

State of Wisconsin



2011 Senate Bill 23

Date of enactment: **May 5, 2011**
Date of publication*: **May 19, 2011**

2011 WISCONSIN ACT 16

AN ACT *to amend* 103.10 (1) (b) and 103.10 (1) (c); and *to create* 103.10 (1m) of the statutes; **relating to:** preemption of city, village, town, or county ordinances requiring employers to provide employees with leave from employment to deal with family, medical, or health issues.

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

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

103.10 (1) (b) “~~Employee~~” Except as provided in sub. (1m) (b) 2., “employee” means an individual employed in this state by an employer, except the employer’s parent, spouse, domestic partner, or child.

SECTION 2. 103.10 (1) (c) of the statutes is amended to read:

103.10 (1) (c) Except as provided in sub. ~~(14)~~ (1m) (b) 3., “employer” means a person engaging in any activity, enterprise or business in this state employing at least 50 individuals on a permanent basis. “Employer” includes the state and any office, department, independent agency, authority, institution, association, society or other body in state government created or authorized to be created by the constitution or any law, including the legislature and the courts.

SECTION 3. 103.10 (1m) of the statutes is created to read:

103.10 (1m) STATEWIDE CONCERN; UNIFORMITY. (a) The legislature finds that the provision of family and medical leave that is uniform throughout the state is a matter of statewide concern and that the enactment of an ordinance by a city, village, town, or county that requires

employers to provide employees with leave from employment, paid or unpaid, for any of the reasons specified in par. (c) would be logically inconsistent with, would defeat the purpose of, and would go against the spirit of this section. Therefore, this section shall be construed as an enactment of statewide concern for the purpose of providing family and medical leave that is uniform throughout the state.

(b) In this subsection:

1. “Domestic abuse” has the meaning given in s. 968.075 (1) (a).
2. “Employee” has the meaning given in s. 104.01 (2) (a).
3. “Employer” has the meaning given in s. 104.01 (3) (a).
4. “Family member” means a spouse or domestic partner of an employee; a parent, child, sibling, including a foster sibling, brother-in-law, sister-in-law, grandparent, stepgrandparent, or grandchild of an employee or of an employee’s spouse or domestic partner; or any other person who is related by blood, marriage, or adoption to an employee or to an employee’s spouse or domestic partner and whose close association with the employee, spouse, or domestic partner makes the person the equivalent of a family member of the employee, spouse, or domestic partner.

* Section 991.11, WISCONSIN STATUTES 2009–10 : Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated” by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

5. "Health condition" means a physical or mental illness, injury, impairment, or condition.

6. "Sexual abuse" means conduct that is in violation of s. 940.225, 944.30, 948.02, 948.025, 948.05, 948.051, 948.055, 948.06, 948.085, 948.09, or 948.10 or that is in violation of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.

7. "Stalking" means to engage in a course of conduct, as defined in s. 940.32 (1) (a), that meets the criteria of s. 940.32 (2) (a).

(c) Subject to par. (d), a city, village, town, or county may not enact and administer an ordinance requiring an employer to provide an employee with leave from employment, paid or unpaid, for any of the following reasons:

1. Because the employee has a health condition, is in need of medical diagnosis, care, or treatment of a health condition, or is in need of preventive medical care.

2. To care for a family member who has a health condition, who is in need of medical diagnosis, care, or treatment of a health condition, or who is in need of preventive medical care.

3. Because the employee's absence from work is necessary in order for the employee to do any of the following:

a. Seek medical attention or obtain psychological or other counseling for the employee or a family member to

recover from any health condition caused by domestic abuse, sexual abuse, or stalking.

b. Obtain services for the employee or a family member from an organization that provides services to victims of domestic abuse, sexual abuse, or stalking.

c. Relocate the residence of the employee or of a family member due to domestic abuse, sexual abuse, or stalking.

d. Initiate, prepare for, or testify, assist, or otherwise participate in any civil or criminal action or proceeding relating to domestic abuse, sexual abuse, or stalking.

4. To deal with any other family, medical, or health issues of the employee or of a family member.

(d) This subsection does not affect an ordinance affecting leave from employment of an employee of a city, village, town, or county.

(e) Any city, village, town, or county ordinance requiring an employer to provide an employee with leave from employment, paid or unpaid, for any of the reasons specified in par. (c) that is in effect on the effective date of this paragraph [LRB inserts date], is void.

SECTION 4. Initial applicability.

(1) COLLECTIVE BARGAINING AGREEMENTS. This act first applies to an employee who is affected by a collective bargaining agreement that contains provisions inconsistent with this act on the day on which the collective bargaining agreement expires or is extended, modified, or renewed, whichever occurs first.