

1999 DRAFTING REQUEST

Bill

Received: **12/10/98**

Received By: **malaigm**

Wanted: **As time permits**

Identical to LRB:

For: **Richard Grobschmidt (608) 266-7505**

By/Representing: **John Sumi**

This file may be shown to any legislator: **NO**

Drafter: **malaigm**

May Contact:

Alt. Drafters:

Subject: **Employ Priv - family leave**

Extra Copies:

Topic:

School activities leave

Instructions:

Redraft 97-1360/2

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	malaigm 12/10/98	chanaman 12/23/98		_____			S&L
/1			hhagen 12/29/98	_____	lrb_docadmin 12/29/98	lrb_docadmin 01/13/99	

FE Sent For:

10-06-99

<END>

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1/1	malaigm	cmf 12/11 /1					
		jlq 12/23	jlq 12/29	cmf/was 12/29			

FE Sent For:

<END>

(1237/1)
CMM + JLg

1999
1997 BILL

Repeal

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) and 230.35 (2m); *to repeal and recreate* 893.96 (title);

7 and *to create* 103.10 (1) (fr), 103.10 (4m), 103.10 (5) (b) 2., 103.10 (6) (c) and

8 230.35 (2n) of the statutes; **relating to:** leave for school conferences and

9 activities.

Analysis by the Legislative Reference Bureau pit

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 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

two

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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 nonwork hours. In addition, ~~if the employe's child is in day care or is attending preschool or prekindergarten, the employe may also take school conference and activities leave to observe and monitor the services or programming received by the child, if that observation and monitoring cannot be scheduled during nonwork 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 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 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 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.

may be taken

day care, preschool or prekindergarten

an employe's

or treatment foster

must

stat.

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

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

103.10 (title) Family or, medical and school conference and activities

leave.

or who is a person for whom the employe stands in the place of a parent,

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

person
*for a ~~contracted~~ job for whom an employe stands
in the place of a parent.*

3 103.10 (1) (a) "Child" means a natural, adopted, foster or treatment foster
4 child, a stepchild or a legal ward to whom any of the following applies: of an employe

5 and includes a person 18 years of age or over who is a natural, adopted, foster or

6 treatment foster child, a stepchild or a legal ward of an employe

*or who is a person
for whom an
employe stands in
the place of a parent*

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

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

9 103.10 (1) (c) Except as provided in sub. subs. (4m) and (14) (b), "employer"
10 means a person engaging in any activity, enterprise or business in this state
11 employing at least 50 individuals on a permanent basis. "Employer" includes the
12 state and any office, department, independent agency, authority, institution,
13 association, society or other body in state government created or authorized to be
14 created by the constitution or any law, including the legislature and the courts.

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

16 103.10 (1) (fr) "School" means a child care provider, as defined in s. 49.001 (1),
17 a public, parochial or private preschool or prekindergarten or a public, parochial or
18 private school which provides an educational program for one or more grades
19 between kindergarten and 12 and which is commonly known as a kindergarten,
20 elementary school, middle school, junior high school, senior high school or high
21 school.

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

23 103.10 (2) (a) Nothing in this section prohibits an employer from providing
24 employes with rights to family leave or, medical leave which or school conference and

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1 activities leave that are more generous to the employe than the rights provided under
2 this section.

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

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

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

10 103.10 (4m) SCHOOL CONFERENCE AND ACTIVITIES LEAVE. Subject to sub. (6) (c),
11 an employe of an employer employing at least one individual in this state may take
12 no more than 16 hours of school conference and activities leave in a 12-month period
13 for the purpose of attending school conferences or classroom activities relating to the
14 employe's child that cannot be scheduled during nonwork hours. If the employe's
15 ~~child is receiving care from a child care provider, as defined in s. 49.001 (1), or is~~
16 ~~attending a public, private or parochial preschool or prekindergarten,~~ ^{An} the employe
17 may also use the school conference and activities leave provided under this
18 subsection to observe and monitor the services or programming ^{provided to the employe's} ~~received by the~~ child,
19 if that observation and monitoring cannot be scheduled during nonwork hours.

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

21 103.10 (5) (a) This section does not entitle an employe to receive wages or salary
22 while taking family leave or, medical leave or school conference and activities leave.

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

~~by~~ a child care provider, as defined in s. 49.001 (1),
or ~~from~~ a public, private or parochial preschool
or prekindergarten

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

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

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

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

9 103.10 (6) (c) If an employe intends to take leave for the purpose of attending
10 a school conference or activity, the employe shall do all of the following:

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

13 2. Give the employer advance notice of the leave in a reasonable and practicable
14 manner.

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

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

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

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

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

24 103.10 (8) (a) 2. If the employment position which the employe held
25 immediately before the family leave or, medical leave or school conference and

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1 activities leave began is not vacant when the employe returns, in an equivalent
2 employment position having equivalent compensation, benefits, working shift,
3 hours of employment and other terms and conditions of employment.

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

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

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

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

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

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

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

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

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

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

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

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

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

19 **SECTION 22.** 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 employe with a serious health condition from mutually agreeing to
22 alternative employment for the employe while the serious health condition lasts. No
23 period of alternative employment, with the same employer, reduces the employe's
24 right to family leave or, medical leave or school conference and activities leave.

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

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1 103.10 (12) (d) The department shall issue its decision and order within 30 days
 2 after the hearing. If the department finds that an employer violated sub. (11) (a) or
 3 (b), it may order the employer to take action to remedy the violation, including
 4 providing requested family leave or, medical leave or school conference and activities
 5 leave, reinstating an employe, providing back pay accrued not more than 2 years
 6 before the complaint was filed and paying reasonable actual attorney fees to the
 7 complainant.

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

9 103.10 (14) (b) Any person employing at least 25 individuals shall post, in one
 10 or more conspicuous places where notices to employes are customarily posted, a
 11 notice describing the person's policy with respect to leave for the reasons described
 12 in subs. (3) (b) and (4) (a) and (4m).

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

14 108.04 (1) (b) 3. (intro.) While the employe is on family or medical leave under
 15 the federal family and medical leave act of 1993 (P.L. 103-3), 29 USC 2601 to 2654,
 16 or s. 103.10 or school conference and activities leave under s. 103.10, until whichever
 17 of the following occurs first:

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

19 111.91 (2) (f) Family leave and medical leave rights below the minimum
 20 afforded under the federal family and medical leave act of 1993, 29 USC 2601 to 2654,
 21 and s. 103.10 and school conference and activities leave rights below the minimum
 22 afforded under s. 103.10. Nothing in this paragraph prohibits the employer from
 23 bargaining on rights to family leave or medical leave which are more generous to the
 24 employe than the rights provided under the federal family and medical leave act of
 25 1993, 29 USC 2601 to 2654 and s. 103.10 and on rights to school conference and

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1 activities leave which are more generous to the employe than the rights provided
2 under s. 103.10.

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

4 230.35 (2m) An employe shall be eligible for medical or family leave under s.
5 103.10 upon the expiration, extension or renewal of any collective bargaining
6 agreement in effect on April 26, 1988, which covers the employe. An employe shall
7 be eligible for medical or family leave under the federal family and medical leave act
8 of 1993, 29 USC 2601 to 2654, upon the expiration, extension or renewal of any
9 collective bargaining agreement in effect on August 5, 1993, which covers the
10 employe or on February 5, 1994, whichever is earlier.

11 SECTION 28. 230.35 (2n) of the statutes is created to read:

12 230.35 (2n) An employe shall be eligible for school conference and activities
13 leave under s. 103.10 upon the expiration, extension or renewal of any collective
14 bargaining agreement in effect on the effective date of this subsection [revisor
15 inserts date], which covers the employe.

✓
Insert
9-15

16 SECTION 29. 893.96 (title) of the statutes is repealed and recreated to read:

17 **893.96** (title) **Family, medical and school conference and activities**
18 **leave; civil remedies.**

19 SECTION 30. Initial applicability.

20 (1) This act first applies to an employe affected by a collective bargaining
21 ~~agreement that is in effect on the effective date of this subsection on the day after the~~
22 ~~collective bargaining agreement expires or~~ on the day on which the collective
23 bargaining agreement is renewed, extended or modified, whichever is earlier.

contains provisions inconsistent
with this act

who's

expires or ?

(END) ✓

occurs first

24

Insert ~~2/28~~ 9-15

CS

Section #. 230.35 (2m) of the statutes is amended to read:

230.35 (2m) An employe shall be eligible for medical or family leave under s. 103.10 upon the expiration, extension or renewal of any collective bargaining agreement in effect on April 26, 1988, which covers the employe.

History: 1971 c. 91, 125, 183, 211, 226; 1971 c. 270 ss. 70, 71, 83, 104; Stats. 1971 s. 16.30; 1973 c. 51, 243; 1975 c. 28, 39, 41; 1975 c. 147 s. 54; 1975 c. 189, 199, 421, 422; 1977 c. 44; 1977 c. 187 s. 135; 1977 c. 196 ss. 56, 118, 130 (3), (5), (12), 131; 1977 c. 273; 1977 c. 418 ss. 726, 727, 924 (13m); Stats. 1977 s. 230.35; 1979 c. 34, 89; 1979 c. 110 s. 60 (11); 1979 c. 221; 1981 c. 20, 96, 140; 1983 a. 27 s. 2200 (15); 1983 a. 30 ss. 4 to 11, 14; 1983 a. 71, 140; 1983 a. 192 ss. 220, 221, 304; 1985 a. 119; 1987 a. 63, 287, 340, 399, 403; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 12, 47; 1995 a. 37, 178; 1997 a. 118, 307.

Conference and introduced

An employe shall be eligible for school activities leave under s. 103.10 upon the expiration, extension or renewal of any collective bargaining agreement in effect on the effective date of this subsection, [revisor inserts date], which covers the employe.

(c5)

6/20/95

conference and
or school activities

Section #. 230.45 (1) (k) of the statutes is amended to read:

underscored

(2)

230.45 (1) (k) Receive and process complaints of violations relating to family or medical leave under s. 103.10 (12).

History: 1977 c. 196; 1979 c. 221; 1981 c. 334 s. 25 (2); 1981 c. 360; 1983 a. 27, 398, 409; 1987 a. 140, 331; 1987 a. 403 s. 256; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 16; 1995 a. 27; 1997 a. 131, 216.

(Signature)

(Signature)

Insert 9-15

Section #. 253.10 (3) (d) 1. of the statutes is amended to read:

253.10 (3) (d) 1. Geographically indexed materials that are designed to inform a woman about public and private agencies, including adoption agencies, and services that are available to provide information on family planning, as defined in s. 253.07 (1) (a), including natural family planning information, to provide ultrasound imaging services, to assist her if she has received a diagnosis that her unborn child has a disability or if her pregnancy is the result of sexual assault or incest and to assist her through pregnancy, upon childbirth and while the child is dependent. The materials shall include a comprehensive list of the agencies available, a description of the services that they offer and a description of the manner in which they may be contacted, including telephone numbers and addresses, or, at the option of the department, the materials shall include a toll-free, 24-hour telephone number that may be called to obtain an oral listing of available agencies and services in the locality of the caller and a description of the services that the agencies offer and the manner in which they may be contacted. The materials shall provide information on the availability of governmentally funded programs that serve pregnant women and children. Services identified for the woman shall include aid to families with dependent children under s. 49.19, medical assistance for pregnant women and children under s. 49.47 (4) (am), the job opportunities and basic skills program under s. 49.193, the availability of family or medical leave under s. 103.10, child care services, child support laws and programs and the credit for expenses for household and dependent care and services necessary for gainful employment under section 21 of the internal revenue code. The materials shall state that it is unlawful to perform an abortion for which consent has been coerced, that any physician who performs or induces an abortion without obtaining the woman's voluntary and informed consent is liable to her for damages in a civil action and is subject to a civil penalty, that the father of a child is liable for assistance in the support of the child, even in instances in which the father has offered to pay for an abortion, and that adoptive parents may pay the costs of prenatal care, childbirth and neonatal care. The materials shall include information, for a woman whose pregnancy is the result of sexual assault or incest, on legal protections available to the woman and her child if she

and school conference and activities

emphasize

underscored

Insert 9-15

wishes to oppose establishment of paternity or to terminate the father's parental rights. The materials shall state that fetal ultrasound imaging and auscultation of fetal heart tone services are obtainable by pregnant women who wish to use them and shall describe the services.

History: 1985 a. 56, 176; 1991 a. 263; 1993 a. 27 s. 378; Stats. 1993 s. 253.10; 1995 a. 309; 1997 a. 27.

(edofret)

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 12/29/98

To: Senator Grobschmidt

Relating to LRB drafting number: LRB-1237

Topic

School activities leave

Subject(s)

Employ Priv - family leave

1. **JACKET** the draft for introduction _____

Richard Grobschmidt

in the **Senate** or the **Assembly** _____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Gordon M. Malaise, Senior Legislative Attorney
Telephone: (608) 266-9738