

2453

2009-2010 Regular Sessions

I N S E N A T E

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Introduced by Sens. PARKER, DIAZ, DILAN, DUANE, HASSELL-THOMPSON, KRUEGER, MONTGOMERY, ONORATO, SAMPSON, SCHNEIDERMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to the parental involvement leave act

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The labor law is amended by adding a new article 21 to read as follows:

ARTICLE 21

PARENTAL INVOLVEMENT LEAVE ACT

SECTION 750. SHORT TITLE.

751. DEFINITIONS.

752. SCHOOL CONFERENCE AND ACTIVITY LEAVE.

753. NOTIFICATION.

754. VERIFICATION.

755. EMPLOYEE RIGHTS.

756. LIMITS ON LEAVE.

S 750. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "PARENTAL INVOLVEMENT LEAVE ACT".

S 751. DEFINITIONS. AS USED IN THIS ARTICLE:

1. THE TERM "EMPLOYEE" MEANS A PERSON WHO PERFORMS SERVICES FOR HIRE FOR AN EMPLOYER FOR:

A. AT LEAST SIX CONSECUTIVE MONTHS IMMEDIATELY PRECEDING A REQUEST FOR LEAVE UNDER THIS ARTICLE; AND

B. AN AVERAGE NUMBER OF HOURS PER WEEK EQUAL TO AT LEAST ONE-HALF THE FULL-TIME EQUIVALENT POSITIONS IN THE EMPLOYERS' JOB CLASSIFICATION, AS DEFINED BY THE EMPLOYERS' PERSONNEL POLICIES OR PRACTICES OR IN ACCORDANCE WITH A COLLECTIVE BARGAINING AGREEMENT, DURING THOSE SIX MONTHS.

2. THE TERM "EMPLOYEE" SHALL NOT INCLUDE AN INDEPENDENT CONTRACTOR.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 3. THE TERM "EMPLOYER" MEANS ANY OF THE FOLLOWING: A STATE AGENCY,
2 OFFICER, OR DEPARTMENT, A UNIT OF LOCAL GOVERNMENT, A SCHOOL DISTRICT,
3 AN INDIVIDUAL, A CORPORATION, A PARTNERSHIP, AN ASSOCIATION, OR A
4 NONPROFIT ORGANIZATION WHICH EMPLOYS FIFTY OR MORE EMPLOYEES IN THE
5 STATE OF NEW YORK.

6 4. THE TERM "CHILD" MEANS A BIOLOGICAL, ADOPTED OR FOSTER CHILD, A
7 STEPCHILD OR A LEGAL WARD OF AN EMPLOYEE WHO IS ENROLLED IN A PRIMARY OR
8 SECONDARY PUBLIC OR PRIVATE SCHOOL IN THIS STATE.

9 5. THE TERM "SCHOOL" MEANS ANY PUBLIC OR PRIVATE PRIMARY OR SECONDARY
10 SCHOOL OR EDUCATIONAL FACILITY LOCATED IN THIS STATE.

11 6. THE TERM "SCHOOL ADMINISTRATOR" MEANS A PRINCIPAL OR SIMILAR ADMIN-
12 ISTRATOR WHO IS RESPONSIBLE FOR THE OPERATIONS OF A SCHOOL.

13 S 752. SCHOOL CONFERENCE AND ACTIVITY LEAVE. 1. AN EMPLOYER MUST GRANT
14 AN EMPLOYEE LEAVE OF UP TO A TOTAL OF SIXTEEN HOURS DURING ANY SCHOOL
15 YEAR, NO MORE THAN FOUR HOURS OF WHICH MAY BE TAKEN ON ANY GIVEN DAY, TO
16 ATTEND SCHOOL CONFERENCES OR CLASSROOM ACTIVITIES RELATED TO THE EMPLOY-
17 EE'S CHILD IF THE CONFERENCE OR CLASSROOM ACTIVITIES CANNOT BE SCHEDULED
18 DURING NONWORK HOURS; HOWEVER, NO LEAVE MAY BE TAKEN BY AN EMPLOYEE OF
19 AN EMPLOYER THAT IS SUBJECT TO THE PROVISIONS OF THIS ARTICLE UNLESS THE
20 EMPLOYEE HAS EXHAUSTED ALL ACCRUED VACATION LEAVE, PERSONAL LEAVE,
21 COMPENSATORY LEAVE AND ANY OTHER LEAVE THAT MAY BE GRANTED TO THE
22 EMPLOYEE EXCEPT SICK LEAVE AND DISABILITY LEAVE. BEFORE ARRANGING
23 ATTENDANCE AT ANY SUCH CONFERENCE OR ACTIVITY, THE EMPLOYEE SHALL
24 PROVIDE THE EMPLOYER WITH A WRITTEN REQUEST FOR LEAVE AT LEAST SEVEN
25 DAYS PRIOR TO THE TIME THE EMPLOYEE IS REQUIRED TO UTILIZE SUCH LEAVE.
26 IN EMERGENCY SITUATIONS, NO MORE THAN TWENTY-FOUR HOURS NOTICE SHALL BE
27 REQUIRED. THE EMPLOYEE MUST CONSULT WITH THE EMPLOYER TO SCHEDULE THE
28 LEAVE SO AS NOT TO UNDULY DISRUPT THE OPERATIONS OF THE EMPLOYER.

29 2. NOTHING IN THIS ARTICLE REQUIRES THAT AN EMPLOYEE RECEIVE COMPEN-
30 SATION FOR THE DURATION OF SUCH LEAVE.

31 3. FOR REGULARLY SCHEDULED, NON EMERGENCY CONFERENCES OR ACTIVITIES,
32 SCHOOLS SHALL MAKE TIME AVAILABLE FOR SUCH CONFERENCES OR ACTIVITIES
33 DURING BOTH REGULAR SCHOOL HOURS AND EVENING HOURS.

34 S 753. NOTIFICATION. THE COMMISSIONER OF EDUCATION SHALL NOTIFY EACH
35 PUBLIC AND PRIVATE PRIMARY AND SECONDARY SCHOOL REGARDING THE PROVISIONS
36 OF THIS ARTICLE. EACH PUBLIC AND PRIVATE SCHOOL SHALL NOTIFY PARENTS OR
37 GUARDIANS OF THE SCHOOL'S STUDENTS OF ITS SCHOOL VISITATION POLICY. THE
38 DEPARTMENT SHALL NOTIFY EMPLOYERS REGARDING THE PROVISIONS OF THIS ARTI-
39 CLE.

40 S 754. VERIFICATION. UPON COMPLETION OF SCHOOL CONFERENCE AND ACTIVITY
41 LEAVE BY A PARENT OR GUARDIAN AND IF REQUESTED, THE SCHOOL ADMINIS-
42 TRATION SHALL PROVIDE THE PARENT OR GUARDIAN DOCUMENTATION VERIFYING THE
43 SCHOOL VISIT. EMPLOYERS MAY REQUEST THIS VERIFICATION AND EMPLOYEES MUST
44 SUBMIT SAME.

45 S 755. EMPLOYEE RIGHTS. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO
46 AFFECT AN EMPLOYER'S OBLIGATION TO COMPLY WITH ANY COLLECTIVE BARGAINING
47 AGREEMENT OR EMPLOYEE BENEFIT PLAN. NOTHING IN THIS ARTICLE SHALL
48 PREVENT AN EMPLOYER FROM APPROVING SCHOOL CONFERENCE AND ACTIVITY LEAVE
49 IN EXCESS OF THE REQUIREMENTS OF THIS ARTICLE.

50 S 756. LIMITS ON LEAVE. NO EMPLOYER THAT IS SUBJECT TO THE PROVISIONS
51 OF THIS ARTICLE IS REQUIRED TO GRANT SCHOOL CONFERENCE AND ACTIVITY
52 LEAVE TO AN EMPLOYEE IF GRANTING THE LEAVE WOULD RESULT IN MORE THAN
53 FIVE PERCENT OF THE EMPLOYERS' WORK FORCE TAKING SCHOOL CONFERENCE OR
54 ACTIVITY LEAVE AT THE SAME TIME.

55 S 2. This act shall take effect on the one hundred twentieth day after
56 it shall have become a law.