

By: Garcia

S.B. No. 1085

A BILL TO BE ENTITLED

AN ACT

relating to the ability of a nonexempt employee to participate in certain academic, disciplinary, college and career readiness, and developmental activities of the employee's child or grandchild.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle D, Title 2, Labor Code, is amended by adding Chapter 83 to read as follows:

CHAPTER 83. EMPLOYEE RIGHT TO PARTICIPATE IN CERTAIN ACTIVITIES OF
EMPLOYEE'S CHILD OR GRANDCHILD

Sec. 83.001. DEFINITIONS. In this chapter:

(1) "Employee" means a person, other than an independent contractor, who, for compensation, performs services for an employer. The term includes an employee engaged to work flexible hours established periodically by the employer.

(2) "Employer" means a person who employs more than 25 employees at any single place of business in this state. The term includes a public employer.

Sec. 83.002. APPLICABILITY. This chapter applies to an employee who:

(1) is a parent as defined by Section 101.024, Family Code, grandparent, 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;

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

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

6 Sec. 83.003. EMPLOYEE RIGHT TO PARTICIPATE IN CERTAIN
7 ACTIVITIES OF EMPLOYEE'S CHILD OR GRANDCHILD. (a) Unless Section
8 83.004 applies, an employee who is subject to this chapter is
9 entitled to unpaid time off as provided by this section to attend
10 meetings that a parent, grandparent, guardian, conservator, or
11 other caregiver of a child is generally required to attend,
12 including:

13 (1) parent-teacher conferences;

14 (2) meetings with teachers, school administrators, or
15 school counselors regarding:

16 (A) high school endorsements or college and
17 career readiness; or

18 (B) progress on standardized tests required by
19 this state;

20 (3) disciplinary meetings or hearings regarding the
21 child; and

22 (4) other meetings regarding the child's development
23 and educational needs.

24 (b) An employee who works at least 30 hours a week is
25 entitled under this section to up to two hours of time off in a day
26 but not more than:

27 (1) four hours of time off in a calendar month; or

1 (2) 20 hours of time off in one calendar year.

2 (c) An employee who works less than 30 hours a week is
3 entitled under this section to up to two hours of time off in a
4 calendar month but not more than 10 hours of time off in one
5 calendar year.

6 (d) Before taking time off under this section, an employee
7 must provide the employer with reasonable advance written notice of
8 the planned absence of the employee, unless the need for the absence
9 was not reasonably foreseeable. An employer shall establish the
10 time period constituting reasonable advanced written notice under
11 this subsection. The time period may not exceed seven calendar
12 days.

13 Sec. 83.004. EXCEPTION FOR UNDUE HARDSHIP. An employer is
14 not required to provide time off to an employee under Section 83.003
15 if the employee's absence would result in a reduction of the
16 employer's workforce by five percent or more.

17 Sec. 83.005. USE OF LEAVE TIME. (a) An employer may
18 require an employee to use existing vacation leave time, personal
19 leave time, sick leave time, compensatory leave time, or any other
20 appropriate accrued leave time for the purpose of a planned absence
21 authorized by this chapter. If an employee's employer does not
22 require the employee to use existing accrued leave time for that
23 purpose, the employee may use any type of that leave time for that
24 purpose, except as otherwise provided by a collective bargaining
25 agreement entered into before September 1, 2015.

26 (b) The use of leave time under this section may not be
27 restricted by a term or condition adopted under a collective

bargaining agreement entered into on or after September 1, 2015.

Sec. 83.006. DOCUMENTATION. (a) An employee shall provide documentation to the employer of the employee's participation in a particular activity on the employer's request. An employer may waive the documentation requirement.

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

Sec. 83.007. SAME EMPLOYER. If both parents of a child are employed by the same employer at the same workplace, the entitlement granted under Section 83.003 may be exercised with respect to a specific activity of that child only by the employee who first gives notice to the employer as required under Section 83.003(d). The other parent is entitled to time off to attend the activity only as approved by the employer.

Sec. 83.008. EMPLOYER RETALIATION PROHIBITED. (a) An employer may not suspend or terminate 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 or grandchild if the employee has fulfilled the requirements of Section 83.003(d).

(b) An employee whose employment is suspended or terminated in violation of this chapter is entitled 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;

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

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

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

8 (c) An employer may not decline to interview or hire an
9 applicant solely because the applicant is a parent, grandparent,
10 legal guardian, custodial caregiver, managing conservator, or
11 possessory conservator of a child in a licensed or certified
12 child-care facility or prekindergarten through grade 12.

13 Sec. 83.009. NOTICE TO EMPLOYEES. (a) Each employer shall
14 inform its employees of their rights under this chapter by posting a
15 conspicuous sign in a prominent location in the employer's
16 workplace.

17 (b) The Texas Workforce Commission by rule shall prescribe
18 the design and content of the sign required by this section.

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

1 SECTION 3. This Act takes effect September 1, 2015.