

2011 DRAFTING REQUEST

Bill

Received: **02/04/2011**

Received By: **gmalaise**

Wanted: **As time permits**

Companion to LRB:

For: **Leah Vukmir (608) 266-2512**

By/Representing: **Dean Cady**

May Contact:

Drafter: **gmalaise**

Subject: **Employ Priv - family leave**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Vukmir@legis.wisconsin.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 02/04/2011	kfollett 02/04/2011		_____			
/1			mduchek 02/04/2011	_____	lparisi 02/04/2011	sbasford 02/08/2011	

FE Sent For:

none needed

<END>

2011 DRAFTING REQUEST

Bill

Received: **02/04/2011**

Received By: **gmalaise**

Wanted: **As time permits**

Companion to LRB:

For: **Scott Fitzgerald (608) 266-5660**

By/Representing: **Dan Romportl**

May Contact:

Drafter: **gmalaise**

Subject: **Employ Priv - family leave**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

reassigned to Senator Vukmir per Dan Romportl (see attached)

Requester's email: **Sen.Fitzgerald@legis.wisconsin.gov**

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For: **Scott Fitzgerald (608) 266-5660**

By/Representing: **Dan Romportl**

May Contact:

Drafter: **gmalaise**

Subject: **Employ Priv - family leave**

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Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Fitzgerald@legis.wisconsin.gov**

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/?	gmalaise	1/15/f 2/4	MD 2/4	_____	_____		

FE Sent For:

<END>

Malaise, Gordon

From: Parisi, Lori
Sent: Friday, February 04, 2011 11:08 AM
To: Kuesel, Jeffery
Cc: Malaise, Gordon
Subject: FW: Draft request - Fitzgerald office

From: Romportl, Daniel
Sent: Friday, February 04, 2011 10:47 AM
To: LRB.Legal
Subject: Draft request - Fitzgerald office

We would like a bill drafted that prohibits counties and municipalities from mandating employers to provide "sick leave" to its employees. Suggested language is below in red. This legislation is time-sensitive, so "rush" status would be preferable. Please let us know what additional information you need.

Thank you in advance,

Dan Romportl
Policy Director
Office of Senator Scott Fitzgerald
Senate Majority Leader

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.

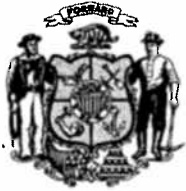
(b) For purposes of this subsection "employer" is defined as set forth in s.104.01(3)(a).

(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-1200/T
GMM:jld:rs

1312/1

IN 214
Koddy

Stays

2011 BILL

NOTE

LPS: Fix request sheet please

(Companion No change)

Regen

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

BILL

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.

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 and administering 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:

BILL

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

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

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

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

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

21 (b) In this subsection:

- 22 1. “Domestic abuse” has the meaning given in s. 968.075 (1) (a).
- 23 2. “Employee” has the meaning given in s. 104.01 (2) (a).
- 24 3. “Employer” has the meaning given in s. 104.01 (3) (a).

BILL**SECTION 3**

1 4. “Family member” means a spouse or domestic partner of an employee; a
2 parent, child, sibling, including a foster sibling, brother-in-law, sister-in-law,
3 grandparent, stepgrandparent, or grandchild of an employee or of an employee’s
4 spouse or domestic partner; or any other person who is related by blood, marriage,
5 or adoption to an employee or to an employee’s spouse or domestic partner and whose
6 close association with the employee, spouse, or domestic partner makes the person
7 the equivalent of a family member of the employee, spouse, or domestic partner.

8 5. “Health condition” means a physical or mental illness, injury, impairment,
9 or condition.

10 6. “Sexual abuse” means conduct that is in violation of s. 940.225, 944.30,
11 948.02, 948.025, 948.05, 948.051, 948.055, 948.06, 948.085, 948.09, or 948.10 or that
12 is in violation of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.

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

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

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

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

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

February 4, 2011

date

LRB-1200/1dn

GMM:jld:rs

Stays

Senator Fitzgerald

~~Representative K...~~

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

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

LRB-1312/1dn
GMM:jld:md

February 4, 2011

Senator Fitzgerald:

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

Basford, Sarah

From: Romportl, Daniel
Sent: Tuesday, February 08, 2011 8:27 AM
To: LRB.Legal
Subject: Draft Review: LRB 11-1312/1 Topic: Family and medical leave; preemption of local ordinances

Please Jacket LRB 11-1312/1 for the SENATE.

Thank you,

Dan Romportl
Office of Senator Scott Fitzgerald
608-386-4867

Parisi, Lori

From: Romportl, Daniel
Sent: Tuesday, February 08, 2011 11:54 AM
To: Parisi, Lori
Cc: Cady, Dean
Subject: Please reassign LRB 11-1312/1 to Sen. Vukmir's office

Please reassign LRB 11-1312/1, which relates to family and medical leave, to Senator Vukmir's office.

Dean Cady from Sen. Vukmir's office has been CC'd on this email.

266-2512
Thank you,

Dan Romportl
*Policy Director
Office of Senator Scott Fitzgerald
Senate Majority Leader*

*Phone: 608-266-5660
daniel.romportl@legis.wisconsin.gov*

Parisi, Lori

From: Cady, Dean
Sent: Tuesday, February 08, 2011 2:41 PM
To: Parisi, Lori
Subject: RE: LRB 11-1312/1 reassignment

Yes, there was a minor mix-up. I had actually called in this draft on Fri, sent the Email over to Gordon, w/out knowing that Senator Fitzgerald's office called one in already.

☺

From: Parisi, Lori
Sent: Tuesday, February 08, 2011 12:06 PM
To: Cady, Dean
Subject: LRB 11-1312/1 reassignment

Hello Dean, I received an e-mail from Dan Romportl from Sen. Fitzgerald's office this morning regarding LRB 11-1312/1. He said that he was reassigning it to your office. Would you like Senator Vukmir on for the requester's e-mail and your name in the "by/representing" spot on the request sheet then? That is what we would normally do when a draft changes hands, but I wanted to double check to make sure that is what you would like....

Thank you.

Lori Parisi

Program Assistant
State of WI Legislative Reference Bureau
1 East Main Suite 200
Madison, WI., 53703
Phone(608)266-3561 Fax(608)264-6948