STATE OF NEW YORK

2195

2019-2020 Regular Sessions

IN ASSEMBLY

January 22, 2019

Introduced by M. of A. KIM, COLTON -- Multi-Sponsored by -- M. of A. MOSLEY, PERRY -- read once and referred to the Committee on Labor

AN ACT to amend the labor law and the education 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-related event leave.
753. Employee notice.
754. Employee rights.
755. Notification.
756. Administrative enforcement and penalties.
757. Existing rights and remedies preserved.

§ 750. Short title. This article shall be known and may be cited as the "parental involvement leave act".

§ 751. Definitions. As used in this article:

1. "Employee" shall mean any person employed for hire by an employer in any employment upon the completion of four weeks of employment for a full-time employee or twenty-five days of employment for a part-time employee;

2. "Employer" shall mean any person or entity employing any individual in any occupation, industry, trade, business or service including, but not limited to, 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 non-profit organization;

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

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3. "Child" shall mean a biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner (as defined in subdivision one of section four of the workers' compensation law), or a child to whom the employee stands in loco parentis who is enrolled in a school as defined in subdivision five of this section;

4. "Parent" means a biological, foster, or adopted parent, a stepparent, a legal guardian, or grandparent of, or a person who stands in loco parentis to a child;

5. "School" means any public or private pre-kindergarten program, elementary, or secondary school, licensed child-care facility, or educational facility located within the state;

6. "School-related event" shall mean an event related to a child's academic achievement or to the pursuit of educational services and programs, including but not limited to, a parent-teacher meeting, a disciplinary proceeding, an individualized education plan meeting, a class presentation, a parent workshop, or an interview for a new school; and

7. "Retaliation" shall include any threat, discipline, discharge, demotion, suspension, reduction in employee hours, transfer to unfavorable shifts, denial of favorable shifts, or any other adverse employment action against any employee for exercising or attempting to exercise any right guaranteed under this article.

§ 752. School-related event leave. An employer shall grant an employee unpaid leave of up to a total of twenty-four hours during any twelve month period, to attend or participate in any school-related events related to the employee's child if the school-related event cannot be reasonably scheduled during non-work hours. Such leave shall be limited to four hours on any given day unless such attendance or participation cannot reasonably be accomplished within four hours.

§ 753. Employee notice. 1. If the necessity for leave under this article is foreseeable, the employee shall provide the employer with at least seven days' notice before the date that leave is required. If the necessity for leave is not foreseeable or is otherwise deemed an emergency, the employee shall provide such notice as is practicable.

2. If requested by the employer, an employee shall provide documentation, as soon as practicable either preceding or soon after the school-related event, from the school as proof that he or she engaged in school-related activities permitted in section seven hundred fifty-two of this article on a specific date and at a particular time. For purposes of this subdivision, "documentation" shall mean written verification that the school deems appropriate and reasonable.

§ 754. Employee rights. 1. Retaliation against an employee by an employer for exercising his or her rights under this section shall be prohibited. Nothing in this article shall be construed to supersede or replace or diminish in any way section two hundred fifteen of this chapter.

2. The leave provided by this article shall consist of unpaid leave unless the employee elects to use any paid leave, including but not limited to, vacation or personal leave.

§ 755. Notification. 1. The department shall develop courses of instruction and conduct ongoing public education efforts as necessary to inform employers, employees, employment agencies, and job applicants about their rights and responsibilities under this article. The department shall work with the department of education to notify each public and private primary and secondary school regarding the provisions of this article.

2. The department of education shall notify each school regarding the provisions of this article. Each public and private school shall notify parents with a child enrolled in the school of the school-related event leave policy provided under this article.

§ 756. Administrative enforcement and penalties. 1. Any employee, person or organization acting on the employee's behalf, or the recognized and certified collective bargaining agent acting on the employee's behalf, may file with the commissioner a complaint regarding a violation of this article within one year from the date of the alleged violation against the employer who violates this article.

2. The commissioner shall have the power to require employers to provide the complaining employee: (a) any wages or benefits lost as a result of the violation; or (b) an order of reinstatement without loss of position, seniority, wages, or benefits.

3. The commissioner shall also have the power to impose penalties provided for in this article. Such penalties include a fine payable to the state in an amount not to exceed five hundred dollars for the first violation and, for subsequent violations that occur within two years of any previous violation, not to exceed seven hundred fifty dollars for the second violation, and not to exceed one thousand dollars for each succeeding violation.

§ 757. Existing rights and remedies preserved. 1. Nothing in this article shall in any way contravene or limit the rights, remedies or privileges which are otherwise available to an employee under any other provision of law, including but not limited to, the human rights law.

2. Nothing in this article shall be construed to affect an employer's obligation to comply with any collective bargaining agreement or employee benefit plan.

3. Nothing in this article shall prevent an employer from approving leave in excess of the requirements of this article.

4. Nothing in this article shall be construed to prevent an employer policy or local or municipal law from providing additional or more generous school-related leave beyond that required in this article.

§ 2. The education law is amended by adding a new section 115 to read as follows:

§ 115. Parental leave involvement. The department, in consultation with the department of labor, shall notify each school regarding the provisions of article twenty-one of the labor law and shall promulgate rules and regulations for the promotion and communication of such benefits to the parents of enrolled students. Each public and private school shall notify parents with a child enrolled in the school of the school-related event leave benefit.

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