

2011 Jr1 DRAFTING REQUEST

Bill

Received: **02/01/2011**

Received By: **gmalaise**

Wanted: **Soon**

Companion to LRB:

For: **Chris Kapenga (608) 266-3007**

By/Representing: **Doug Parrot**

May Contact:

Drafter: **gmalaise**

Subject: **Employ Priv - family leave**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Kapenga@legis.wi.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Family and medical leave; preemption of local ordinances

Instructions:

See attached--provide that family and medical leave are matters of statewide concern requiring one uniform law and preempt local ordinances providing for family and medical leave

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>
/?	gmalaise 02/02/2011	jdye 02/04/2011		_____			
	gmalaise 02/04/2011	jdye 02/04/2011		_____			
/1			rschluet 02/04/2011	_____	mbarman 02/04/2011	cduerst 02/23/2011	

FE Sent For:

none

<END>

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/?	gmalaise 02/02/2011 gmalaise	jdye 02/04/2011					

FE Sent For:

<END>

Malaise, Gordon

From: Parrott, Douglas
Sent: Tuesday, February 01, 2011 1:12 PM
To: Malaise, Gordon
Subject: Drafting request

Importance: High

Attachments: Sick Leave Changes.doc

Hi Gordon,

Rep. Kapenga would like to have the attached language regarding sick leave drafted into bill form.

I know you guys are super busy over at LRB right now, so I hate to bother you, but if we could get a draft as soon as possible that would be great.

Please let me know if you have any questions or concerns, and thanks for your help.

Sincerely,

Doug

Douglas Parrott
Office of State Representative Chris Kapenga
33rd Assembly District
608-266-3007
douglas.parrott@legis.wisconsin.gov



Sick Leave
anges.doc (29 KB)

Wis. Stat. § 103.10(1m)

(1) 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 relating to the provision of time off from work to deal with familial, health or medical issues 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.

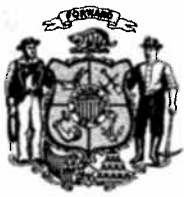
(2) (a) A city, village, town, or county may not enact and administer an ordinance establishing a requirement that any employer provide to its employees time off from work, whether paid or unpaid, for the reasons set forth in this section or for any other health, medical or familial issues, including but not limited to, the care, treatment, or diagnosis of an employee's or an employee's family member's mental or physical illness, injury or health condition, to obtain services from a victim services organization, for psychological or other counseling, to seek relocation, or to participate in any legal proceedings. Any such city, village, town, or county ordinances adopted, enacted or in effect as of the effective date of this subsection are null.

(b) For purposes of this subsection "employer" is defined as set forth in s.104.01(3)(a).

(c) For purposes of this subsection "employee" is defined as set forth in s.104.01(2)(a).

(d) For purposes of this subsection "family member" means:

1. A child as defined in this section.
2. A parent as defined in this section.
3. A spouse as defined in this section.
4. A domestic partner as defined in ch. 770.
5. the parent of a parent or spouse or domestic partner of a grandparent.
6. the child of a child.
7. the biological, foster or adopted sibling or the spouse or domestic partner of a biological, foster or adopted sibling.
8. Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.



State of Wisconsin
2011-2012 LEGISLATURE



LRB-1266/1
GMM

IN 211
~~ANNA~~

2011 BILL JLD

LPS-
fix request
sheet
please (not
a special session
bill)

DNSTE
Today - Fri 2/14

✓

Gen

- 1 AN ACT ...; relating to: preemption of city, village, town, or county ordinances
- 2 requiring employers to provide employees with leave from employment to deal
- 3 with family, medical, or health issues. ✓

Analysis by the Legislative Reference Bureau

Under current law, an employer, including the state, that employs at least 50 individuals on a permanent basis 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 weeks 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, 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. 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. ✓

This bill states that the provision of family and medical leave that is uniform throughout the state is a matter of statewide concern and that it would be logically inconsistent with, would defeat the purpose of, and would go against the spirit of the state family and medical leave law for a city, village, town, or county to enact ~~and~~ administer an ordinance that requires employers to provide employees with leave from employment for any of the following reasons:

- 1. Because the employee has a physical or mental illness, injury, impairment, or condition (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. The bill defines "family member" as a spouse or domestic partner of the 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.

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.

and administering

Therefore, the bill requires the state family and medical leave law to be construed as an enactment of statewide concern for the purpose of providing family and medical leave that is uniform throughout the state. As such, the bill prohibits a city, village, town, or county from enacting an ordinance requiring an employer to provide employees with leave from employment, paid or unpaid, for any of the reasons specified in the bill and provides that a city, village, town, or county ordinance requiring leave from employment for those reasons that is in effect on the effective date of the bill is void.

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

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

2 103.10 (1) (b) "~~Employee~~ Except as provided in sub. (1m) (b) 2., "employee"

3 means an individual employed in this state by an employer, except the employer's

4 parent, spouse, domestic partner, or child.

5 History: 1987 a. 287; 1989 a. 228; 1991 a. 39; 1993 a. 446; 1995 a. 27 s. 9130 (4); 1997 a. 3, 156; 2001 a. 74; 2003 a. 33; 2009 a. 28.
SECTION 2. 103.10 (1) (c) of the statutes is amended to read:

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

7 **History:** 1987 a. 287; 1989 a. 228; 1991 a. 39; 1993 a. 446; 1994 a. 27 s. 9130 (4); 1997 a. 3, 156; 2001 a. 74; 2003 a. 33; 2009 a. 28.

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

8 103.10 (1m) STATEWIDE CONCERN; UNIFORMITY. [✓](a) The legislature finds that the
 9 provision of family and medical leave that is uniform throughout the state is a matter
 10 of statewide concern [✓] and that the enactment of an ordinance by a [✓]city, village, town,
 11 or county that requires employers to provide employees with leave from employment,
 12 paid or unpaid, for any of the reasons specified in par. (c) [✓]would be logically
 13 inconsistent with, would defeat the purpose of, and would go against the spirit of this
 14 section. [✓]Therefore, this section [✓]shall be construed as an enactment of statewide
 15 concern for the purpose of providing family and medical leave that is uniform
 16 throughout the state.

17 (b) In this subsection: [✓]

18 1. "Domestic abuse" has the meaning given in s. 968.075 (1) (a). [✓]

19 2. "Employee" has the meaning given in s. 104.01 (2) (a). [✓]

20 3. "Employer" has the meaning given in s. 104.01 (3) (a). [✓]

21 4. "Family member" means a spouse or domestic partner of an employee; a
 22 parent, child, sibling, including a foster sibling, brother-in-law, sister-in-law,
 23 grandparent, stepgrandparent, or grandchild of an employee [✓]or of an employee's
 24 spouse or domestic partner; or any other person who is related by blood, marriage,

1 or adoption to an employee or to an employee's spouse or domestic partner and whose
2 close association with the employee, spouse, or domestic partner makes the person
3 the equivalent of a family member of the employee, spouse, or domestic partner. ✓

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

6 6. "Sexual abuse" ✓ means conduct that is in violation of s. 940.225, ✓ 944.30, ✓
7 948.02, ✓ 948.025, ✓ 948.05, ✓ 948.051, ✓ 948.055, ✓ 948.06, ✓ 948.085, ✓ 948.09, ✓ or 948.10 ✓ or that
8 is in violation of s. 940.302 (2) ✓ if s. 940.302 (2) (a) 1. b. ✓ applies.

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

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

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

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

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

21 a. Seek medical attention or obtain psychological or other counseling for the
22 employee or a family member to recover from any health condition caused by
23 domestic abuse, ✓ sexual abuse, or stalking. ✓

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

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

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

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

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

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

13 **SECTION 4. Initial applicability.**

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

18 Kapanga

(END)

NOTE

Representative ~~_____~~:

The intent of the submitted language appears to be to preempt the Milwaukee paid sick leave ordinance. Accordingly, this draft more closely tracks the language of the Milwaukee ordinance to more clearly express intent. that

GMM

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1266/1dn
GMM:jld:rs

February 4, 2011

Representative Kapenga:

The intent of the submitted language appears to be to preempt the Milwaukee paid sick leave ordinance. Accordingly, this draft more closely tracks the language of the Milwaukee ordinance to more clearly express that intent.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.wisconsin.gov

Barman, Mike

From: Parrott, Douglas
Sent: Wednesday, February 23, 2011 12:58 PM
To: LRB.Legal
Subject: Draft Review: LRB 11-1266/1 Topic: Family and medical leave; preemption of local ordinances

Please Jacket LRB 11-1266/1 for the ASSEMBLY.