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

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:

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

ARTICLE 21

MAKE TIME FOR PARENTING ACT

SECTION 750. SHORT TITLE.
751. DEFINITIONS.
752. SCHOOL CONFERENCE AND ACTIVITY LEAVE.
753. NOTIFICATION.
754. VERIFICATION.
755. EMPLOYEE RIGHTS.
756. LIMITS ON LEAVE.
757. ENFORCEMENT.

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

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

S 752. SCHOOL CONFERENCE AND ACTIVITY LEAVE. 1. SHOULD AN EMPLOYEE LEAVE 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 NON-WORK HOURS SUCH AN EMPLOYEE SHALL NOT BE PENALIZED WITH ANY NEGATIVE ACTION, AS DEFINED IN SUBDIVISION SEVEN OF SECTION SEVEN HUNDRED FIFTY-ONE OF THIS ARTICLE, FOR SUCH ACTIVITY. 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. NOTHING IN THIS ARTICLE REQUIRES THAT AN EMPLOYEE RECEIVE COMPENSATION FOR THE DURATION OF SUCH LEAVE.

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

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

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