

8022

2013-2014 Regular Sessions

I N   A S S E M B L Y

June 14, 2013

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Introduced by M. of A. SOLAGES -- read once and referred 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.

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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 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.