



1995 ASSEMBLY BILL 614

October 12, 1995 – Introduced by Representatives R. YOUNG, BELL, PLACHE, WIRCH, PLOMBON, L. YOUNG, NOTESTEIN, WOOD, ROBSON, HANSON, BALDWIN and BOYLE, cosponsored by Senators CHVALA, BURKE, RISSER, CLAUSING, MOEN and MOORE. Referred to Committee on Labor and Employment.

1 **AN ACT to repeal** 103.10 (3) (a) 2., 103.10 (3) (a) 3., 103.10 (3) (b) (intro.), 103.10
2 (3) (c), 103.10 (4) (title), 103.10 (4) (b), 103.10 (12) (c), 103.10 (13) (b) 2., 103.10
3 (14) (b), 252.17 (3) (i) and 252.17 (4) (c); **to renumber** 103.10 (3) (b) 3., 103.10
4 (3) (d) and 103.10 (4) (c); **to renumber and amend** 103.10 (3) (a) 1., 103.10 (3)
5 (b) 1., 103.10 (3) (b) 2., 103.10 (4) (a), 103.10 (7) (c) and 103.10 (14) (a); **to**
6 **consolidate, renumber and amend** 103.10 (13) (b) (intro.) and 1.; **to amend**
7 103.10 (1) (a) (intro.), 103.10 (1) (a) 2., 103.10 (1) (c), 103.10 (1) (d), 103.10 (1)
8 (f), 103.10 (1) (g) (intro.), 103.10 (1) (g) 2., 103.10 (2) (c), 103.10 (3) (title), 103.10
9 (6) (a), 103.10 (6) (b) (intro.), 103.10 (6) (b) 1., 103.10 (6) (b) 2., 103.10 (7) (a),
10 103.10 (7) (b) 4., 103.10 (8) (a), 103.10 (8) (b), 103.10 (9) (b), 103.10 (12) (b),
11 103.10 (12) (d), 103.10 (13) (a), 111.322 (2m) (a), 111.322 (2m) (b), 252.17 (4) (a)
12 and 632.897 (6); **to repeal and recreate** 103.10 (8) (c), 103.10 (9) (c), 103.10
13 (9) (d) and 103.10 (11) (c); and **to create** 103.10 (4g) (title), 103.10 (7) (b) 3m.,
14 103.10 (7) (c) 2., 103.10 (7) (d), 103.10 (7) (e), 103.10 (8) (d), 103.10 (11) (d),
15 103.10 (12) (e), 103.10 (12) (f), 103.10 (12) (g), 103.10 (13) (c), 103.10 (15) and

1 103.10 (16) of the statutes; **relating to:** various changes to the family and
2 medical leave law and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill makes various changes to the Wisconsin family and medical leave law to conform that law in certain respects to the recently enacted federal family and medical leave law.

Leave requirement

Under current law, an employer, including the state, that employs at least 50 individuals on a permanent basis must permit an employe to take 6 weeks of family leave in a 12-month period and 2 weeks of medical leave in a 12-month period. This bill requires an employer, including the state, that employs at least 50 individuals for each working day for 20 or more weeks in the current or preceding year to permit an employe to take 12 weeks of family or medical leave in a 12-month period.

Under current law, an employe may take family leave for the birth or adoptive placement of the employe's child, if the leave begins within 16 weeks after the birth or placement. This bill permits an employe to begin family leave within 12 months after the birth or placement of a child and permits family leave for a foster care placement as well.

Under current law, an employe may also take family leave to care for a child, spouse or parent, including a spouse's parent, who has a serious health condition. This bill expands the definition of "child" to include an individual for whom the employe stands in the place of a parent without having formally adopted or assumed guardianship of that individual. The bill also expands the definition of "parent" to include an individual who stood in the place of a parent of the employe or the employe's spouse when the employe or spouse was a child without having formally adopted or assumed guardianship of that individual.

Under current law, if an employe intends to take leave for the birth or placement of a child or for planned medical treatment, the employe must give notice to the employer in a manner that is reasonable and practicable. This bill requires the employe to give 30 days' notice in those situations that are foreseeable, unless the birth or placement will take place, or the medical treatment will begin, within 30 days, in which case the bill permits reasonable and practicable notice.

Certification

Under current law, an employer may require an employe to obtain a 2nd opinion, at the employer's expense, concerning the certification provided by the employe's health care provider. Also under current law, if the employe has commenced an administrative proceeding regarding the alleged denial of leave due to a serious health condition of the employe or of a child, spouse or parent, and if the original certification and 2nd opinion differ, the department of industry, labor and human relations (DILHR) may appoint a health care provider to render a 3rd opinion, with the expense of obtaining that opinion to be shared equally by the employer and employe. This bill permits the employer to require the employe, prior

to any administrative proceedings, to obtain a 3rd opinion, at the employer's expense, if the original certification and 2nd opinion differ. The employer and employe must jointly designate the 3rd opinion provider.

Employment and benefits protection

Under current law, upon the return of an employe from family or medical leave, an employer must place the employe in the position the employe held immediately before that leave began, if the position is vacant, or, if the position is not vacant, in an equivalent employment position having equivalent pay, benefits, and other terms and conditions of employment. This bill permits the employer to place a returning employe either in the employe's old position or in an equivalent position without regard to whether the old position is vacant. The bill specifies that to be reinstated, the employe must have actually taken the leave for the purpose for which it was intended. The bill also permits an employer to require an employe who is on leave to report to the employer periodically on the employe's status and intention of returning to work.

Under current law, an employer must maintain group health insurance coverage for an employe on leave under the conditions that applied immediately before the leave. This bill requires an employer to maintain that coverage at the level and under the conditions that the employer would have provided coverage if the employe had continued in employment.

Under current law, an employer may require an employe to place in escrow with the employer the premium for 8 weeks of group health insurance coverage and the employer may keep from that escrow account the amount that the employer paid for that coverage if the employe does not return from leave. This bill eliminates the escrow requirement, but permits the employer to recover those premiums if the employe does not return to work for reasons other than the recurrence, onset or continuation of a serious health condition or other circumstances beyond the employe's control.

Enforcement

Under current law, an employe who believes that his or her employer has violated the family or medical leave law may file a complaint with DILHR within 30 days after the employe knew or should have known of the violation. This bill extends that time limit to 300 days after the date of the last event constituting the alleged violation.

Under current law, if DILHR finds that an employer has violated the family or medical leave law, DILHR may order the employer to take action to remedy the violation, including providing the requested leave, reinstating the employe, providing back pay accrued not more than 2 years before the complaint was filed and paying reasonable actual attorney fees. This bill eliminates the 2-year limit on back pay and includes among the remedies that DILHR may order promoting the employe and providing benefits to the employe.

Under current law, an employe or DILHR may bring a civil action in circuit court against an employer to recover damages caused by a violation of the family or medical leave law. Currently, a civil action under the family or medical leave law must be commenced within the later of 60 days after the completion of an

administrative proceeding, including judicial review, for the violation or 12 months after the violation occurred or the employe or DILHR reasonably should have known that the violation occurred, or be barred. This bill permits an employe or DILHR to bring an action on behalf of the employe, or on behalf of the employe and other employes similarly situated. The bill also eliminates the 12-month period within which an action must be commenced so that an action must be commenced within 60 days after the completion of administrative proceedings. Finally, the bill specifies that, if the circuit court finds that an employer has violated the family and medical leave law, the circuit court may order the employer to take action to remedy the violation and to pay the following damages:

1. Damages equal to the amount of compensation the employe lost because of the violation or, if the employe did not lose any compensation, any actual monetary loss sustained as a direct result of the violation up to a sum equal to 12 weeks of wages or salary.

2. As liquidated damages, an amount equal to the damages described in paragraph 1., except that the court may reduce the amount of damages to the amount described in paragraph 1. if the court finds that the violation was committed in good faith and that the employer had reasonable grounds to believe that his or her act or omission was not a violation of the family or medical leave law.

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 (1) (a) (intro.) of the statutes is amended to read:

2 103.10 (1) (a) (intro.) “Child” means a natural, adopted, foster or treatment
3 foster child, a stepchild or a legal ward, or an individual for whom an employe stands
4 in the place of a parent, to whom any of the following applies:

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

6 103.10 (1) (a) 2. The individual is 18 years of age or older and ~~cannot care for~~
7 ~~himself or herself~~ is incapable of self-care because of a ~~serious health condition~~
8 mental or physical disability.

9 **SECTION 3.** 103.10 (1) (c) of the statutes is amended to read:

1 103.10 (1) (c) ~~Except as provided in sub. (14) (b), “employer”~~ “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~~ for each working day during each of 20 or
4 more calendar weeks in the current or preceding year. “Employer” includes the state
5 and any office, department, independent agency, authority, institution, association,
6 society or other body in state government created or authorized to be created by the
7 constitution or any law, including the legislature and the courts. “Employer” also
8 includes any person who acts, directly or indirectly, in the interest of an employer
9 with respect to an employe and any successor in interest of an employer.

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

11 103.10 (1) (d) “Employment benefit” means ~~an insurance, leave or retirement~~
12 a benefit which that an employer provides or makes available to an employe,
13 including group life insurance, health insurance, disability insurance, sick leave,
14 annual leave, educational benefits and pensions, regardless of whether those
15 benefits are provided by a practice or policy of the employer or through an employe
16 benefit plan, as defined in 29 USC 1002 (3).

17 **SECTION 5.** 103.10 (1) (f) of the statutes is amended to read:

18 103.10 (1) (f) “Parent” means a natural parent, foster parent, treatment foster
19 parent, adoptive parent, stepparent or legal guardian of an employe or an employe’s
20 spouse or a person who stood in the place of a parent of the employe or the employe’s
21 spouse when the employe or spouse was a child.

22 **SECTION 6.** 103.10 (1) (g) (intro.) of the statutes is amended to read:

23 103.10 (1) (g) (intro.) “Serious health condition” means ~~a disabling physical or~~
24 mental an illness, injury, impairment or physical or mental condition involving any
25 of the following:

1 **SECTION 7.** 103.10 (1) (g) 2. of the statutes is amended to read:

2 103.10 (1) (g) 2. ~~Outpatient care that requires continuing~~ Continuing
3 ~~treatment or supervision~~ by a health care provider.

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

5 103.10 (2) (c) This section only applies to an employe who has been employed
6 for more than 52 consecutive weeks by the same employer ~~for more than 52~~
7 ~~consecutive weeks from whom leave under sub. (3) is requested~~ and who worked for
8 ~~the~~ that employer for at least 1,000 hours during the preceding 52-week period.

9 **SECTION 9.** 103.10 (3) (title) of the statutes is amended to read:

10 103.10 (3) (title) ~~FAMILY~~ ENTITLEMENT TO LEAVE.

11 **SECTION 10.** 103.10 (3) (a) 1. of the statutes is renumbered 103.10 (3) (intro.)
12 and amended to read:

13 103.10 (3) (intro.) In a 12-month period ~~no~~ an employe may take ~~more than 6~~
14 12 weeks of family leave under par. (b) 1. and 2. for any one or more of the following
15 reasons:

16 **SECTION 11.** 103.10 (3) (a) 2. of the statutes is repealed.

17 **SECTION 12.** 103.10 (3) (a) 3. of the statutes is repealed.

18 **SECTION 13.** 103.10 (3) (b) (intro.) of the statutes is repealed.

19 **SECTION 14.** 103.10 (3) (b) 1. of the statutes is renumbered 103.10 (3) (a) and
20 amended to read:

21 103.10 (3) (a) ~~The~~ Because of the birth of the employe's natural child, if the
22 leave is taken to care for the child and if the leave begins within ~~16 weeks of 12~~
23 months after the child's birth.

24 **SECTION 15.** 103.10 (3) (b) 2. of the statutes is renumbered 103.10 (3) (b) and
25 amended to read:

1 103.10 (3) (b) ~~The Because of the placement of a child with the employe for~~
2 ~~adoption or as a precondition to adoption under s. 48.90 (2), but not both, or for foster~~
3 ~~care, if the leave is taken to care for the child and if the leave begins within ~~16 weeks~~~~
4 ~~of 12 months after the child's placement.~~

5 **SECTION 16.** 103.10 (3) (b) 3. of the statutes is renumbered 103.10 (3) (c).

6 **SECTION 17.** 103.10 (3) (c) of the statutes is repealed.

7 **SECTION 18.** 103.10 (3) (d) of the statutes is renumbered 103.10 (4g) (a).

8 **SECTION 19.** 103.10 (4) (title) of the statutes is repealed.

9 **SECTION 20.** 103.10 (4) (a) of the statutes is renumbered 103.10 (3) (d) and
10 amended to read:

11 103.10 (3) (d) ~~Subject to pars. (b) and (c), an employe who has Because of a~~
12 ~~serious health condition which that makes the employe unable to perform his or her~~
13 ~~employment duties may take medical leave for the period during which he or she is~~
14 ~~unable to perform those the duties of the employe's position.~~

15 **SECTION 21.** 103.10 (4) (b) of the statutes is repealed.

16 **SECTION 22.** 103.10 (4) (c) of the statutes is renumbered 103.10 (4g) (b).

17 **SECTION 23.** 103.10 (4g) (title) of the statutes is created to read:

18 103.10 (4g) (title) SCHEDULING OF LEAVE.

19 **SECTION 24.** 103.10 (6) (a) of the statutes is amended to read:

20 103.10 (6) (a) If an employe intends to take ~~family leave for the reasons in under~~
21 ~~sub. (3) (b) 1. or 2. (a) or (b) that is foreseeable because of the expected birth or~~
22 ~~placement of a child, the employe shall, ~~in a reasonable and practicable manner,~~ give~~
23 ~~the employer advance notice of the expected birth or placement employe's intention~~
24 ~~to take that leave not less than 30 days before the date the leave is to begin, except~~
25 ~~that if the date of the birth or placement requires the leave to begin in less than 30~~

1 days, the employe shall provide notice to the employer in a reasonable and
2 practicable manner.

3 **SECTION 25.** 103.10 (6) (b) (intro.) of the statutes is amended to read:

4 103.10 (6) (b) (intro.) If an employe intends to take family leave under sub. (3)
5 (c) or (d) because of the planned medical treatment or supervision of the employe or
6 of a child, spouse or parent or intends to take medical leave because of the planned
7 medical treatment or supervision of the employe, the employe shall do all of the
8 following:

9 **SECTION 26.** 103.10 (6) (b) 1. of the statutes is amended to read:

10 103.10 (6) (b) 1. Make a reasonable effort to schedule the medical treatment
11 ~~or supervision~~ so that it does not unduly disrupt the employer's operations, subject
12 to the approval of the health care provider of the child, spouse, parent or employe.

13 **SECTION 27.** 103.10 (6) (b) 2. of the statutes is amended to read:

14 103.10 (6) (b) 2. Give the employer ~~advance~~ notice of the ~~medical treatment or~~
15 ~~supervision~~ employe's intention to take that leave not less than 30 days before the
16 leave is to begin, except that if the date of the treatment requires the leave to begin
17 in less than 30 days, the employe shall provide notice to the employer in a reasonable
18 and practicable manner.

19 **SECTION 28.** 103.10 (7) (a) of the statutes is amended to read:

20 103.10 (7) (a) If an employe requests family leave ~~for a reason described in~~
21 under sub. (3) (b) 3. or requests medical leave (c) or (d), the employer may require the
22 employe to provide certification, as described in par. (b), issued by the health care
23 provider or Christian Science practitioner of the child, spouse, parent or employe,
24 whichever is appropriate, and the employe shall provide a copy of that certification
25 to the employer in a timely manner.

1 **SECTION 29.** 103.10 (7) (b) 3m. of the statutes is created to read:

2 103.10 (7) (b) 3m. If the employe requests leave under sub. (3) (c), a statement
3 that the employe is needed to care for a child, spouse or parent who has a serious
4 health condition and an estimate of the amount of time that the employe is needed
5 to care for the child, spouse or parent.

6 **SECTION 30.** 103.10 (7) (b) 4. of the statutes is amended to read:

7 103.10 (7) (b) 4. If the employe requests ~~medical leave, an explanation of the~~
8 ~~extent to which~~ under sub. (3) (d), a statement that the employe is unable to perform
9 ~~his or her employment~~ the duties of the employe's position.

10 **SECTION 31.** 103.10 (7) (c) of the statutes is renumbered 103.10 (7) (c) 1. and
11 amended to read:

12 103.10 (7) (c) 1. ~~The~~ If the employer has reason to doubt the validity of a
13 certification provided under par. (a), the employer may require the employe to obtain
14 the opinion of a 2nd health care provider, ~~chosen~~ designated, or approved, and paid
15 for by the employer, concerning any information certified under par. (b).

16 **SECTION 32.** 103.10 (7) (c) 2. of the statutes is created to read:

17 103.10 (7) (c) 2. A health care provider designated or approved under subd. 1.
18 may not be employed on a regular basis by the employer.

19 **SECTION 33.** 103.10 (7) (d) of the statutes is created to read:

20 103.10 (7) (d) If a 2nd opinion obtained under par. (c) 1. differs from the opinion
21 in the certification provided under par. (a), the employer may require the employe
22 to obtain the opinion of a 3rd health care provider, designated, or approved, by the
23 employer and employe jointly and paid for by the employer, concerning any
24 information certified under par. (b). The employer and employe shall accept the 3rd
25 opinion obtained under this paragraph as final and binding upon them.

1 **SECTION 34.** 103.10 (7) (e) of the statutes is created to read:

2 103.10 (7) (e) The employer may require that an employe obtain
3 recertifications after the original certification under par. (b) on a reasonable basis.

4 **SECTION 35.** 103.10 (8) (a) of the statutes is amended to read:

5 103.10 (8) (a) Subject to par. ~~(e)~~ (d), when an employe ~~returns from~~ who takes
6 family leave or medical leave for the purpose for which that leave is intended returns
7 from that leave, his or her employer shall immediately place the employe in an
8 employment position as follows:

9 1. If In the employment position which the employe held immediately before
10 when the family leave or medical leave began is ~~vacant when the employe returns,~~
11 ~~in that position.~~

12 2. If ~~the employment position which the employe held immediately before the~~
13 ~~family leave or medical leave began is not vacant when the employe returns, in~~ In
14 an equivalent employment position having equivalent compensation, employment
15 ~~benefits, working shift, hours of employment and other terms and conditions of~~
16 employment.

17 **SECTION 36.** 103.10 (8) (b) of the statutes is amended to read:

18 103.10 (8) (b) No employer may, because an employe received family leave or
19 medical leave, reduce or deny an employment benefit which accrued to the employe
20 before his or her leave began ~~or, consistent with sub. (9), accrued after his or her leave~~
21 began.

22 **SECTION 37.** 103.10 (8) (c) of the statutes is repealed and recreated to read:

23 103.10 (8) (c) An employer may require an employe who is on family or medical
24 leave to report periodically to the employer on the employe's status and intention of
25 returning to work.

1 **SECTION 38.** 103.10 (8) (d) of the statutes is created to read:

2 103.10 (8) (d) Notwithstanding par. (a), an employer may adopt a uniformly
3 applied practice or policy that requires an employe who is returning from leave under
4 sub. (3) (d) to obtain a certification from the employe's health care provider that the
5 employe is able to return to work.

6 **SECTION 39.** 103.10 (9) (b) of the statutes is amended to read:

7 103.10 (9) (b) Subject to par. (c), during a period that an employe takes family
8 leave or medical leave, his or her employer shall maintain group health insurance
9 coverage at the level and under the conditions that applied immediately before the
10 family leave or medical leave began. ~~If the employe continues making any~~
11 ~~contribution required for participation in the group health insurance plan, the~~
12 ~~employer shall continue making group health insurance premium contributions as~~
13 ~~if the employe had not taken the family leave or medical~~ the employer would have
14 provided coverage if the employe had continued in employment continuously during
15 that leave.

16 **SECTION 40.** 103.10 (9) (c) of the statutes is repealed and recreated to read:

17 103.10 (9) (c) An employer may recover from an employe the premium paid by
18 the employer to maintain group health insurance coverage for the employe during
19 a period of unpaid family leave or medical leave if the employe fails to return from
20 that leave after the period of leave to which the employe is entitled has expired for
21 a reason other than the continuation, recurrence or onset of a serious health
22 condition that entitles the employe to leave under sub. (3) (c) or (d) or other
23 circumstances beyond the control of the employe.

24 **SECTION 41.** 103.10 (9) (d) of the statutes is repealed and recreated to read:

1 103.10 (9) (d) If an employe claims that he or she is unable to return to work
2 because of the continuation, recurrence or onset of a serious health condition as
3 described in par. (c), the employer may require the employe to provide certification
4 issued by the health care provider or Christian Science practitioner of the child,
5 spouse, parent or employe, whichever is appropriate, that the employe was needed
6 to care for his or her child, spouse or parent on the day that the employe's leave
7 expired or that a serious health condition prevented the employe from being able to
8 perform the duties of the employe's position on the day that the employe's leave
9 expired. The employe shall provide a copy of the certification under this paragraph
10 to the employer in a timely manner.

11 **SECTION 42.** 103.10 (11) (c) of the statutes is repealed and recreated to read:

12 103.10 (11) (c) 1. No person may discharge or in any manner discriminate
13 against any individual for filing a complaint or attempting to enforce any right under
14 this section or for testifying or assisting in any action or proceeding to enforce any
15 right under this section.

16 2. No person may discharge or in any manner discriminate against any
17 individual because that person believes that the individual has engaged or may
18 engage in an activity described in subd. 1.

19 **SECTION 43.** 103.10 (11) (d) of the statutes is created to read:

20 103.10 (11) (d) Notwithstanding pars. (a) to (c), any action taken by an
21 employer to comply with 29 USC 2601 to 2654 is not considered to be a violation of
22 this section.

23 **SECTION 44.** 103.10 (12) (b) of the statutes is amended to read:

24 103.10 (12) (b) An employe who believes that his or her employer has violated
25 sub. (11) (a) or (b) may, ~~within 30 days after the violation occurs or the employe should~~

1 ~~reasonably have known that the violation occurred, whichever is later,~~ file a
2 complaint with the department alleging the violation. A complaint under this
3 subsection may be filed no later than 300 days after the date of the last event
4 constituting the alleged violation for which the complaint is brought. Except as
5 provided in s. 230.45 (1m), the department shall investigate the complaint and shall
6 attempt to resolve the complaint by conference, conciliation or persuasion. If the
7 complaint is not resolved and the department finds probable cause to believe a
8 violation has occurred, the department shall proceed with notice and a hearing on
9 the complaint as provided in ch. 227. The hearing shall be held within 60 days after
10 the department receives the complaint.

11 **SECTION 45.** 103.10 (12) (c) of the statutes is repealed.

12 **SECTION 46.** 103.10 (12) (d) of the statutes is amended to read:

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

20 **SECTION 47.** 103.10 (12) (e) of the statutes is created to read:

21 103.10 (12) (e) Any respondent or complainant who is dissatisfied with the
22 findings and order of the examiner may file a written petition with the department
23 for review by the commission of the findings and order.

24 **SECTION 48.** 103.10 (12) (f) of the statutes is created to read:

1 103.10 (12) (f) If no petition is filed within 21 days from the date that a copy
2 of the findings and order of the examiner is mailed to the last-known address of the
3 respondent, the findings and order shall be considered final. If a timely petition is
4 filed, the commission, on review, may either affirm, reverse or modify the findings
5 or order in whole or in part, or set aside the findings and order and remand to the
6 department for further proceedings. Such actions shall be based on a review of the
7 evidence submitted. If the commission is satisfied that a respondent or complainant
8 has been prejudiced because of exceptional delay in the receipt of a copy of any
9 findings and orders it may extend the time another 21 days for filing the petition with
10 the department.

11 **SECTION 49.** 103.10 (12) (g) of the statutes is created to read:

12 103.10 (12) (g) On motion, the commission may set aside, modify or change any
13 decision made by the commission, at any time within 28 days from the date thereof
14 if it discovers any mistake therein, or upon the grounds of newly discovered evidence.
15 The commission may on its own motion, for reasons it considers sufficient, set aside
16 any final decision of the commission within one year after the date thereof upon
17 grounds of mistake or newly discovered evidence, and remand the case to the
18 department for further proceedings.

19 **SECTION 50.** 103.10 (13) (a) of the statutes is amended to read:

20 103.10 (13) (a) An employe or the department may bring an action in circuit
21 court against an employer on behalf of the employe, or on behalf of the employe and
22 other employes similarly situated, to recover damages, as described in par. (c),
23 caused by a violation of sub. (11) after the completion of an administrative
24 proceeding, including judicial review, concerning the same violation.

1 **SECTION 51.** 103.10 (13) (b) (intro.) and 1. of the statutes are consolidated,
2 renumbered 103.10 (13) (b) and amended to read:

3 103.10 **(13)** (b) An action under par. (a) shall be commenced within the later
4 of the following periods, ~~or be barred:~~ ~~1. Within 60 days from~~ after the completion
5 of an administrative proceeding, including judicial review, concerning the same
6 violation, or be barred.

7 **SECTION 52.** 103.10 (13) (b) 2. of the statutes is repealed.

8 **SECTION 53.** 103.10 (13) (c) of the statutes is created to read:

9 103.10 **(13)** (c) If a circuit court finds that an employer has violated sub. (11),
10 it may order the employer to take action to remedy the violation, including providing
11 requested family leave or medical leave, reinstating an employe, promoting an
12 employe and paying reasonable actual attorney fees to the complainant,
13 notwithstanding s. 814.04 (1), and to pay all of the following damages to the affected
14 employe:

15 1. Damages equal to the amount of any wages, salary, employment benefits or
16 other compensation that was denied to or lost by the employe because of the violation
17 or, if the employe has not lost or been denied any wages, salary, employment benefits
18 or other compensation, any actual monetary losses sustained by the employe as a
19 direct result of the violation up to a sum equal to 12 weeks of wages or salary for the
20 employe.

21 2. As liquidated damages, an amount equal to the damages described in subd.
22 1., except that the court may reduce the amount of damages that the employer is
23 liable for to the amount described in subd. 1. if the employer shows that the act or
24 omission that was in violation of sub. (11) was in good faith and that the employer

1 had reasonable grounds to believe that the act or omission was not a violation of sub.
2 (11).

3 **SECTION 54.** 103.10 (14) (a) of the statutes is renumbered 103.10 (14) and
4 amended to read:

5 103.10 (14) NOTICE POSTED. Each employer shall post, in ~~one or more~~
6 conspicuous places on the employer's premises where notices to employes and
7 applicants for employment are customarily posted, a notice in a form prepared or
8 approved by the department setting forth employes' rights under this section
9 excerpts from, or summaries of, the pertinent provisions of this section and
10 information relating to the filing of a complaint under sub. (12) or a civil action under
11 sub. (13). Any employer who wilfully violates this subsection shall forfeit not more
12 than \$100 for each offense.

13 **SECTION 55.** 103.10 (14) (b) of the statutes is repealed.

14 **SECTION 56.** 103.10 (15) of the statutes is created to read:

15 103.10 (15) LOCAL ORDINANCES. A county, city, village or town may enact an
16 ordinance that provides employes with rights to family leave or medical leave that
17 are more generous to the employe than the rights provided under this section.

18 **SECTION 57.** 103.10 (16) of the statutes is created to read:

19 103.10 (16) RULES. The department shall promulgate rules to implement this
20 section. Those rules shall conform to 29 CFR 825 to the extent that 29 CFR 825 is
21 consistent with this section.

22 **SECTION 58.** 111.322 (2m) (a) of the statutes is amended to read:

23 111.322 (2m) (a) The individual files a complaint or attempts to enforce any
24 right under s. 103.02, ~~103.10~~, 103.13, 103.28, 103.32, 103.455, 103.50, 104.12, 109.03
25 or 109.07 or ss. 101.58 to 101.599 or 103.64 to 103.82.

1 **SECTION 59.** 111.322 (2m) (b) of the statutes is amended to read:

2 111.322 **(2m)** (b) The individual testifies or assists in any action or proceeding
3 held under or to enforce any right under s. 103.02, ~~103.10~~, 103.13, 103.28, 103.32,
4 103.455, 103.50, 104.12, 109.03 or 109.07 or ss. 101.58 to 101.599 or 103.64 to 103.82.

5 **SECTION 60.** 252.17 (3) (i) of the statutes is repealed.

6 **SECTION 61.** 252.17 (4) (a) of the statutes is amended to read:

7 252.17 **(4)** (a) Except as provided in ~~pars. (b) and (e)~~ par. (b), if an individual
8 satisfies sub. (3), the department shall pay the amount of each premium payment for
9 coverage under the group health plan under sub. (3) (d) that is due from the
10 individual on or after the date on which the individual becomes eligible for a subsidy
11 under sub. (3). The department may not refuse to pay the full amount of the
12 individual's contribution to each premium payment because the coverage that is
13 provided to the individual who satisfies sub. (3) includes coverage of the individual's
14 spouse and dependents. Except as provided in par. (b), the department shall
15 terminate the payments under this section when the individual's unpaid medical
16 leave ends, when the individual no longer satisfies sub. (3) or upon the expiration of
17 29 months after the unpaid medical leave began, whichever occurs first.

18 **SECTION 62.** 252.17 (4) (c) of the statutes is repealed.

19 **SECTION 63.** 632.897 (6) of the statutes is amended to read:

20 632.897 **(6)** If the terminated insured elects to continue group coverage as
21 provided in this section, the insurer may require conversion to individual coverage
22 by the terminated insured and his or her spouse and dependents 18 months after the
23 terminated insured elects the group coverage ~~except as provided in s. 103.10 (9) (d)~~.
24 The conditions, rights and procedures governing conversion under sub. (4) (a) apply
25 to this conversion.

