



1999 ASSEMBLY BILL 510

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

1 **AN ACT** *to renumber and amend* 103.10 (5) (b); *to amend* 103.10 (title), 103.10
2 (2) (a), 103.10 (2) (c), 103.10 (5) (a), 103.10 (8) (a) (intro.), 103.10 (8) (a) 1., 103.10
3 (8) (a) 2., 103.10 (8) (b), 103.10 (8) (c), 103.10 (9) (a), 103.10 (9) (b), 103.10 (9) (c)
4 4., 103.10 (9) (d), 103.10 (10), 103.10 (12) (d), 103.10 (14) (b), 108.04 (1) (b) 3.
5 (intro.), 111.91 (2) (f), 230.35 (2m), 230.45 (1) (k) and 253.10 (3) (d) 1.; ***to repeal***
6 ***and recreate*** 893.96 (title); and ***to create*** 103.10 (1) (fr), 103.10 (4m), 103.10
7 (5) (b) 2. and 103.10 (6) (c) of the statutes; **relating to:** leave for school
8 conferences and activities.

Analysis by the Legislative Reference Bureau

Under current law, an employer, including the state, employing at least 50 individuals on a permanent basis in this state must permit an employee to take six weeks of family leave in a 12-month period and two weeks of medical leave in a 12-month period if that employee 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 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

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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 50 individuals on a permanent basis 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 conference and 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, "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:

2 **103.10** (title) **Family or, medical and school conference and activities**
3 **leave.**

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

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1 103.10 (1) (fr) "School" means a child care provider, as defined in s. 49.001 (1),
2 a public, parochial or private preschool or prekindergarten or a public, parochial or
3 private school that provides an educational program for one or more grades between
4 kindergarten and 12 and that is commonly known as a kindergarten, elementary
5 school, middle school, junior high school, senior high school or high school.

6 **SECTION 3.** 103.10 (2) (a) of the statutes is amended to read:

7 103.10 (2) (a) Nothing in this section prohibits an employer from providing
8 employes with rights to family leave ~~or~~, medical leave ~~which~~ or school conference and
9 activities leave that are more generous to the employe than the rights provided under
10 this section.

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

12 103.10 (2) (c) This section only applies to an employe who has been employed
13 by the same employer for more than 52 consecutive weeks and who worked for the
14 employer for at least 1,000 hours during the preceding 52-week period, except that
15 for purposes of school conference and activities leave under sub. (4m), this section
16 applies to any employe of an employer.

17 **SECTION 5.** 103.10 (4m) of the statutes is created to read:

18 103.10 (4m) SCHOOL CONFERENCE AND ACTIVITIES LEAVE. Subject to sub. (6) (c),
19 an employe may take no more than 16 hours of school conference and activities leave
20 in a 12-month period for the purpose of attending school conferences or classroom
21 activities relating to the employe's child that cannot be scheduled during nonwork
22 hours. An employe may also use the school conference and activities leave provided
23 under this subsection to observe and monitor the services or programming provided
24 to the employe's child by a child care provider, as defined in s. 49.001 (1), or a public,

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1 private or parochial preschool or prekindergarten, if that observation and
2 monitoring cannot be scheduled during nonwork hours.

3 **SECTION 6.** 103.10 (5) (a) of the statutes is amended to read:

4 103.10 (5) (a) This section does not entitle an employe to receive wages or salary
5 while taking family leave or, medical leave or school conference and activities leave.

6 **SECTION 7.** 103.10 (5) (b) of the statutes is renumbered 103.10 (5) (b) 1. and
7 amended to read:

8 103.10 (5) (b) 1. ~~An~~ Subject to subd. 2., an employe may substitute, for portions
9 of family leave or, medical leave or school conference and activities leave, paid or
10 unpaid leave of any other type provided by the employer.

11 **SECTION 8.** 103.10 (5) (b) 2. of the statutes is created to read:

12 103.10 (5) (b) 2. Notwithstanding subd. 1., an employe may not substitute paid
13 leave for school conference and activities leave for attending a school conference or
14 activity for less than one hour.

15 **SECTION 9.** 103.10 (6) (c) of the statutes is created to read:

16 103.10 (6) (c) If an employe intends to take leave under sub. (4m) for the
17 purpose of attending a school conference or activity, the employe shall do all of the
18 following:

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

21 2. Give the employer advance notice of the leave in a reasonable and practicable
22 manner.

23 **SECTION 10.** 103.10 (8) (a) (intro.) of the statutes is amended to read:

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1 103.10 (8) (a) (intro.) Subject to par. (c), when an employe returns from family
2 leave ~~or~~, medical leave or school conference and activities leave, his or her employer
3 shall immediately place the employe in an employment position as follows:

4 **SECTION 11.** 103.10 (8) (a) 1. of the statutes is amended to read:

5 103.10 (8) (a) 1. If the employment position which the employe held
6 immediately before the family leave ~~or~~, medical leave or school conference and
7 activities leave began is vacant when the employe returns, in that position.

8 **SECTION 12.** 103.10 (8) (a) 2. of the statutes is amended to read:

9 103.10 (8) (a) 2. If the employment position which the employe held
10 immediately before the family leave ~~or~~, medical leave or school conference and
11 activities leave began is not vacant when the employe returns, in an equivalent
12 employment position having equivalent compensation, benefits, working shift,
13 hours of employment and other terms and conditions of employment.

14 **SECTION 13.** 103.10 (8) (b) of the statutes is amended to read:

15 103.10 (8) (b) No employer may, because an employe received family leave ~~or~~,
16 medical leave or school conference and activities leave, reduce or deny an
17 employment benefit which accrued to the employe before his or her leave began ~~or~~,
18 ~~consistent with sub. (9), accrued after his or her leave began.~~

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

20 103.10 (8) (c) Notwithstanding par. (a), if an employe on a family, medical or
21 family school conference and activities leave wishes to return to work before the end
22 of the leave as scheduled, the employer shall place the employe in an employment
23 position of the type described in par. (a) 1. or 2. within a reasonable time not
24 exceeding the duration of the leave as scheduled.

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

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1 103.10 (9) (a) Except as provided in par. (b), nothing in this section entitles a
2 returning employe to a right, employment benefit or employment position to which
3 the employe would not have been entitled had he or she not taken family leave ~~or~~,
4 medical leave or school conference and activities leave or to the accrual of any
5 seniority or employment benefit during a period of family leave ~~or~~, medical leave or
6 school conference and activities leave.

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

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

16 **SECTION 17.** 103.10 (9) (c) 4. of the statutes is amended to read:

17 103.10 (9) (c) 4. If an employe ends his or her employment with an employer
18 during or within 30 days after a period of family leave ~~or~~, medical leave or school
19 conference and activities leave, the employer may deduct from the amount returned
20 to the employe under subd. 3. any premium or similar expense paid by the employer
21 for the employe's group health insurance coverage while the employe was on family
22 leave ~~or~~, medical leave or school conference and activities leave.

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

24 103.10 (9) (d) If an employe ends his or her employment with an employer
25 during or at the end of a period of family leave ~~or~~, medical leave or school conference

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1 and activities leave, the time period for conversion to individual coverage under s.
2 632.897 (6) shall be calculated as beginning on the day that the employe began the
3 period of family leave ~~or~~, medical leave or school conference and activities leave.

4 **SECTION 19.** 103.10 (10) of the statutes is amended to read:

5 103.10 (10) ALTERNATIVE EMPLOYMENT. Nothing in this section prohibits an
6 employer and an employe with a serious health condition from mutually agreeing to
7 alternative employment for the employe while the serious health condition lasts. No
8 period of alternative employment, with the same employer, reduces the employe's
9 right to family leave ~~or~~, medical leave or school conference and activities leave.

10 **SECTION 20.** 103.10 (12) (d) of the statutes is amended to read:

11 103.10 (12) (d) The department shall issue its decision and order within 30 days
12 after the hearing. If the department finds that an employer violated sub. (11) (a) or
13 (b), it may order the employer to take action to remedy the violation, including
14 providing the requested family leave ~~or~~, medical leave or school conference and
15 activities leave, reinstating an employe, providing back pay accrued not more than
16 2 years before the complaint was filed and paying reasonable actual attorney fees to
17 the complainant.

18 **SECTION 21.** 103.10 (14) (b) of the statutes is amended to read:

19 103.10 (14) (b) Any person employing at least 25 individuals shall post, in one
20 or more conspicuous places where notices to employes are customarily posted, a
21 notice describing the person's policy with respect to leave for the reasons described
22 in subs. (3) (b) ~~and~~, (4) (a) and (4m).

23 **SECTION 22.** 108.04 (1) (b) 3. (intro.) of the statutes is amended to read:

24 108.04 (1) (b) 3. (intro.) While the employe is on family or medical leave under
25 the federal family and medical leave act of 1993 (~~P.L. 103-3~~), 29 USC 2601 to 2654,

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1 or s. 103.10 or school conference and activities leave under s. 103.10, until whichever
2 of the following occurs first:

3 **SECTION 23.** 111.91 (2) (f) of the statutes is amended to read:

4 111.91 (2) (f) Family leave and medical leave rights below the minimum
5 afforded under the federal family and medical leave act of 1993, 29 USC 2601 to 2654,
6 and s. 103.10 and school conference and activities leave rights below the minimum
7 afforded under s. 103.10. Nothing in this paragraph prohibits the employer from
8 bargaining on rights to family leave or medical leave which are more generous to the
9 employe than the rights provided under the federal family and medical leave act of
10 1993, 29 USC 2601 to 2654 and s. 103.10 and on rights to school conference and
11 activities leave which are more generous to the employe than the rights provided
12 under s. 103.10.

13 **SECTION 24.** 230.35 (2m) of the statutes is amended to read:

14 230.35 (2m) An employe shall be eligible for medical or family leave under s.
15 103.10 upon the expiration, extension or renewal of any collective bargaining
16 agreement in effect on April 26, 1988, which covers the employe. An employe shall
17 be eligible for school activities leave under s. 103.10 upon the expiration, extension
18 or renewal of any collective bargaining agreement in effect on the effective date of
19 this subsection [revisor inserts date], which covers the employe.

20 **SECTION 25.** 230.45 (1) (k) of the statutes is amended to read:

21 230.45 (1) (k) Receive and process complaints of violations relating to family
22 ~~or~~, medical or school activities leave under s. 103.10 (12).

23 **SECTION 26.** 253.10 (3) (d) 1. of the statutes is amended to read:

24 253.10 (3) (d) 1. Geographically indexed materials that are designed to inform
25 a woman about public and private agencies, including adoption agencies, and

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1 services that are available to provide information on family planning, as defined in
2 s. 253.07 (1) (a), including natural family planning information, to provide
3 ultrasound imaging services, to assist her if she has received a diagnosis that her
4 unborn child has a disability or if her pregnancy is the result of sexual assault or
5 incest and to assist her through pregnancy, upon childbirth and while the child is
6 dependent. The materials shall include a comprehensive list of the agencies
7 available, a description of the services that they offer and a description of the manner
8 in which they may be contacted, including telephone numbers and addresses, or, at
9 the option of the department, the materials shall include a toll-free, 24-hour
10 telephone number that may be called to obtain an oral listing of available agencies
11 and services in the locality of the caller and a description of the services that the
12 agencies offer and the manner in which they may be contacted. The materials shall
13 provide information on the availability of governmentally funded programs that
14 serve pregnant women and children. Services identified for the woman shall include
15 aid to families with dependent children under s. 49.19, medical assistance for
16 pregnant women and children under s. 49.47 (4) (am), the job opportunities and basic
17 skills program under s. 49.193, the availability of family ~~or~~, medical and school
18 conference and activities leave under s. 103.10, child care services, child support
19 laws and programs and the credit for expenses for household and dependent care and
20 services necessary for gainful employment under section 21 of the internal revenue
21 code. The materials shall state that it is unlawful to perform an abortion for which
22 consent has been coerced, that any physician who performs or induces an abortion
23 without obtaining the woman's voluntary and informed consent is liable to her for
24 damages in a civil action and is subject to a civil penalty, that the father of a child
25 is liable for assistance in the support of the child, even in instances in which the

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1 father has offered to pay for an abortion, and that adoptive parents may pay the costs
2 of prenatal care, childbirth and neonatal care. The materials shall include
3 information, for a woman whose pregnancy is the result of sexual assault or incest,
4 on legal protections available to the woman and her child if she wishes to oppose
5 establishment of paternity or to terminate the father's parental rights. The
6 materials shall state that fetal ultrasound imaging and auscultation of fetal heart
7 tone services are obtainable by pregnant women who wish to use them and shall
8 describe the services.

9 **SECTION 27.** 893.96 (title) of the statutes is repealed and recreated to read:

10 **893.96 (title) Family, medical and school conference and activities**
11 **leave; civil remedies.**

12 **SECTION 28. Initial applicability.**

13 (1) This act first applies to an employe, as defined in section 103.10 (1) (b) of
14 the statutes, who is affected by a collective bargaining agreement that contains
15 provisions inconsistent with this act on the day on which the collective bargaining
16 agreement expires or is extended, modified or renewed, whichever occurs first.

17 **SECTION 29. Effective date.**

18 (1) This act takes effect on the first day of the 6th month beginning after
19 publication.

20 (END)