

2009 SENATE BILL 86

February 25, 2009 – Introduced by Senators CARPENTER, LASSA, LEHMAN, PLALE, TAYLOR, ERPENBACH, MILLER and HANSEN, cosponsored by Representatives BLACK, A. OTT, SMITH, ZIGMUNT, SINICKI, BENEDICT, PARISI, POPE-ROBERTS, POCAN, GRIGSBY, A. WILLIAMS, YOUNG, CULLEN, FIELDS, ZEPNICK, PASCH, BERCEAU and SOLETSKI. Referred to Committee on Children and Families and Workforce Development.

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), 111.91 (2) (f), 230.35
 5 (2m) and 253.10 (3) (d) 1.; *to repeal and recreate* 893.96 (title); and *to create*
 6 103.10 (1) (fr), 103.10 (4m), 103.10 (5) (b) 2. and 103.10 (6) (c) of the statutes;
 7 **relating to:** school conference and activities leave.

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 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-week period 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

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leave, other types of paid or unpaid leave provided by the employer. An employee 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 employee 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* employee of an employer, including the state, 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 employee'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 employee's child, if that observation and monitoring cannot be scheduled during nonworking hours. An employee 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 employee may not substitute paid leave for school conference and activities leave for attending a school conference or activity for less than one hour. An employee who intends to take leave to attend a school conference or activity must give the employer advance notice of the conference or activity and must make a reasonable effort to schedule the conference or activity 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 Children and Families 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 or private preschool or prekindergarten, or a public 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 or private preschool or prekindergarten, or a public or private school that
3 provides an educational program for one or more grades between kindergarten and
4 12 and that is commonly known as a kindergarten, elementary school, middle school,
5 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 employees with rights to family leave or, medical leave which, or school conference
9 and activities leave that are more generous to the employee than the rights provided
10 under 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 employee 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 employee 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 employee 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 employee’s child that cannot be scheduled during nonwork
22 hours. An employee 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 employee’s child by a child care provider, as defined in s. 49.001 (1), or a public

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1 or private preschool or prekindergarten, if that observation and monitoring cannot
2 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 employee to receive wages or
5 salary while taking family leave or, medical leave, or school conference and activities
6 leave.

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

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

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

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

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

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

20 1. Make a reasonable effort to schedule the conference or activity so that it does
21 not unduly disrupt the employer's operations.

22 2. Give the employer advance notice of the conference or activity in a reasonable
23 and practicable manner.

24 **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 employee returns from family
2 leave ~~or~~ medical leave, or school conference and activities leave, his or her employer
3 shall immediately place the employee 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 employee held
6 immediately before the family leave ~~or~~ medical leave, or school conference and
7 activities leave began is vacant when the employee 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 employee held
10 immediately before the family leave ~~or~~ medical leave, or school conference and
11 activities leave began is not vacant when the employee 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 employee received family leave ~~or~~
16 medical leave, or school conference and activities leave, reduce or deny an
17 employment benefit ~~which~~ that accrued to the employee before his or her leave began
18 or, 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 employee on ~~a~~ family, medical or
21 family, or school conference and activities leave wishes to return to work before the
22 end of the leave as scheduled, the employer shall place the employee in an
23 employment position of the type described in par. (a) 1. or 2. within a reasonable time
24 not 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 employee to a right, employment benefit, or employment position to which
3 the employee 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 employee 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 employee 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 employee 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 employee 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 employee under subd. 3. any premium or similar expense paid by the employer
21 for the employee's group health insurance coverage while the employee 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 employee 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~~ on which the employee
3 began the period of family leave ~~or~~, medical leave, or school conference and activities
4 leave.

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

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

12 **SECTION 20.** 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 the requested family leave ~~or~~, medical leave, or school conference and
17 activities leave, reinstating an employee, providing back pay accrued not more than
18 2 years before the complaint was filed, and paying reasonable actual attorney fees
19 to the complainant.

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

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

25 **SECTION 22.** 111.91 (2) (f) of the statutes is amended to read:

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1 111.91 (2) (f) Family leave and medical leave rights below the minimum
2 afforded under the federal Family and Medical Leave Act of 1993, 29 USC 2601 to
3 2654, and s. 103.10 and school conference and activities leave rights below the
4 minimum afforded under s. 103.10. Nothing in this paragraph prohibits the
5 employer from bargaining on rights to family leave or medical leave which ~~that~~ are
6 more generous to the employee than the rights provided under the federal Family
7 and Medical Leave Act of 1993, 29 USC 2601 to 2654, and s. 103.10 and on rights to
8 school conference and activities leave that are more generous to the employee than
9 the rights provided under s. 103.10.

10 **SECTION 23.** 230.35 (2m) of the statutes is amended to read:

11 230.35 (2m) An employee shall be eligible for medical or family leave under s.
12 103.10 upon the expiration, extension, or renewal of any collective bargaining
13 agreement in effect on April 26, 1988, ~~which that~~ covers the employee. An employee
14 shall be eligible for school conference and activities leave under s. 103.10 upon the
15 expiration, extension, or renewal of any collective bargaining agreement in effect on
16 the effective date of this subsection ... [LRB inserts date], that covers the employee.

17 **SECTION 24.** 253.10 (3) (d) 1. of the statutes is amended to read:

18 253.10 (3) (d) 1. Geographically indexed materials that are designed to inform
19 a woman about public and private agencies, including adoption agencies, and
20 services that are available to provide information on family planning, as defined in
21 s. 253.07 (1) (a), including natural family planning information, to provide
22 ultrasound imaging services, to assist her if she has received a diagnosis that her
23 unborn child has a disability or if her pregnancy is the result of sexual assault or
24 incest, and to assist her through pregnancy, upon childbirth, and while the child is
25 dependent. The materials shall include a comprehensive list of the agencies

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1 available, a description of the services that they offer, and a description of the
2 manner in which they may be contacted, including telephone numbers and
3 addresses, or, at the option of the department, the materials shall include a toll-free,
4 24-hour telephone number that may be called to obtain an oral listing of available
5 agencies and services in the locality of the caller and a description of the services that
6 the agencies offer and the manner in which they may be contacted. The materials
7 shall provide information on the availability of governmentally funded programs
8 that serve pregnant women and children. Services identified for the woman shall
9 include medical assistance for pregnant women and children under ~~s. ss.~~ ss. 49.47 (4)
10 (am) and 49.471, the availability of family ~~or~~ medical, and school conference and
11 activities leave under s. 103.10, the Wisconsin ~~works~~ Works program under ss.
12 49.141 to 49.161, child care services, child support laws and programs, and the credit
13 for expenses for household and dependent care and services necessary for gainful
14 employment under section 21 of the ~~internal revenue code~~ Internal Revenue Code.
15 The materials shall state that it is unlawful to perform an abortion for which consent
16 has been coerced, that any physician who performs or induces an abortion without
17 obtaining the woman's voluntary and informed consent is liable to her for damages
18 in a civil action and is subject to a civil penalty, that the father of a child is liable for
19 assistance in the support of the child, even in instances in which the father has
20 offered to pay for an abortion, and that adoptive parents may pay the costs of
21 prenatal care, childbirth, and neonatal care. The materials shall include
22 information, for a woman whose pregnancy is the result of sexual assault or incest,
23 on legal protections available to the woman and her child if she wishes to oppose
24 establishment of paternity or to terminate the father's parental rights. The
25 materials shall state that fetal ultrasound imaging and auscultation of fetal heart

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1 tone services are obtainable by pregnant women who wish to use them and shall
2 describe the services.

3 **SECTION 25.** 893.96 (title) of the statutes is repealed and recreated to read:

4 **893.96 (title) Family, medical, and school conference and activities**
5 **leave; civil remedies.**

6 **SECTION 26. Initial applicability.**

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

11 **SECTION 27. Effective date.**

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

14 (END)