

4677

2013-2014 Regular Sessions

I N S E N A T E

April 17, 2013

Introduced by Sen. PARKER -- 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 make time for parenting act

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

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

3 ARTICLE 21

4 MAKE TIME FOR PARENTING ACT

5 SECTION 750. SHORT TITLE.

6 751. DEFINITIONS.

7 752. SCHOOL CONFERENCE AND ACTIVITY LEAVE.

8 753. NOTIFICATION.

9 754. VERIFICATION.

10 755. EMPLOYEE RIGHTS.

11 756. LIMITS ON LEAVE.

12 757. ENFORCEMENT.

13 S 750. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS
14 THE "MAKE TIME FOR PARENTING ACT".

15 S 751. DEFINITIONS. AS USED IN THIS ARTICLE:

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

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

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

24 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.

LBD10286-01-3

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 7. THE TERM "NEGATIVE ACTION" MEANS THE DISCHARGE, SUSPENSION OR
14 DEMOTION OF AN EMPLOYEE, OR OTHER ADVERSE EMPLOYMENT ACTION TAKEN
15 AGAINST AN EMPLOYEE IN THE TERMS AND CONDITIONS OF EMPLOYMENT.

16 S 752. SCHOOL CONFERENCE AND ACTIVITY LEAVE. 1. SHOULD AN EMPLOYEE
17 LEAVE DURING ANY SCHOOL YEAR, NO MORE THAN FOUR HOURS OF WHICH MAY BE
18 TAKEN ON ANY GIVEN DAY, TO ATTEND SCHOOL CONFERENCES OR CLASSROOM ACTIV-
19 ITIES RELATED TO THE EMPLOYEE'S CHILD IF THE CONFERENCE OR CLASSROOM
20 ACTIVITIES CANNOT BE SCHEDULED DURING NON-WORK HOURS SUCH AN EMPLOYEE
21 SHALL NOT BE PENALIZED WITH ANY NEGATIVE ACTION, AS DEFINED IN SUBDIVI-
22 SION SEVEN OF SECTION SEVEN HUNDRED FIFTY-ONE OF THIS ARTICLE, FOR SUCH
23 ACTIVITY. NO LEAVE MAY BE TAKEN BY AN EMPLOYEE OF AN EMPLOYER THAT IS
24 SUBJECT TO THE PROVISIONS OF THIS ARTICLE UNLESS THE EMPLOYEE HAS
25 EXHAUSTED ALL ACCRUED VACATION LEAVE, PERSONAL LEAVE, COMPENSATORY LEAVE
26 AND ANY OTHER LEAVE THAT MAY BE GRANTED TO THE EMPLOYEE EXCEPT SICK
27 LEAVE AND DISABILITY LEAVE. BEFORE ARRANGING ATTENDANCE AT ANY SUCH
28 CONFERENCE OR ACTIVITY, THE EMPLOYEE SHALL PROVIDE THE EMPLOYER WITH A
29 WRITTEN REQUEST FOR LEAVE AT LEAST SEVEN DAYS PRIOR TO THE TIME THE
30 EMPLOYEE IS REQUIRED TO UTILIZE SUCH LEAVE. IN EMERGENCY SITUATIONS, NO
31 MORE THAN TWENTY-FOUR HOURS NOTICE SHALL BE REQUIRED. THE EMPLOYEE MUST
32 CONSULT WITH THE EMPLOYER TO SCHEDULE THE LEAVE SO AS NOT TO UNDULY
33 DISRUPT THE OPERATIONS OF THE EMPLOYER.

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

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

39 S 753. NOTIFICATION. THE COMMISSIONER OF EDUCATION SHALL NOTIFY EACH
40 PUBLIC AND PRIVATE PRIMARY AND SECONDARY SCHOOL REGARDING THE PROVISIONS
41 OF THIS ARTICLE. EACH PUBLIC AND PRIVATE SCHOOL SHALL NOTIFY PARENTS OR
42 GUARDIANS OF THE SCHOOL'S STUDENTS OF ITS SCHOOL VISITATION POLICY. THE
43 DEPARTMENT SHALL NOTIFY EMPLOYERS REGARDING THE PROVISIONS OF THIS ARTI-
44 CLE.

45 S 754. VERIFICATION. UPON COMPLETION OF SCHOOL CONFERENCE AND ACTIVITY
46 LEAVE BY A PARENT OR GUARDIAN AND IF REQUESTED, THE SCHOOL ADMINIS-
47 TRATION SHALL PROVIDE THE PARENT OR GUARDIAN DOCUMENTATION VERIFYING THE
48 SCHOOL VISIT. EMPLOYERS MAY REQUEST THIS VERIFICATION AND EMPLOYEES MUST
49 SUBMIT SAME.

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

55 S 756. LIMITS ON LEAVE. NO EMPLOYER THAT IS SUBJECT TO THE PROVISIONS
56 OF THIS ARTICLE IS REQUIRED TO GRANT SCHOOL CONFERENCE AND ACTIVITY

1 LEAVE TO AN EMPLOYEE IF GRANTING THE LEAVE WOULD RESULT IN MORE THAN
2 FIVE PERCENT OF THE EMPLOYER'S WORK FORCE TAKING SCHOOL CONFERENCE OR
3 ACTIVITY LEAVE AT THE SAME TIME.

4 S 757. ENFORCEMENT. THE DEPARTMENT SHALL BE AUTHORIZED TO PROMULGATE
5 RULES AND REGULATIONS TO ENFORCE THE PROVISIONS OF THIS ARTICLE. SHOULD
6 AN EMPLOYER BE FOUND IN VIOLATION OF THIS ARTICLE PURSUANT TO THE RULES
7 AND REGULATIONS SET FORTH BY THE DEPARTMENT SUCH EMPLOYER SHALL BE
8 SUBJECT TO A FINE OF NO MORE THAN ONE THOUSAND DOLLARS PER VIOLATION AND
9 SUCH NEGATIVE ACT SHALL BE REVERSED.

10 S 2. This act shall take effect on the one hundred eightieth day after
11 it shall have become a law.