



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-4980/1
KRP:kjf

2017 ASSEMBLY BILL 858

January 19, 2018 - Introduced by Representatives POPE, SARGENT, HEBL, KOLSTE, OHNSTAD, BERCEAU, SUBECK, HESSELBEIN, VRUWINK, C. TAYLOR, SINICKI, ANDERSON, SPREITZER, BROSTOFF and ZEPNICK, cosponsored by Senators RINGHAND, JOHNSON, CARPENTER and MILLER. Referred to Committee on Labor.

AUTHORS SUBJECT TO CHANGE

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

Analysis by the Legislative Reference Bureau

This bill allows certain employees to take leave from employment to attend school conferences and classroom activities for the employees' children.

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

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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, domestic partner, 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. 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. Also, if an employee requests family or medical leave due to a serious health condition of the employee or of a child, spouse, domestic partner, or parent, the employer may require certification of that condition from a health care provider or a Christian Science practitioner.

The bill allows an employee of an employer 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 or to observe and monitor the child care, preschool, or prekindergarten services or programming received by an employee's child, if that observation and monitoring cannot be scheduled during nonworking hours. School conference and activities leave, however, may not be taken for the purpose of accompanying an outing or field trip of a school or nonprofit organization.

An employee is not entitled to receive wages or salary while taking school conference and activities leave, but may substitute, for portions of that leave, other types of paid or unpaid leave provided by the employer, except that an employee may not substitute paid leave for that 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 the conference or activity does not unduly disrupt the operations of the employer. When an employee returns from school conference and activities leave, the employer may require the employee to provide, in a reasonable and practicable manner, documentation from the employee's child's school stating no more than that the employee was attending a school conference or classroom activity or was observing and monitoring child care, preschool, or prekindergarten services and programming during the period of that leave.

For purposes of the bill, "school" means a child care center licensed by the Department of Children and Families, a child care provider certified for funding by a county department of human services or social services, a child care program established or contracted for by a school board, a public or private preschool or

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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:

5 103.10 (1) (fr) "School" means a child care provider, as defined in s. 49.001 (1),
6 a public or private preschool or prekindergarten, or a public or private school that
7 provides an educational program for one or more grades between kindergarten and
8 12 and that is commonly known as a kindergarten, elementary school, middle school,
9 junior high school, senior high school, or high school.

10 **SECTION 3.** 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 and school conference and activities leave that is uniform throughout the state is a
13 matter of statewide concern and that the enactment of an ordinance by a city, village,
14 town, or county that requires employers to provide employees with leave from
15 employment, paid or unpaid, for any of the reasons specified in par. (c) would be
16 logically inconsistent with, would defeat the purpose of, and would go against the
17 spirit of this section. Therefore, this section shall be construed as an enactment of
18 statewide concern for the purpose of providing family and, medical, and school
19 conference and activities leave that is uniform throughout the state.

20 **SECTION 4.** 103.10 (1m) (c) 5. of the statutes is created to read:

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1 103.10 **(1m)** (c) 5. To attend a school conference or classroom activity relating
2 to the employee's child or to observe or monitor a service or programming provided
3 to the employee's child by a school.

4 **SECTION 5.** 103.10 (1m) (e) of the statutes is renumbered 103.10 (1m) (e) 1. and
5 amended to read:

6 103.10 **(1m)** (e) 1. Any city, village, town, or county ordinance requiring an
7 employer to provide an employee with leave from employment, paid or unpaid, for
8 any of the reasons specified in par. (c) 1. to 4. that is in effect on May 20, 2011, is void.

9 **SECTION 6.** 103.10 (1m) (e) 2. of the statutes is created to read:

10 103.10 **(1m)** (e) 2. Any city, village, town, or county ordinance requiring an
11 employer to provide an employee with leave from employment, paid or unpaid, for
12 any of the reasons specified in par. (c) 5. that is in effect on the effective date of this
13 subdivision [LRB inserts date], is void.

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

15 103.10 **(2)** (a) Nothing in this section prohibits an employer from providing
16 employees with rights to family leave or, medical leave ~~which, or school conference~~
17 and activities leave that are more generous to the employee than the rights provided
18 under this section.

19 **SECTION 8.** 103.10 (4m) of the statutes is created to read:

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

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1 private preschool or prekindergarten, if that observation and monitoring cannot be
2 scheduled during nonwork hours. An employee may not use the school conference
3 and activities leave provided under this subsection for the purpose of accompanying
4 an outing or field trip of a school or nonprofit organization.

5 **SECTION 9.** 103.10 (5) (a) of the statutes is amended to read:

6 103.10 (5) (a) This section does not entitle an employee to receive wages or
7 salary while taking family leave ~~or~~, medical leave, or school conference and activities
8 leave.

9 **SECTION 10.** 103.10 (5) (b) of the statutes is renumbered 103.10 (5) (b) 1. and
10 amended to read:

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

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

15 103.10 (5) (b) 2. An employee may not substitute paid leave for school
16 conference and activities leave for attending a school conference or activity for less
17 than one hour.

18 **SECTION 12.** 103.10 (6) (c) of the statutes is created to read:

19 103.10 (6) (c) If an employee intends to take leave under sub. (4m) for the
20 purpose of attending a school conference or classroom activity or of observing and
21 monitoring services or programming, the employee shall do all of the following:

22 1. Make a reasonable effort to schedule the conference, activity, or observation
23 and monitoring so that it does not unduly disrupt the employer's operations.

24 2. Give the employer advance notice of the conference, activity, or observation
25 and monitoring in a reasonable and practicable manner.

ASSEMBLY BILL 858**SECTION 11**

1 **SECTION 11.** 103.10 (7) (title) of the statutes is amended to read:

2 103.10 (7) (title) ~~CERTIFICATION;~~ DOCUMENTATION.

3 **SECTION 12.** 103.10 (7) (am) of the statutes is created to read:

4 103.10 (7) (am) When an employee returns from school conference and
5 activities leave, the employer may require the employee to provide, in a reasonable
6 and practicable manner, documentation from the employee's child's school stating no
7 more than that the employee was attending a school conference or classroom activity
8 or was observing and monitoring child care, preschool, or prekindergarten services
9 and programming, as described in sub. (4m), during the period of that leave.

10 **SECTION 13.** 103.10 (7) (b) (intro.) of the statutes is amended to read:

11 103.10 (7) (b) (intro.) No employer may require certification under par. (a)
12 stating more than the following:

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

14 103.10 (8) (a) (intro.) Subject to par. (c), when an employee returns from family
15 leave ~~or~~, medical leave, ~~his or her~~ school conference and activities leave, the
16 employee's employer shall immediately place the employee in an employment
17 position as follows:

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

19 103.10 (8) (a) 1. If the employment position ~~which~~ that the employee held
20 immediately before the family leave ~~or~~, medical leave, or school conference and
21 activities leave began is vacant when the employee returns, in that position.

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

23 103.10 (8) (a) 2. If the employment position ~~which~~ that the employee held
24 immediately before the family leave ~~or~~, medical leave, or school conference and
25 activities leave began is not vacant when the employee returns, in an equivalent

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1 employment position having equivalent compensation, benefits, working shift,
2 hours of employment, and other terms and conditions of employment.

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

4 103.10 (8) (b) No employer may, because an employee received family leave ~~or,~~
5 medical leave, or school conference and activities leave, reduce or deny an
6 employment benefit ~~which~~ that accrued to the employee before ~~his or her~~ the
7 employee's leave began or, consistent with sub. (9), accrued after ~~his or her~~ the
8 employee's leave began.

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

10 103.10 (8) (c) Notwithstanding par. (a), if an employee on ~~a family,~~ medical or
11 family, or school conference and activities leave wishes to return to work before the
12 end of the leave as scheduled, the employer shall place the employee in an
13 employment position of the type described in par. (a) 1. or 2. within a reasonable time
14 not exceeding the duration of the leave as scheduled.

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

16 103.10 (9) (a) Except as provided in par. (b), nothing in this section entitles a
17 returning employee to a right, employment benefit, or employment position to which
18 the employee would not have been entitled had ~~he or she~~ the employee not taken
19 family leave ~~or,~~ medical leave, or school conference and activities leave or to the
20 accrual of any seniority or employment benefit during a period of family leave ~~or,~~
21 medical leave, or school conference and activities leave.

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

23 103.10 (9) (b) Subject to par. (c), during a period an employee takes family leave
24 ~~or,~~ medical leave, his or her or school conference and activities leave, the employee's
25 employer shall maintain group health insurance coverage under the conditions that

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1 applied immediately before the family leave ~~or~~, medical leave, or school conference
2 and activities leave began. If the employee continues making any contribution
3 required for participation in the group health insurance plan, the employer shall
4 continue making group health insurance premium contributions as if the employee
5 had not taken the family leave ~~or~~, medical leave, or school conference and activities
6 leave.

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

8 103.10 (9) (c) 4. If an employee ends ~~his or her~~ the employee's employment with
9 an employer during or within 30 days after a period of family leave ~~or~~, medical leave,
10 or school conference and activities leave, the employer may deduct from the amount
11 returned to the employee under subd. 3. any premium or similar expense paid by the
12 employer for the employee's group health insurance coverage while the employee
13 was on family leave ~~or~~, medical leave, or school conference and activities leave.

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

15 103.10 (9) (d) If an employee ends ~~his or her~~ the employee's employment with
16 an employer during or at the end of a period of family leave ~~or~~, medical leave, or school
17 conference and activities leave, the time period for conversion to individual coverage
18 under s. 632.897 (6) shall be calculated as beginning on the day ~~that~~ on which the
19 employee began the period of family leave ~~or~~, medical leave, or school conference and
20 activities leave.

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

22 103.10 (10) ALTERNATIVE EMPLOYMENT. Nothing in this section prohibits an
23 employer and an employee with a serious health condition from mutually agreeing
24 to alternative employment for the employee while the serious health condition lasts.
25 No period of alternative employment, with the same employer, reduces the

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1 employee's right to family leave ~~or~~, medical leave, or school conference and activities
2 leave.

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

4 103.10 (12) (d) The department shall issue its decision and order within 30 days
5 after the hearing. If the department finds that an employer violated sub. (11) (a) or
6 (b), ~~it the department~~ may order the employer to take action to remedy the violation,
7 including providing the requested family leave or, medical leave, or school conference
8 and activities leave, reinstating an employee, providing back pay accrued not more
9 than 2 years before the complaint was filed, and paying reasonable actual attorney
10 fees to the complainant.

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

12 103.10 (14) (b) Any person employing at least 25 individuals shall post, in one
13 or more conspicuous places where notices to employees are customarily posted, a
14 notice describing the person's policy with respect to leave for the reasons described
15 in subs. (3) (b) ~~and~~, (4) (a), and (4m).

16 **SECTION 26.** 111.91 (2) (f) of the statutes is amended to read:

17 111.91 (2) (f) Family leave and medical leave rights below the minimum
18 afforded under the federal Family and Medical Leave Act of 1993, 29 USC 2601 to
19 2654, and s. 103.10 and school conference and activities leave rights below the
20 minimum afforded under s. 103.10. Nothing in this paragraph prohibits the
21 employer from bargaining on rights to family leave or medical leave ~~which that~~ are
22 more generous to the employee than the rights provided under the federal Family
23 and Medical Leave Act of 1993, 29 USC 2601 to 2654, and s. 103.10 and on rights to
24 school conference and activities leave that are more generous to the employee than
25 the rights provided under s. 103.10.

ASSEMBLY BILL 858**SECTION 28**

1 **SECTION 28.** 230.35 (2m) of the statutes is amended to read:

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

8 **SECTION 29.** 253.10 (3) (d) 1. of the statutes is amended to read:

9 253.10 **(3)** (d) 1. Geographically indexed materials that are designed to inform
10 a woman about public and private agencies, including adoption agencies, and
11 services that are available to provide information on family planning, as defined in
12 s. 253.07 (1) (a), including natural family planning information, to provide
13 ultrasound imaging services, to assist her if she has received a diagnosis that her
14 unborn child has a disability or if her pregnancy is the result of sexual assault or
15 incest, and to assist her through pregnancy, upon childbirth, and while the child is
16 dependent. The materials shall include a comprehensive list of the agencies
17 available, a description of the services that they offer, and a description of the
18 manner in which they may be contacted, including telephone numbers and
19 addresses, or, at the option of the department, the materials shall include a toll-free,
20 24-hour telephone number that may be called to obtain an oral listing of available
21 agencies and services in the locality of the caller and a description of the services that
22 the agencies offer and the manner in which they may be contacted. The materials
23 shall provide information on the availability of governmentally funded programs
24 that serve pregnant women and children. Services identified for the woman shall
25 include medical assistance for pregnant women and children under s. ss. 49.47 (4)

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1 (am) and 49.471, the availability of family ~~or~~, medical, and school conference and
2 activities leave under s. 103.10, the Wisconsin ~~works~~ Works program under ss.
3 49.141 to 49.161, child care services, child support laws and programs, and the credit
4 for expenses for household and dependent care and services necessary for gainful
5 employment under section 21 of the Internal Revenue Code. The materials shall
6 state that it is unlawful to perform an abortion for which consent has been coerced,
7 that any physician who performs or induces an abortion without obtaining the
8 woman's voluntary and informed consent is liable to her for damages in a civil action
9 and is subject to a civil penalty, that the father of a child is liable for assistance in
10 the support of the child, even in instances in which the father has offered to pay for
11 an abortion, and that adoptive parents may pay the costs of prenatal care, childbirth,
12 and neonatal care. The materials shall include information, for a woman whose
13 pregnancy is the result of sexual assault or incest, on legal protections available to
14 the woman and her child if she wishes to oppose establishment of paternity or to
15 terminate the father's parental rights. The materials shall include information on
16 services in the state that are available for victims or individuals at risk of domestic
17 abuse. The materials shall include information on the availability of perinatal
18 hospice.

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

20 **893.96** (title) **Family, medical, and school conference and activities**
21 **leave; civil remedies.**

22 **SECTION 31. Initial applicability.**

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

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SECTION 31

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 6th month beginning after
5 publication.

6 (END)