

BILL ANALYSIS

Senate Research Center
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S.B. 1895
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties assert that although parental involvement in a child's education is a leading factor in raising student achievement, many parents are unable to attend school-related activities and consultations because of conflicting work schedules. These parties express concern that some parents cannot fully participate in their child's educational experience because they hold jobs in which they are not eligible for vacation time or personal leave days and cannot take time off to attend events and meetings at their child's school without suffering adverse consequences.

This bill seeks to remedy this situation by increasing protected unpaid leave options to provide certain employees with the ability to participate in certain academic, extracurricular, and developmental activities of the employee's child.

Current law does not specifically address this issue. Employers have total discretion. Some employers already allow for this unpaid time off, but many do not. This bill will address those employers who do not excuse their employees for a few hours and whose employees do not have personal leave or accrued leave they can use. For those employers who allow occasional absences to accommodate the working parents, it will not impose a burden on them.

As proposed, S.B. 1895 amends current law relating to the ability of a nonexempt employee to participate in certain academic, extracurricular, and developmental activities of the employee's child.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Workforce Commission in SECTION 1 (Section 83.008, Labor Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle D, Title 2, Labor Code, by adding Chapter 83, as follows:

CHAPTER 83. EMPLOYEE RIGHT TO PARTICIPATION IN CERTAIN ACTIVITIES OF THE EMPLOYEE'S CHILD

Sec. 83.001. DEFINITIONS. Defines "employee," "employer," and "reasonable advance written notice" in this chapter.

Sec. 83.002. APPLICABILITY. Provides that this chapter applies to an employee who:

(1) is a parent as defined by Section 101.024 (Parent), Family Code, legal guardian, custodial caregiver, managing conservator, or possessory conservator of a child who is in a licensed or certified child-care facility or prekindergarten through grade 12;

(2) has been employed for not less than 90 days by the employer granting the unpaid time off; and

(3) is not exempt from the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.).

Sec. 83.003. EMPLOYEE RIGHT TO PARTICIPATE IN CERTAIN ACTIVITIES OF EMPLOYEE'S CHILD. (a) Entitles an employee who is subject to this chapter to unpaid time off as provided by this section to:

(1) meet with a teacher, counselor, or school administrator of the employee's child or with a caregiver of the child in a child-care facility; or

(2) participate in a facility or school activity of the employee's child, including award ceremonies, school productions or events in which the child is participating, or hearings regarding admission, review, or dismissal.

(b) Entitles an employee who works at least 30 hours a week under this section to up to eight hours in a calendar month but not more than 40 hours in one calendar year.

(c) Entitles an employee who works less than 30 hours a week under this section to up to four hours in a calendar month but not more than 20 hours in one calendar year.

(d) Requires an employee, before taking time off under this section, to provide the employer with reasonable advance written notice of the planned absence of the employee, unless the need for the absence was not reasonably foreseeable. Prohibits an employer from requiring notice under this subsection of more than seven calendar days.

Sec. 83.004. USE OF LEAVE TIME. (a) Authorizes an employee to, but is not required to, use existing vacation leave time, personal leave time, or compensatory leave time for the purpose of a planned absence authorized by this chapter except as otherwise provided by a collective bargaining agreement entered into before September 1, 2013.

(b) Prohibits the use of leave time under this section from being restricted by a term or condition adopted under a collective bargaining agreement entered into on or after September 1, 2013.

Sec. 83.005. DOCUMENTATION. (a) Requires an employee to provide documentation to the employer of the employee's participation in a particular activity on the employer's request. Authorizes an employer to waive the documentation requirement.

(b) Provides that, for purposes of this section, "documentation" means any verification of parental participation in a facility or school activity that the child's facility or school considers reasonable and appropriate.

Sec. 83.006. SAME EMPLOYER. Authorizes the entitlement granted under Section 83.003, if both parents of a child are employed by the same employer at the same workplace, to be exercised as regards a specific activity of that child only by the employee who first gives notice to the employer as required under Section 83.003(d). Entitles the other parent to time off to attend the activity only as approved by the employer.

Sec. 83.007. EMPLOYER RETALIATION PROHIBITED. (a) Prohibits an employer from suspending or terminating the employment of, or otherwise discriminate against, an employee who takes a planned absence authorized by this chapter to participate in an activity of the employee's child if the employee has fulfilled the requirements of Section 83.003(d).

(b) Entitles an employee whose employment is suspended or terminated in violation of this chapter to:

(1) reinstatement to the employee's former position or a position that is comparable in terms of compensation, benefits, and other conditions of employment;

(2) compensation for wages lost during the period of suspension or termination;

(3) reinstatement of any fringe benefits and seniority rights lost because of the suspension or termination; and

(4) if the employee brings an action to enforce this subsection and is the prevailing party, payment by the employer of court costs and reasonable attorney's fees.

(c) Prohibits an employer from declining to interview or hire an applicant solely because the applicant is a parent, legal guardian, custodial caregiver, managing conservator, or possessory conservator of a child in prekindergarten through grade 12.

Sec. 83.008. NOTICE TO EMPLOYEES. (a) Requires each employer to inform its employees of their rights under this chapter by posting a conspicuous sign in a prominent location in the employer's workplace.

(b) Requires the Texas Workforce Commission by rule to prescribe the design and content of the sign required by this section.

SECTION 2. Provides that this Act applies only to a suspension, termination, or other adverse employment action that is taken by an employer against an employee because of an employee absence authorized under Chapter 83, Labor Code, as added by this Act, that occurs on or after the effective date of this Act. Provides that action taken by an employer against an employee for an employee absence occurring before that date is governed by the law in effect on the date the absence occurred, and the former law is continued in effect for that purpose.

SECTION 3. Effective date: September 1, 2013.