or salary
14 while taking family leave ~~or~~, medical leave or school activities leave.

15 **SECTION 8.** 103.10 (5) (b) of the statutes is renumbered 103.10 (5) (b) 1. and
16 amended to read:

17 103.10 (5) (b) 1. ~~An~~ Subject to subd. 2., an employe may substitute, for portions
18 of family leave ~~or~~, medical leave or school activities leave, paid or unpaid leave of any
19 other type provided by the employer.

20 **SECTION 9.** 103.10 (5) (b) 2. of the statutes is created to read:

21 103.10 (5) (b) 2. Notwithstanding subd. 1., an employe may not substitute paid
22 leave for school activities leave for attending a school activity for less than one hour.

23 **SECTION 10.** 103.10 (6) (c) of the statutes is created to read:

1 103.10 (6) (c) If an employe intends to take leave for the purpose of attending
2 a school activity, the employe shall give the employer notice of the activity at least
3 2 weeks before the date of the activity.

4 **SECTION 11.** 103.10 (8) (a) (intro.) of the statutes is amended to read:

5 103.10 (8) (a) (intro.) Subject to par. (c), when an employe returns from family
6 leave ~~or~~, medical leave or school activities leave, his or her employer shall
7 immediately place the employe in an employment position as follows:

8 **SECTION 12.** 103.10 (8) (a) 1. of the statutes is amended to read:

9 103.10 (8) (a) 1. If the employment position which the employe held
10 immediately before the family leave ~~or~~, medical leave or school activities leave began
11 is vacant when the employe returns, in that position.

12 **SECTION 13.** 103.10 (8) (a) 2. of the statutes is amended to read:

13 103.10 (8) (a) 2. If the employment position which the employe held
14 immediately before the family leave ~~or~~, medical leave or school activities leave began
15 is not vacant when the employe returns, in an equivalent employment position
16 having equivalent compensation, benefits, working shift, hours of employment and
17 other terms and conditions of employment.

18 **SECTION 14.** 103.10 (8) (b) of the statutes is amended to read:

19 103.10 (8) (b) No employer may, because an employe received family leave ~~or~~,
20 medical leave or school activities leave, reduce or deny an employment benefit which
21 accrued to the employe before his or her leave began or, consistent with sub. (9),
22 accrued after his or her leave began.

23 **SECTION 15.** 103.10 (8) (c) of the statutes is amended to read:

24 103.10 (8) (c) Notwithstanding par. (a), if an employe on a family, medical or
25 ~~family~~ school activities leave wishes to return to work before the end of the leave as

1 scheduled, the employer shall place the employe in an employment position of the
2 type described in par. (a) 1. or 2. within a reasonable time not exceeding the duration
3 of the leave as scheduled.

4 **SECTION 16.** 103.10 (9) (a) of the statutes is amended to read:

5 103.10 (9) (a) Except as provided in par. (b), nothing in this section entitles a
6 returning employe to a right, employment benefit or employment position to which
7 the employe would not have been entitled had he or she not taken family leave ~~or,~~
8 medical leave or school activities leave or to the accrual of any seniority or
9 employment benefit during a period of family leave ~~or,~~ medical leave or school
10 activities leave.

11 **SECTION 17.** 103.10 (9) (b) of the statutes is amended to read:

12 103.10 (9) (b) Subject to par. (c), during a period an employe takes family leave
13 ~~or,~~ medical leave or school activities leave, his or her employer shall maintain group
14 health insurance coverage under the conditions that applied immediately before the
15 family leave ~~or,~~ medical leave or school activities leave began. If the employe
16 continues making any contribution required for participation in the group health
17 insurance plan, the employer shall continue making group health insurance
18 premium contributions as if the employe had not taken the family leave ~~or,~~ medical
19 leave or school activities leave.

20 **SECTION 18.** 103.10 (9) (c) 4. of the statutes is amended to read:

21 103.10 (9) (c) 4. If an employe ends his or her employment with an employer
22 during or within 30 days after a period of family leave ~~or,~~ medical leave or school
23 activities leave, the employer may deduct from the amount returned to the employe
24 under subd. 3. any premium or similar expense paid by the employer for the

1 employe's group health insurance coverage while the employe was on family leave
2 ~~or~~, medical leave or school activities leave.

3 **SECTION 19.** 103.10 (9) (d) of the statutes is amended to read:

4 103.10 (9) (d) If an employe ends his or her employment with an employer
5 during or at the end of a period of family leave ~~or~~, medical leave or school activities,
6 the time period for conversion to individual coverage under s. 632.897 (6) shall be
7 calculated as beginning on the day that the employe began the period of family leave
8 ~~or~~, medical leave or school activities.

9 **SECTION 20.** 103.10 (10) of the statutes is amended to read:

10 103.10 (10) ALTERNATIVE EMPLOYMENT. Nothing in this section prohibits an
11 employer and an employe with a serious health condition from mutually agreeing to
12 alternative employment for the employe while the serious health condition lasts. No
13 period of alternative employment, with the same employer, reduces the employe's
14 right to family leave ~~or~~, medical leave or school activities leave.

15 **SECTION 21.** 103.10 (12) (d) of the statutes is amended to read:

16 103.10 (12) (d) The department shall issue its decision and order within 30 days
17 after the hearing. If the department finds that an employer violated sub. (11) (a) or
18 (b), it may order the employer to take action to remedy the violation, including
19 providing requested family leave ~~or~~, medical leave or school activities leave,
20 reinstating an employe, providing back pay accrued not more than 2 years before the
21 complaint was filed and paying reasonable actual attorney fees to the complainant.

22 **SECTION 22.** 103.10 (14) (b) of the statutes is amended to read:

23 103.10 (14) (b) Any person employing at least 25 individuals shall post, in one
24 or more conspicuous places where notices to employes are customarily posted, a

1 notice describing the person's policy with respect to leave for the reasons described
2 in subs. (3) (b) ~~and~~, (4) (a) and (4m).

3 **SECTION 23.** 108.04 (1) (b) 3. (intro.) of the statutes is amended to read:

4 108.04 (1) (b) 3. (intro.) While the employe is on family or medical leave under
5 the federal family and medical leave act of 1993 (~~P.L. 103-3~~), 29 USC 2601 to 2654,
6 or s. 103.10 or school activities leave under s. 103.10, until whichever of the following
7 occurs first:

8 **SECTION 24.** 111.91 (2) (f) of the statutes is amended to read:

9 111.91 (2) (f) Family leave and medical leave rights below the minimum
10 afforded under the federal family and medical leave act of 1993, 29 USC 2601 to 2654,
11 and s. 103.10 and school activities leave rights below the minimum afforded under
12 s. 103.10. Nothing in this paragraph prohibits the employer from bargaining on
13 rights to family leave or medical leave which are more generous to the employe than
14 the rights provided under the federal family and medical leave act of 1993, 29 USC
15 2601 to 2654 and s. 103.10 and on rights to school activities leave which are more
16 generous to the employe than the rights provided under s. 103.10.

17 **SECTION 25.** 230.35 (2m) of the statutes is amended to read:

18 230.35 (2m) An employe shall be eligible for medical or family leave under s.
19 103.10 upon the expiration, extension or renewal of any collective bargaining
20 agreement in effect on April 26, 1988, which covers the employe. An employe shall
21 be eligible for medical or family leave under the federal family and medical leave act
22 of 1993, 29 USC 2601 to 2654, upon the expiration, extension or renewal of any
23 collective bargaining agreement in effect on August 5, 1993, which covers the
24 employe or on February 5, 1994, whichever is earlier.

25 **SECTION 26.** 230.35 (2n) of the statutes is created to read:

