S T A T E O F N E W Y O R K

3641

2011-2012 Regular Sessions

I N A S S E M B L Y

January 26, 2011

Introduced by M. of A. J. MILLER -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to enacting the "no parent left outside act"

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

Section 1. This act shall be known and may be cited as the "no parent left outside act".

S 2. The labor law is amended by adding a new article 21 to read as follows:

ARTICLE 21

NO PARENT LEFT OUTSIDE ACT

SECTION 750. DEFINITIONS.
751. SCHOOL CONFERENCE AND ACTIVITY LEAVE.
752. REIMBURSEMENT FOR LOST WAGES.
753. NOTIFICATION.
754. VERIFICATION.
755. EMPLOYEE RIGHTS.
756. LIMITS ON LEAVE.

S 750. 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 EMPLOYER'S JOB CLASSIFICATION, AS DEFINED BY THE EMPLOYER'S 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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3. THE TERM "EMPLOYER" MEANS ANY OF THE FOLLOWING: A STATE AGENCY, OFFICER, OR DEPARTMENT, A UNIT OF LOCAL GOVERNMENT, A SCHOOL DISTRICT, AN INDIVIDUAL, A CORPORATION, A PARTNERSHIP, AN ASSOCIATION, OR A NONPROFIT ORGANIZATION WHICH EMPLOYS FIFTY OR MORE EMPLOYEES IN THE STATE OF NEW YORK.

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

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

6. THE TERM "SCHOOL ADMINISTRATOR" MEANS A PRINCIPAL OR SIMILAR ADMINISTRATOR WHO IS RESPONSIBLE FOR THE OPERATIONS OF A SCHOOL.

S 751. SCHOOL CONFERENCE AND ACTIVITY LEAVE. 1. AN EMPLOYER MUST GRANT AN EMPLOYEE LEAVE OF UP TO A TOTAL OF TWENTY HOURS DURING ANY SCHOOL YEAR, NO MORE THAN FOUR HOURS OF WHICH MAY BE TAKEN ON ANY GIVEN DAY, TO ATTEND SCHOOL CONFERENCES OR CLASSROOM ACTIVITIES RELATED TO THE EMPLOYEE'S CHILD IF THE CONFERENCE OR CLASSROOM ACTIVITIES CANNOT BE SCHEDULED DURING NONWORK HOURS; HOWEVER, NO LEAVE MAY BE TAKEN BY AN EMPLOYEE OF AN EMPLOYER THAT IS SUBJECT TO THE PROVISIONS OF THIS ARTICLE UNLESS THE EMPLOYEE HAS EXHAUSTED ALL ACCRUED VACATION LEAVE, PERSONAL LEAVE, COMPENSATORY LEAVE AND ANY OTHER LEAVE THAT MAY BE GRANTED TO THE EMPLOYEE EXCEPT SICK LEAVE AND DISABILITY LEAVE. BEFORE ARRANGING ATTENDANCE AT ANY SUCH CONFERENCE OR ACTIVITY, THE EMPLOYEE SHALL PROVIDE THE EMPLOYER WITH A WRITTEN REQUEST FOR LEAVE AT LEAST SEVEN DAYS PRIOR TO THE TIME THE EMPLOYEE IS REQUIRED TO UTILIZE SUCH LEAVE. IN EMERGENCY SITUATIONS, NO MORE THAN TWENTY-FOUR HOURS NOTICE SHALL BE REQUIRED. THE EMPLOYEE MUST CONSULT WITH THE EMPLOYER TO SCHEDULE THE LEAVE SO AS NOT TO UNDULY DISRUPT THE OPERATIONS OF THE EMPLOYER.

2. FOR REGULARLY SCHEDULED, NONEMERGENCY CONFERENCES OR ACTIVITIES, SCHOOLS SHALL MAKE TIME AVAILABLE FOR SUCH CONFERENCES OR ACTIVITIES DURING BOTH REGULAR SCHOOL HOURS AND EVENING HOURS. WHENEVER POSSIBLE, SCHOOLS SHALL NOTIFY THE PARENT OR GUARDIAN IN WRITING OF THE NECESSITY OF ATTENDANCE AT A CONFERENCE OR ACTIVITY AT LEAST SEVEN DAYS PRIOR TO THE CONFERENCE OR ACTIVITY IN ORDER TO ENSURE THE PARENT OR GUARDIAN'S ABILITY TO COMPLY WITH SUBDIVISION ONE OF THIS SECTION.

S 752. REIMBURSEMENT FOR LOST WAGES. 1. A PARENT OR GUARDIAN WHOSE ANNUAL SALARY EQUIVALENT IS NOT GREATER THAN ONE HUNDRED FIFTY PERCENT OF POVERTY LEVEL, WHO ATTENDS A SCHOOL CONFERENCE OR ACTIVITY PURSUANT TO THIS ARTICLE SHALL RECEIVE COMPENSATION FOR LOST WAGES IN THE AMOUNT OF THE CURRENT MINIMUM WAGE PLUS TWO DOLLARS PER HOUR OR NO MORE THAN HIS OR HER CURRENT WAGE, WHICHEVER IS LESS.

2. REIMBURSEMENT SHALL BE MADE AVAILABLE BY THE SCHOOL WHERE THE CONFERENCE OR ACTIVITY IS HELD. THE SCHOOL SHALL COMPLETE A VOUCHER TO BE SUBMITTED TO THE COMMISSIONER OF EDUCATION WHO SHALL REMIT REIMBURSEMENT DIRECTLY TO THE PARENT OR GUARDIAN. THE PARENT OR GUARDIAN MUST SHOW ACCEPTABLE PROOF OF LOST WAGES.

3. THE COMMISSIONER OF EDUCATION IS AUTHORIZED TO PROMULGATE ANY RULES AND REGULATIONS NECESSARY FOR THE EFFECTIVE IMPLEMENTATION OF THIS SECTION.

S 753. NOTIFICATION. THE COMMISSIONER OF EDUCATION SHALL NOTIFY EACH PUBLIC AND PRIVATE PRIMARY AND SECONDARY SCHOOL REGARDING THE PROVISIONS OF THIS ARTICLE. EACH PUBLIC AND PRIVATE SCHOOL SHALL NOTIFY PARENTS OR GUARDIANS OF THE SCHOOL'S STUDENTS OF ITS SCHOOL VISITATION POLICY. THE DEPARTMENT SHALL NOTIFY EMPLOYERS REGARDING THE PROVISIONS OF THIS ARTICLE.

S 754. VERIFICATION. UPON COMPLETION OF SCHOOL CONFERENCE AND ACTIVITY LEAVE BY A PARENT OR GUARDIAN AND IF REQUESTED, THE SCHOOL ADMINISTRATION SHALL PROVIDE THE PARENT OR GUARDIAN DOCUMENTATION VERIFYING THE SCHOOL VISIT. EMPLOYERS MAY REQUEST THIS VERIFICATION AND EMPLOYEES MUST SUBMIT SAME.

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

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

S 3. This act shall take effect on the one hundred twentieth day after it shall have become a law.