

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:

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

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

15 § 751. Definitions. As used in this article:

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

20 2. "Employer" shall mean any person or entity employing any individual
21 in any occupation, industry, trade, business or service including, but
22 not limited to, any of the following: a state agency, officer or depart-
23 ment, a unit of local government, a school district, an individual, a
24 corporation, a partnership, an association, or a non-profit organiza-
25 tion;

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

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

6 4. "Parent" means a biological, foster, or adopted parent, a steppar-
7 ent, a legal guardian, or grandparent of, or a person who stands in loco
8 parentis to a child;

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

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

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

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

30 § 753. Employee notice. 1. If the necessity for leave under this arti-
31 cle is foreseeable, the employee shall provide the employer with at
32 least seven days' notice before the date that leave is required. If the
33 necessity for leave is not foreseeable or is otherwise deemed an emer-
34 gency, the employee shall provide such notice as is practicable.

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

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

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

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

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

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

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

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

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

26 2. Nothing in this article shall be construed to affect an employer's
27 obligation to comply with any collective bargaining agreement or employ-
28 ee benefit plan.

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

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

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

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

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