



2011 ASSEMBLY BILL 736

March 15, 2012 – Introduced by Representatives HULSEY, POPE-ROBERTS, YOUNG, SINICKI, BERCEAU, GRIGSBY, C. TAYLOR and MOLEPSKE JR, cosponsored by Senators CARPENTER and TAYLOR. Referred to Committee on Education.

1 **AN ACT to renumber and amend** 103.10 (5) (b); **to amend** 103.10 (title), 103.10
2 (2) (a), 103.10 (5) (a), 103.10 (7) (title), 103.10 (7) (b) (intro.), 103.10 (8) (a)
3 (intro.), 103.10 (8) (a) 1., 103.10 (8) (a) 2., 103.10 (8) (b), 103.10 (8) (c), 103.10
4 (9) (a), 103.10 (9) (b), 103.10 (9) (c) 4., 103.10 (9) (d), 103.10 (10), 103.10 (12) (d),
5 103.10 (14) (b), 111.91 (2) (f), 230.35 (2m) and 253.10 (3) (d) 1.; **to repeal and**
6 **recreate** 893.96 (title); and **to create** 103.10 (1) (fr), 103.10 (4m), 103.10 (5) (b)
7 2., 103.10 (6) (c) and 103.10 (7) (am) of the statutes; **relating to:** school
8 conference and activities leave.

Analysis by the Legislative Reference Bureau

Under current law, an employer, including the state, employing at least 50 individuals on a permanent basis in this state (employer) must permit an employee who has been employed by the employer for more than 52 consecutive weeks and who has worked for the employer for at least 1,000 hours during the preceding 52-week period (employee) to take six weeks of family leave in a 12-month period and two 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, domestic partner, or parent who has a serious health condition. Medical leave may be taken when the employee has a serious health condition that makes the employee unable to perform the employee's employment duties.

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An employee is not entitled to receive wages or salary while taking family 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 employee 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 employee must make a reasonable effort to schedule the medical treatment so that it does not unduly disrupt the operations of the employer. Also, if an employee requests family or medical leave due to to a serious health of the employee or of a child, spouse, domestic partner, or parent, the employer may require certification of that condition from a health care provider or a Christian Science practitioner.

This bill allows an employee of an employer to take no more than 16 hours of school conference and activities leave in a 12-month period. School conference and activities leave may be taken to attend school conferences or classroom activities relating to the employee's child that cannot be scheduled during nonworking hours or to observe and monitor the child care, preschool, or prekindergarten services or programming received by an employee's child, if that observation and monitoring cannot be scheduled during nonworking hours. School conference and activities leave, however, may not be taken for the purpose of accompanying an outing or field trip of a school or nonprofit organization.

An employee is not entitled to receive wages or salary while taking school conference and activities leave, but may substitute, for portions of that leave, other types of paid or unpaid leave provided by the employer, except that an employee may not substitute paid leave for that leave for attending a school conference or activity for less than one hour. An employee who intends to take leave to attend a school conference or activity must give the employer advance notice of the conference or activity and must make a reasonable effort to schedule the conference or activity, so that the conference or activity does not unduly disrupt the operations of the employer. When an employee returns from school conference and activities leave, the employer may require the employee to provide, in a reasonable and practicable manner, documentation from his or her child's school stating no more than that the employee was attending a school conference or classroom activity or was observing and monitoring child care, preschool, or prekindergarten services and programming during the period of that leave.

For purposes of the bill, "school" means a child care center licensed by the Department of Children and Families, a child care provider certified for funding by a county department of human services or social services, a child care program established or contracted for by a school board, a public or private preschool or prekindergarten, or a public or private school that provides an educational program for one or more grades between kindergarten and 12.

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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 ~~or~~, medical, and school conference and activities**
3 **leave.**

4 **SECTION 2.** 103.10 (1) (fr) of the statutes is created to read:

5 103.10 (1) (fr) "School" means a child care provider, as defined in s. 49.001 (1),
6 a public or private preschool or prekindergarten, or a public or private school that
7 provides an educational program for one or more grades between kindergarten and
8 12 and that is commonly known as a kindergarten, elementary school, middle school,
9 junior high school, senior high school, or high school.

10 **SECTION 3.** 103.10 (2) (a) of the statutes is amended to read:

11 103.10 (2) (a) Nothing in this section prohibits an employer from providing
12 employees with rights to family leave ~~or~~, medical leave which, or school conference
13 and activities leave that are more generous to the employee than the rights provided
14 under this section.

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

16 103.10 (4m) SCHOOL CONFERENCE AND ACTIVITIES LEAVE. Subject to sub. (6) (c),
17 an employee may take no more than 16 hours of school conference and activities leave
18 in a 12-month period for the purpose of attending school conferences or classroom
19 activities relating to the employee's child that cannot be scheduled during nonwork
20 hours or of observing and monitoring the services or programming provided to the
21 employee's child by a child care provider, as defined in s. 49.001 (1), or a public or

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1 private preschool or prekindergarten, if that observation and monitoring cannot be
2 scheduled during nonwork hours. An employee may not use the school conference
3 and activities leave provided under this subsection for the purpose of accompanying
4 an outing or field trip of a school or nonprofit organization.

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

6 103.10 (5) (a) This section does not entitle an employee to receive wages or
7 salary while taking family leave ~~or~~, medical leave, or school conference and activities
8 leave.

9 **SECTION 6.** 103.10 (5) (b) of the statutes is renumbered 103.10 (5) (b) 1. and
10 amended to read:

11 103.10 (5) (b) 1. ~~An~~ Subject to subd. 2., an employee may substitute, for portions
12 of family leave ~~or~~, medical leave, or school conference and activities leave, paid or
13 unpaid leave of any other type provided by the employer.

14 **SECTION 7.** 103.10 (5) (b) 2. of the statutes is created to read:

15 103.10 (5) (b) 2. Notwithstanding subd. 1., an employee may not substitute paid
16 leave for school conference and activities leave for attending a school conference or
17 activity for less than one hour.

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

19 103.10 (6) (c) If an employee intends to take leave under sub. (4m) for the
20 purpose of attending a school conference or activity, the employee shall do all of the
21 following:

22 1. Make a reasonable effort to schedule the conference or activity so that the
23 conference or activity does not unduly disrupt the employer's operations.

24 2. Give the employer advance notice of the conference or activity in a reasonable
25 and practicable manner.

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1 **SECTION 11.** 103.10 (7) (title) of the statutes is amended to read:

2 103.10 (7) (title) ~~CERTIFICATION;~~ DOCUMENTATION.

3 **SECTION 12.** 103.10 (7) (am) of the statutes is created to read:

4 103.10 (7) (am) When an employee returns from school conference and
5 activities leave, the employer may require the employee to provide, in a reasonable
6 and practicable manner, documentation from his or her child's school stating no more
7 than that the employee was attending a school conference or classroom activity or
8 was observing and monitoring child care, preschool, or prekindergarten services and
9 programming, as described in sub. (4m), during the period of that leave.

10 **SECTION 13.** 103.10 (7) (b) (intro.) of the statutes is amended to read:

11 103.10 (7) (b) (intro.) No employer may require certification under par. (a)
12 stating more than the following:

13 **SECTION 14.** 103.10 (8) (a) (intro.) of the statutes is amended to read:

14 103.10 (8) (a) (intro.) Subject to par. (c), when an employee returns from family
15 leave ~~or~~, medical leave, or school conference and activities leave, his or her employer
16 shall immediately place the employee in an employment position as follows:

17 **SECTION 15.** 103.10 (8) (a) 1. of the statutes is amended to read:

18 103.10 (8) (a) 1. If the employment position ~~which~~ that the employee held
19 immediately before the family leave ~~or~~, medical leave, or school conference and
20 activities leave began is vacant when the employee returns, in that position.

21 **SECTION 16.** 103.10 (8) (a) 2. of the statutes is amended to read:

22 103.10 (8) (a) 2. If the employment position ~~which~~ that the employee held
23 immediately before the family leave ~~or~~, medical leave, or school conference and
24 activities leave began is not vacant when the employee returns, in an equivalent

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1 employment position having equivalent compensation, benefits, working shift,
2 hours of employment, and other terms and conditions of employment.

3 **SECTION 17.** 103.10 (8) (b) of the statutes is amended to read:

4 103.10 (8) (b) No employer may, because an employee received family leave ~~or,~~
5 medical leave, or school conference and activities leave, reduce or deny an
6 employment benefit ~~which~~ that accrued to the employee before his or her leave began
7 or, consistent with sub. (9), accrued after his or her leave began.

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

9 103.10 (8) (c) Notwithstanding par. (a), if an employee on ~~a family,~~ medical or
10 family, or school conference and activities leave wishes to return to work before the
11 end of the leave as scheduled, the employer shall place the employee in an
12 employment position of the type described in par. (a) 1. or 2. within a reasonable time
13 not exceeding the duration of the leave as scheduled.

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

15 103.10 (9) (a) Except as provided in par. (b), nothing in this section entitles a
16 returning employee to a right, employment benefit, or employment position to which
17 the employee would not have been entitled had he or she not taken family leave ~~or,~~
18 medical leave, or school conference and activities leave or to the accrual of any
19 seniority or employment benefit during a period of family leave ~~or,~~ medical leave, or
20 school conference and activities leave.

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

22 103.10 (9) (b) Subject to par. (c), during a period an employee takes family leave
23 ~~or,~~ medical leave, or school conference and activities leave, his or her employer shall
24 maintain group health insurance coverage under the conditions that applied
25 immediately before the family leave ~~or,~~ medical leave, or school conference and

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1 activities leave began. If the employee continues making any contribution required
2 for participation in the group health insurance plan, the employer shall continue
3 making group health insurance premium contributions as if the employee had not
4 taken the family leave ~~or~~, medical leave, or school conference and activities leave.

5 **SECTION 21.** 103.10 (9) (c) 4. of the statutes is amended to read:

6 103.10 (9) (c) 4. If an employee ends his or her employment with an employer
7 during or within 30 days after a period of family leave ~~or~~, medical leave, or school
8 conference and activities leave, the employer may deduct from the amount returned
9 to the employee under subd. 3. any premium or similar expense paid by the employer
10 for the employee's group health insurance coverage while the employee was on family
11 leave ~~or~~, medical leave, or school conference and activities leave.

12 **SECTION 22.** 103.10 (9) (d) of the statutes is amended to read:

13 103.10 (9) (d) If an employee ends his or her employment with an employer
14 during or at the end of a period of family leave ~~or~~, medical leave, or school conference
15 and activities leave, the time period for conversion to individual coverage under s.
16 632.897 (6) shall be calculated as beginning on the day ~~that~~ on which the employee
17 began the period of family leave ~~or~~, medical leave, or school conference and activities
18 leave.

19 **SECTION 23.** 103.10 (10) of the statutes is amended to read:

20 103.10 (10) ALTERNATIVE EMPLOYMENT. Nothing in this section prohibits an
21 employer and an employee with a serious health condition from mutually agreeing
22 to alternative employment for the employee while the serious health condition lasts.
23 No period of alternative employment, with the same employer, reduces the
24 employee's right to family leave ~~or~~, medical leave, or school conference and activities
25 leave.

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1 **SECTION 24.** 103.10 (12) (d) of the statutes is amended to read:

2 103.10 **(12)** (d) The department shall issue its decision and order within 30 days
3 after the hearing. If the department finds that an employer violated sub. (11) (a) or
4 (b), it may order the employer to take action to remedy the violation, including
5 providing the requested family leave or, medical leave, or school conference and
6 activities leave, reinstating an employee, providing back pay accrued not more than
7 2 years before the complaint was filed, and paying reasonable actual attorney fees
8 to the complainant.

9 **SECTION 25.** 103.10 (14) (b) of the statutes is amended to read:

10 103.10 **(14)** (b) Any person employing at least 25 individuals shall post, in one
11 or more conspicuous places where notices to employees are customarily posted, a
12 notice describing the person's policy with respect to leave for the reasons described
13 in subs. (3) (b) ~~and~~, (4) (a), and (4m).

14 **SECTION 26.** 111.91 (2) (f) of the statutes is amended to read:

15 111.91 **(2)** (f) Family leave and medical leave rights below the minimum
16 afforded under the federal Family and Medical Leave Act of 1993, 29 USC 2601 to
17 2654, and s. 103.10 and school conference and activities leave rights below the
18 minimum afforded under s. 103.10. Nothing in this paragraph prohibits the
19 employer from bargaining on rights to family leave or medical leave ~~which that~~ are
20 more generous to the employee than the rights provided under the federal Family
21 and Medical Leave Act of 1993, 29 USC 2601 to 2654, and s. 103.10 and on rights to
22 school conference and activities leave that are more generous to the employee than
23 the rights provided under s. 103.10.

24 **SECTION 28.** 230.35 (2m) of the statutes is amended to read:

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1 230.35 **(2m)** An employee shall be eligible for medical or family leave under s.
2 103.10 upon the expiration, extension, or renewal of any collective bargaining
3 agreement in effect on April 26, 1988, ~~which~~ that covers the employee. An employee
4 shall be eligible for school conference and activities leave under s. 103.10 upon the
5 expiration, extension, or renewal of any collective bargaining agreement in effect on
6 the effective date of this subsection ... [LRB inserts date], that covers the employee.

7 **SECTION 29.** 253.10 (3) (d) 1. of the statutes is amended to read:

8 253.10 **(3)** (d) 1. Geographically indexed materials that are designed to inform
9 a woman about public and private agencies, including adoption agencies, and
10 services that are available to provide information on family planning, as defined in
11 s. 253.07 (1) (a), including natural family planning information, to provide
12 ultrasound imaging services, to assist her if she has received a diagnosis that her
13 unborn child has a disability or if her pregnancy is the result of sexual assault or
14 incest, and to assist her through pregnancy, upon childbirth, and while the child is
15 dependent. The materials shall include a comprehensive list of the agencies
16 available, a description of the services that they offer, and a description of the
17 manner in which they may be contacted, including telephone numbers and
18 addresses, or, at the option of the department, the materials shall include a toll-free,
19 24-hour telephone number that may be called to obtain an oral listing of available
20 agencies and services in the locality of the caller and a description of the services that
21 the agencies offer and the manner in which they may be contacted. The materials
22 shall provide information on the availability of governmentally funded programs
23 that serve pregnant women and children. Services identified for the woman shall
24 include medical assistance for pregnant women and children under s. ~~ss.~~ 49.47 (4)
25 (am) and 49.471, the availability of family ~~or,~~ school conference and

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1 activities leave under s. 103.10, the Wisconsin ~~works~~ Works program under ss.
2 49.141 to 49.161, child care services, child support laws and programs, and the credit
3 for expenses for household and dependent care and services necessary for gainful
4 employment under section 21 of the ~~internal revenue code~~ Internal Revenue Code.
5 The materials shall state that it is unlawful to perform an abortion for which consent
6 has been coerced, that any physician who performs or induces an abortion without
7 obtaining the woman's voluntary and informed consent is liable to her for damages
8 in a civil action and is subject to a civil penalty, that the father of a child is liable for
9 assistance in the support of the child, even in instances in which the father has
10 offered to pay for an abortion, and that adoptive parents may pay the costs of
11 prenatal care, childbirth, and neonatal care. The materials shall include
12 information, for a woman whose pregnancy is the result of sexual assault or incest,
13 on legal protections available to the woman and her child if she wishes to oppose
14 establishment of paternity or to terminate the father's parental rights. The
15 materials shall state that fetal ultrasound imaging and auscultation of fetal heart
16 tone services are obtainable by pregnant women who wish to use them and shall
17 describe the services.

18 **SECTION 30.** 893.96 (title) of the statutes is repealed and recreated to read:

19 **893.96** (title) **Family, medical, school conference and activities, leave;**
20 **civil remedies.**

21 **SECTION 31. Initial applicability.**

22 (1) This act first applies to an employee, as defined in section 103.10 (1) (b) of
23 the statutes, who is affected by a collective bargaining agreement that contains
24 provisions that are inconsistent with this act on the day on which the collective

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1 bargaining agreement expires or is extended, modified, or renewed, whichever
2 occurs first.

3 **SECTION 32. Effective date.**

4 (1) This act takes effect on the first day of the 6th month beginning after
5 publication.

6 (END)