

1999 SENATE BILL 247

October 5, 1999 – Introduced by Senators GROBSCHMIDT, ERPENBACH and RISSER, cosponsored by Representatives BLACK, SINICKI, BOYLE, J. LEHMAN, PLOUFF, SERATTI, HASENOHRL, BOCK, TURNER, COGGS, MILLER, BERCEAU, LA FAVE, MUSSER and CULLEN. Referred to Committee on Education.

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 (1) (c), 103.10 (2)
3 (a), 103.10 (2) (c), 103.10 (5) (a), 103.10 (8) (a) (intro.), 103.10 (8) (a) 1., 103.10
4 (8) (a) 2., 103.10 (8) (b), 103.10 (8) (c), 103.10 (9) (a), 103.10 (9) (b), 103.10 (9) (c)
5 4., 103.10 (9) (d), 103.10 (10), 103.10 (12) (d), 103.10 (14) (b), 108.04 (1) (b) 3.
6 (intro.), 111.91 (2) (f), 230.35 (2m), 230.45 (1) (k) and 253.10 (3) (d) 1.; *to repeal*
7 *and recreate* 893.96 (title); and *to create* 103.10 (1) (fr), 103.10 (4m), 103.10
8 (5) (b) 2. and 103.10 (6) (c) of the statutes; **relating to:** leave for school
9 conferences and 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 six weeks of family leave in a 12-month period and no more than two weeks of medical leave in a 12-month period if that employe has been employed by the employer for more than 52 consecutive weeks and has worked for the employer for at least 1,000 hours during the preceding 52-week 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

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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 any employe of an employer employing at least one individual in this state 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 employe's child that cannot be scheduled during nonworking hours. In addition, school conference and activities leave may be taken to observe and monitor the day care, preschool or prekindergarten services or programming received by an employe's child, if that observation and monitoring cannot be scheduled during nonworking hours. An employe is not entitled to receive wages or salary while taking school activities leave, but may substitute, for portions of school conference and activities leave, other types of paid or unpaid leave provided by the employer, except that an employe may not substitute paid leave for school conference and activities leave for attending a school conference or activity for less than one hour. An employe who intends to take leave to attend a school conference or activity must give the employer advance notice of the leave and must make a reasonable effort to schedule the leave so that it does not unduly disrupt the operations of the employer. For purposes of this bill, "child" includes a person 18 years of age or over who is a natural, adopted, foster or treatment foster child, a stepchild or a legal ward of an employe or who is a person for whom the employe stands in the place of a parent, and "school" means a day care center licensed by the department of health and family 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 prekindergarten 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:

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1 **103.10** (title) **Family or, medical and school conference and activities**
2 **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 or a person for whom an employe stands in the place of a parent, and includes a
8 person 18 years of age or over who is a natural, adopted, foster or treatment foster
9 child, a stepchild or a legal ward of an employe or who is a person for whom an
10 employe stands in the place of a parent.

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

12 **SECTION 4.** 103.10 (1) (c) of the statutes is amended to read:

13 103.10 **(1)** (c) Except as provided in sub- subs. (4m) and (14) (b), “employer”
14 means a person engaging in any activity, enterprise or business in this state
15 employing at least 50 individuals on a permanent basis. “Employer” includes the
16 state and any office, department, independent agency, authority, institution,
17 association, society or other body in state government created or authorized to be
18 created by the constitution or any law, including the legislature and the courts.

19 **SECTION 5.** 103.10 (1) (fr) of the statutes is created to read:

20 103.10 **(1)** (fr) “School” means a child care provider, as defined in s. 49.001 (1),
21 a public, parochial or private preschool or prekindergarten or a public, parochial or
22 private school that provides an educational program for one or more grades between
23 kindergarten and 12 and that is commonly known as a kindergarten, elementary
24 school, middle school, junior high school, senior high school or high school.

25 **SECTION 6.** 103.10 (2) (a) of the statutes is amended to read:

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1 103.10 (2) (a) Nothing in this section prohibits an employer from providing
2 employes with rights to family leave ~~or~~, medical leave ~~which~~ or school conference and
3 activities leave that are more generous to the employe than the rights provided under
4 this section.

5 **SECTION 7.** 103.10 (2) (c) of the statutes is amended to read:

6 103.10 (2) (c) This section only applies to an employe who has been employed
7 by the same employer for more than 52 consecutive weeks and who worked for the
8 employer for at least 1,000 hours during the preceding 52-week period, except that
9 for purposes of school conference and activities leave under sub. (4m), this section
10 applies to any employe of an employer.

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

12 103.10 (4m) SCHOOL CONFERENCE AND ACTIVITIES LEAVE. Subject to sub. (6) (c),
13 an employe of an employer employing at least one individual in this state may take
14 no more than 16 hours of school conference and activities leave in a 12-month period
15 for the purpose of attending school conferences or classroom activities relating to the
16 employe's child that cannot be scheduled during nonworking hours. An employe may
17 also use the school conference and activities leave provided under this subsection to
18 observe and monitor the services or programming provided to the employe's child by
19 a child care provider, as defined in s. 49.001 (1), or a public, private or parochial
20 preschool or prekindergarten, if that observation and monitoring cannot be
21 scheduled during nonworking hours.

22 **SECTION 9.** 103.10 (5) (a) of the statutes is amended to read:

23 103.10 (5) (a) This section does not entitle an employe to receive wages or salary
24 while taking family leave ~~or~~, medical leave or school conference and activities leave.

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

3 103.10 (5) (b) 1. ~~An~~ Subject to subd. 2., an employe may substitute, for portions
4 of family leave ~~or~~, medical leave or school conference and activities leave, paid or
5 unpaid leave of any other type provided by the employer.

6 **SECTION 11.** 103.10 (5) (b) 2. of the statutes is created to read:

7 103.10 (5) (b) 2. Notwithstanding subd. 1., an employe may not substitute paid
8 leave for school conference and activities leave for attending a school conference or
9 activity for less than one hour.

10 **SECTION 12.** 103.10 (6) (c) of the statutes is created to read:

11 103.10 (6) (c) If an employe intends to take leave for the purpose of attending
12 a school conference or activity, the employe shall do all of the following:

13 1. Make a reasonable effort to schedule the leave so that it does not unduly
14 disrupt the employer's operations.

15 2. Give the employer advance notice of the leave in a reasonable and practicable
16 manner.

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

18 103.10 (8) (a) (intro.) Subject to par. (c), when an employe returns from family
19 leave ~~or~~, medical leave or school conference and activities leave, his or her employer
20 shall immediately place the employe in an employment position as follows:

21 **SECTION 14.** 103.10 (8) (a) 1. of the statutes is amended to read:

22 103.10 (8) (a) 1. If the employment position which the employe held
23 immediately before the family leave ~~or~~, medical leave or school conference and
24 activities leave began is vacant when the employe returns, in that position.

25 **SECTION 15.** 103.10 (8) (a) 2. of the statutes is amended to read:

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1 103.10 (8) (a) 2. If the employment position which the employe held
2 immediately before the family leave or, medical leave or school conference and
3 activities leave began is not vacant when the employe returns, in an equivalent
4 employment position having equivalent compensation, benefits, working shift,
5 hours of employment and other terms and conditions of employment.

6 **SECTION 16.** 103.10 (8) (b) of the statutes is amended to read:

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

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

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

17 **SECTION 18.** 103.10 (9) (a) of the statutes is amended to read:

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

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

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1 103.10 (9) (b) Subject to par. (c), during a period an employe takes family leave
2 or, medical leave or school conference and activities leave, his or her employer shall
3 maintain group health insurance coverage under the conditions that applied
4 immediately before the family leave or, medical leave or school conference and
5 activities leave began. If the employe continues making any contribution required
6 for participation in the group health insurance plan, the employer shall continue
7 making group health insurance premium contributions as if the employe had not
8 taken the family leave or, medical leave or school conference and activities leave.

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

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

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

17 103.10 (9) (d) If an employe ends his or her employment with an employer
18 during or at the end of a period of family leave or, medical leave or school conference
19 and activities leave, the time period for conversion to individual coverage under s.
20 632.897 (6) shall be calculated as beginning on the day that the employe began the
21 period of family leave or, medical leave or school conference and activities leave.

22 **SECTION 22.** 103.10 (10) of the statutes is amended to read:

23 103.10 (10) ALTERNATIVE EMPLOYMENT. Nothing in this section prohibits an
24 employer and an employe with a serious health condition from mutually agreeing to
25 alternative employment for the employe while the serious health condition lasts. No

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1 period of alternative employment, with the same employer, reduces the employee's
2 right to family leave ~~or~~, medical leave or school conference and activities leave.

3 **SECTION 23.** 103.10 (12) (d) of the statutes is amended to read:

4 103.10 (12) (d) The department shall issue its decision and order within 30 days
5 after the hearing. If the department finds that an employer violated sub. (11) (a) or
6 (b), it may order the employer to take action to remedy the violation, including
7 providing the requested family leave ~~or~~, medical leave or school conference and
8 activities leave, reinstating an employe, providing back pay accrued not more than
9 2 years before the complaint was filed and paying reasonable actual attorney fees to
10 the complainant.

11 **SECTION 24.** 103.10 (14) (b) of the statutes is amended to read:

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

16 **SECTION 25.** 108.04 (1) (b) 3. (intro.) of the statutes is amended to read:

17 108.04 (1) (b) 3. (intro.) While the employe is on family or medical leave under
18 the federal family and medical leave act of 1993 (P.L. 103-3), 29 USC 2601 to 2654,
19 or s. 103.10 or school conference and activities leave under s. 103.10, until whichever
20 of the following occurs first:

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

22 111.91 (2) (f) Family leave and medical leave rights below the minimum
23 afforded under the federal family and medical leave act of 1993, 29 USC 2601 to 2654,
24 and s. 103.10 and school conference and activities leave rights below the minimum
25 afforded under s. 103.10. Nothing in this paragraph prohibits the employer from

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1 bargaining on rights to family leave or medical leave which are more generous to the
2 employe than the rights provided under the federal family and medical leave act of
3 1993, 29 USC 2601 to 2654, and s. 103.10 and on rights to school conference and
4 activities leave which are more generous to the employe than the rights provided
5 under s. 103.10.

6 **SECTION 27.** 230.35 (2m) of the statutes is amended to read:

7 230.35 **(2m)** An employe shall be eligible for medical or family leave under s.
8 103.10 upon the expiration, extension or renewal of any collective bargaining
9 agreement in effect on April 26, 1988, which covers the employe. An employe shall
10 be eligible for school conference and activities leave under s. 103.10 upon the
11 expiration, extension or renewal of any collective bargaining agreement in effect on
12 the effective date of this subsection [revisor inserts date], which covers the
13 employe.

14 **SECTION 28.** 230.45 (1) (k) of the statutes is amended to read:

15 230.45 **(1)** (k) Receive and process complaints of violations relating to family
16 ~~or~~, medical or school conference and activities leave under s. 103.10 (12).

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

18 253.10 **(3)** (d) 1. Geographically indexed materials that are designed to inform
19 a woman about public and private agencies, including adoption agencies, and
20 services that are available to provide information on family planning, as defined in
21 s. 253.07 (1) (a), including natural family planning information, to provide
22 ultrasound imaging services, to assist her if she has received a diagnosis that her
23 unborn child has a disability or if her pregnancy is the result of sexual assault or
24 incest and to assist her through pregnancy, upon childbirth and while the child is
25 dependent. The materials shall include a comprehensive list of the agencies

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1 available, a description of the services that they offer and a description of the manner
2 in which they may be contacted, including telephone numbers and addresses, or, at
3 the option of the department, the materials shall include a toll-free, 24-hour
4 telephone number that may be called to obtain an oral listing of available agencies
5 and services in the locality of the caller and a description of the services that the
6 agencies offer and the manner in which they may be contacted. The materials shall
7 provide information on the availability of governmentally funded programs that
8 serve pregnant women and children. Services identified for the woman shall include
9 aid to families with dependent children under s. 49.19, medical assistance for
10 pregnant women and children under s. 49.47 (4) (am), the job opportunities and basic
11 skills program under s. 49.193, the availability of family ~~or~~ medical and school
12 conference and activities leave under s. 103.10, child care services, child support
13 laws and programs and the credit for expenses for household and dependent care and
14 services necessary for gainful employment under section 21 of the internal revenue
15 code. The materials shall state that it is unlawful to perform an abortion for which
16 consent has been coerced, that any physician who performs or induces an abortion
17 without obtaining the woman's voluntary and informed consent is liable to her for
18 damages in a civil action and is subject to a civil penalty, that the father of a child
19 is liable for assistance in the support of the child, even in instances in which the
20 father has offered to pay for an abortion, and that adoptive parents may pay the costs
21 of prenatal care, childbirth and neonatal care. The materials shall include
22 information, for a woman whose pregnancy is the result of sexual assault or incest,
23 on legal protections available to the woman and her child if she wishes to oppose
24 establishment of paternity or to terminate the father's parental rights. The
25 materials shall state that fetal ultrasound imaging and auscultation of fetal heart

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1 tone services are obtainable by pregnant women who wish to use them and shall
2 describe the services.

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

4 **893.96 (title) Family, medical and school conference and activities**
5 **leave; civil remedies.**

6 **SECTION 31. Initial applicability.**

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

11

(END)