



State of Wisconsin
2015 - 2016 LEGISLATURE

LRBs0317/1
MED&GMM:kjf

**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 517**

February 9, 2016 - Offered by Senators LASSA, CARPENTER, L. TAYLOR, C. LARSON,
RINGHAND, BEWLEY, VINEHOUT, MILLER, ERPENBACH, RISSER, SHILLING, HANSEN
and WIRCH.

1 **AN ACT** *to renumber* 103.10 (1) (a); *to renumber and amend* 103.10 (1m) (d);
2 *to amend* 103.10 (title), 103.10 (1m) (title), 103.10 (1m) (a), 103.10 (2) (a),
3 103.10 (2) (c), 103.10 (5) (a), 103.10 (5) (b), 103.10 (8) (a) (intro.), 103.10 (8) (a)
4 1., 103.10 (8) (a) 2., 103.10 (8) (b), 103.10 (8) (c), 103.10 (9) (a), 103.10 (9) (b),
5 103.10 (9) (c) 4., 103.10 (9) (d), 103.10 (10), 103.10 (12) (d) and 103.10 (14) (b);
6 *to repeal and recreate* 893.96 (title); and *to create* 103.10 (1) (ac), 103.10 (1)
7 (er), 103.10 (1m) (d) 2., 103.10 (2) (d), 103.10 (4m) and 103.10 (6) (c) of the
8 statutes; **relating to:** leave from employment for the purpose of serving as a
9 bone marrow or organ donor.

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

10 **SECTION 1.** 103.10 (title) of the statutes is amended to read:
11 **103.10 (title) Family or, medical, and bone marrow and organ donation**
12 **leave.**

1 **SECTION 2.** 103.10 (1) (a) of the statutes is renumbered 103.10 (1) (aj).

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

3 103.10 (1) (ac) “Bone marrow” has the meaning given in s. 146.34 (1) (a).

4 **SECTION 4.** 103.10 (1) (er) of the statutes is created to read:

5 103.10 (1) (er) “Organ” has the meaning given for “human organ” in s. 230.35
6 (2d) (a) 2.

7 **SECTION 5.** 103.10 (1m) (title) of the statutes is amended to read:

8 103.10 (1m) (title) ~~STATEWIDE~~ FAMILY AND MEDICAL LEAVE; STATEWIDE CONCERN;
9 UNIFORMITY.

10 **SECTION 6.** 103.10 (1m) (a) of the statutes is amended to read:

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

20 **SECTION 7.** 103.10 (1m) (d) of the statutes is renumbered 103.10 (1m) (d) (intro.)
21 and amended to read:

22 103.10 (1m) (d) (intro.) This subsection does not affect an ordinance affecting
23 leave any of the following:

24 1. Leave from employment of an employee of a city, village, town, or county.

25 **SECTION 8.** 103.10 (1m) (d) 2. of the statutes is created to read:

1 103.10 **(1m)** (d) 2. Bone marrow or organ donation leave.

2 **SECTION 9.** 103.10 (2) (a) of the statutes is amended to read:

3 103.10 **(2)** (a) Nothing in this section prohibits an employer from providing
4 employees with rights to family leave ~~or~~, medical leave ~~which, or bone marrow and~~
5 organ donation leave that are more generous to the employee than the rights
6 provided under this section.

7 **SECTION 10.** 103.10 (2) (c) of the statutes is amended to read:

8 103.10 **(2)** (c) ~~This~~ Subject to sub. (4m), this section only applies to an employee
9 who has been employed by the same employer for more than 52 consecutive weeks
10 and who worked for the employer for at least 1,000 hours during the preceding
11 52-week period.

12 **SECTION 11.** 103.10 (2) (d) of the statutes is created to read:

13 103.10 **(2)** (d) This section does not apply to an employee, as defined in s. 230.03
14 (10h), who is allowed under s. 230.35 (2d) (b) or (c) to take a leave of absence for the
15 purpose of serving as a bone marrow or organ donor.

16 **SECTION 12.** 103.10 (4m) of the statutes is created to read:

17 103.10 **(4m)** BONE MARROW AND ORGAN DONATION LEAVE. Subject to subs. (2) (d)
18 and (6) (c), an employee may take no more than 6 weeks of bone marrow and organ
19 donation leave in a 12-month period for the purpose of serving as a bone marrow or
20 organ donor if the employee provides his or her employer with written verification
21 that the employee is to serve as a bone marrow or organ donor. Notwithstanding sub.
22 (2) (c), this subsection applies to any employee of an employer.

23 **SECTION 13.** 103.10 (5) (a) of the statutes is amended to read:

1 103.10 (5) (a) This section does not entitle an employee to receive wages or
2 salary while taking family leave or, medical leave, or bone marrow and organ
3 donation leave.

4 **SECTION 14.** 103.10 (5) (b) of the statutes is amended to read:

5 103.10 (5) (b) An employee may substitute, for portions of family leave or,
6 medical leave, or bone marrow and organ donation leave, paid or unpaid leave of any
7 other type provided by the employer.

8 **SECTION 15.** 103.10 (6) (c) of the statutes is created to read:

9 103.10 (6) (c) If an employee intends to take leave under sub. (4m) for the
10 purpose of serving as a bone marrow or organ donor, the employee shall do all of the
11 following:

12 1. Make a reasonable effort to schedule the donation so that it does not unduly
13 disrupt the employer's operations, subject to the approval of the health care provider
14 of the donee.

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

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

18 103.10 (8) (a) (intro.) Subject to par. (c), when an employee returns from family
19 leave or, medical leave, or bone marrow and organ donation leave, his or her
20 employer shall immediately place the employee in an employment position as
21 follows:

22 **SECTION 15.** 103.10 (8) (a) 1. of the statutes is amended to read:

23 103.10 (8) (a) 1. If the employment position ~~which~~ that the employee held
24 immediately before the family leave or, medical leave, or bone marrow and organ
25 donation leave began is vacant when the employee returns, in that position.

1 **SECTION 16.** 103.10 (8) (a) 2. of the statutes is amended to read:

2 103.10 (8) (a) 2. If the employment position ~~which~~ that the employee held
3 immediately before the family leave ~~or~~, medical leave, or bone marrow and organ
4 donation leave began is not vacant when the employee returns, in an equivalent
5 employment position having equivalent compensation, benefits, working shift,
6 hours of employment, and other terms and conditions of employment.

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

8 103.10 (8) (b) No employer may, because an employee received family leave ~~or~~,
9 medical leave, or bone marrow and organ donation leave, reduce or deny an
10 employment benefit ~~which~~ that accrued to the employee before his or her leave began
11 or, consistent with sub. (9), accrued after his or her leave began.

12 **SECTION 18.** 103.10 (8) (c) of the statutes is amended to read:

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

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

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

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

1 103.10 (9) (b) Subject to par. (c), during a period an employee takes family leave
2 ~~or~~, medical leave, or bone marrow and organ donation 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 bone marrow and organ
5 donation leave began. If the employee 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 employee had not
8 taken the family leave ~~or~~, medical leave, or bone marrow and organ donation leave.

9 **SECTION 21.** 103.10 (9) (c) 4. of the statutes is amended to read:

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

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

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

23 **SECTION 23.** 103.10 (10) of the statutes is amended to read:

24 103.10 (10) ALTERNATIVE EMPLOYMENT. Nothing in this section prohibits an
25 employer and an employee with a serious health condition from mutually agreeing

1 to alternative employment for the employee while the serious health condition lasts.
2 No period of alternative employment, with the same employer, reduces the
3 employee's right to family leave ~~or~~, medical leave, or bone marrow and organ
4 donation leave.

5 **SECTION 24.** 103.10 (12) (d) of the statutes is amended to read:

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

13 **SECTION 25.** 103.10 (14) (b) of the statutes is amended to read:

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

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

19 **893.96 (title) Family, medical, and bone marrow and organ donation**
20 **leave; civil remedies.**

21 **SECTION 31. Initial applicability.**

22 (1) This act first applies to an employee, as defined in section 103.10 (1) (b) of
23 the statutes, who is affected by a collective bargaining agreement that contains
24 provisions that are inconsistent with this act on the day on which the collective

1 bargaining agreement expires or is extended, modified, or renewed, whichever
2 occurs first.

3 **SECTION 32. Effective date.**

4 (1) This act takes effect on the first day of the 3rd month beginning after
5 publication.

6 (END)