

2005 BILL

1 **AN ACT to amend** 38.28 (5), 50.05 (7) (h), 103.10 (title), 103.10 (1) (a) (intro.),
2 103.10 (1) (a) 2., 103.10 (1) (c), 103.10 (1) (f), 103.10 (2) (a), 103.10 (2) (c), 103.10
3 (3) (b) 3., 103.10 (6) (b) (intro.), 103.10 (6) (b) 1., 103.10 (7) (title), 103.10 (7) (a),
4 103.10 (7) (b) (intro.), 103.10 (7) (b) 1., 103.10 (8) (a) (intro.), 103.10 (8) (a) 1.,
5 103.10 (8) (a) 2., 103.10 (8) (b), 103.10 (8) (c), 103.10 (9) (a), 103.10 (9) (b), 103.10
6 (9) (c) 4., 103.10 (9) (d), 103.10 (10), 103.10 (12) (c), 103.10 (12) (d), 108.04 (1)
7 (b) 3. (intro.), 111.91 (2) (f), 230.26 (4), 230.35 (2m) and 253.10 (3) (d) 1.; **to**
8 **repeal and recreate** 893.96 (title); and **to create** 103.10 (1) (ap), 103.10 (1)
9 (ar), 103.10 (1) (at), 103.10 (1) (dm), 103.10 (1) (ed), 103.10 (4m), 103.10 (6) (c)
10 and 103.10 (7m) of the statutes; **relating to:** family, medical, and paid sick
11 leave.

Analysis by the Legislative Reference Bureau

Under current law, an employer, including the state, employing at least 50 individuals on a permanent basis must permit an employee who has been employed by the employer for more than 52 consecutive weeks and who has worked for the employer for at least 1,000 hours during the preceding 52-week period (employee)

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to take six weeks of family leave in a 12-month period and two weeks of medical leave in a 12-month period. Family leave may be taken for the birth or adoptive placement of a new child or to care for a child, spouse, or parent who has a serious health condition. Medical leave may be taken when the employee has a serious health condition that makes the employee unable to perform the employee's employment duties. An employee is not entitled to receive wages or salary while taking family or medical leave, but may substitute, for portions of family or medical leave, other types of paid or unpaid leave provided by the employer.

An employee who intends to take family or medical leave for the birth or adoptive placement of a child or for planned medical treatment must give the employer advance notice of the birth or adoptive placement or planned medical treatment. In addition, for planned medical treatment, the employee must make a reasonable effort to schedule the medical treatment so that it does not unduly disrupt the operations of the employer. If an employee requests family leave to care for a child, spouse, or parent who has a serious health condition or requests medical leave for a serious health condition of the employee, the employer may require the employee to provide certification by a health care provider of that serious health condition.

When an employee returns from family or medical leave, the employer must immediately place the employee in the employment position that the employee held before the leave began or, if that position is filled, in an equivalent employment position. An employee is not entitled to accrue any seniority or employment benefits while on family or medical leave, but is entitled to have his or her group health insurance coverage maintained under the conditions that applied before the leave began. An employer that interferes with, restrains, or denies the exercise of any right under the family and medical leave law may be ordered to take action to remedy the violation, including providing the requested leave, reinstating the employee, providing up to two years of back pay, and paying reasonable actual attorney fees. In addition, the employee may bring an action in circuit court to recover damages caused by the violation.

This bill requires an employer, including the state, that employs at least five individuals on a permanent basis to provide an employee who has been employed by the employer for at least 60 consecutive days with paid sick leave that the employee may take for any of the following reasons:

1. To care for a health condition of the employee that makes the employee unable to perform his or her employment duties.
2. To care for a family member who has a health condition.
3. To obtain for the employee or a family member services from a health care provider that are directed toward the prevention, diagnosis, care, or treatment of a health condition.
4. To participate in any civil or criminal proceedings relating to the domestic abuse of the employee or of a family member.

Under the bill, an employee who works at least 12 hours in a week accrues paid sick leave at the rate of one hour for each 30 hours worked. An employee who works less than 12 hours in a week may not accrue paid sick leave for hours worked that

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week, but may in that week take paid sick leave that the employee has accrued in previous weeks. Paid sick leave accrued carries over from year to year, but an employee may accumulate no more than 72 hours of unused paid sick leave. An employee's unused balance of paid sick leave is reduced by one hour for each hour or portion of an hour of paid sick leave taken by the employee and has no cash value on termination of employment.

The bill requires an employee who intends to take paid sick leave to give the employer notice of the employee's need to take the leave that includes the reason for taking the leave and the expected duration of the leave. If the need for leave is unforeseeable, the employee must give the employer notice of the employee's need to take leave as soon as practicable after the employee becomes aware of the need to take leave. If the need for leave is foreseeable, the employee must give the employer advance notice of the employee's need to take leave in a reasonable and practicable manner. If the leave is needed to obtain health care services for the employee or a family member, the employee must make a reasonable effort to schedule the leave so that it does not unduly disrupt the employer's operations, subject to the approval of the health care provider of the employee or family member.

If an employee requests paid sick leave to care for a health condition of the employee, to care for a family member who has a health condition, or to obtain health care services for the employee or a family member and if the leave is anticipated to last, or actually lasts, for more than three consecutive days, the employer may require the employee to provide certification issued by a health care provider of the health condition of the employee or family member. If an employee requests paid sick leave to participate in a civil or criminal proceeding relating to domestic abuse of the employee or a family member, the employer may require the employee to provide, as certification of the need to take leave, a copy of the notice of the proceeding.

When an employee returns from paid sick leave, the employer must immediately place the employee in the employment position that the employee held before the leave began or, if that position is filled, in an equivalent employment position. An employee is not entitled to accrue any seniority or employment benefits while on paid sick leave, but is entitled to have his or her group health insurance coverage maintained under the conditions that applied before the leave began. An employer that interferes with, restrains, or denies the exercise of any right relating to paid sick leave created under the bill may be ordered to take action to remedy the violation, including providing the requested leave, reinstating the employee, providing up to two years of back pay, and paying reasonable actual attorney fees. In addition, the employee may bring an action in circuit court to recover damages caused by the violation.

Finally, for purposes of paid sick leave as well as for purposes of family and medical leave under current law, the bill does all of the following:

1. Expands the definition of "child" under current law to include not only a natural, adopted, or foster child, a stepchild, or a legal ward as under current law but also an individual for whom the employee stands in the place of a parent.
2. Expands the definition of "parent" to include not only a natural, foster, or adoptive parent, a stepparent, or a legal guardian of an employee or of an employee's

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spouse but also an individual who stood in the place of a parent of the employee or of the employee's spouse or domestic partner when the employee, spouse, or domestic partner was a child.

3. Creates a definition of "family member" that includes not only a child, spouse, or parent of an employee as under current law but also a domestic partner, sibling, or grandparent of an employee and a child, parent, sibling, or grandparent of an employee's spouse or domestic partner and, for purposes of paid sick leave to participate in a domestic abuse proceeding, any other person who is related by blood or adoption to an employee or to an employee's spouse or domestic partner.

4. Defines "domestic partner" as a person who is in a relationship with any other person in which each person is at least 18 years of age and is otherwise competent to enter into a contract, neither person is married to, or in a domestic partnership with, another person, the two persons are not related by blood in any way that would prohibit marriage, the two persons consider themselves to be members of each other's immediate family, and the two persons agree to be responsible for each other's basic living expenses.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 38.28 (5) of the statutes is amended to read:

2 38.28 (5) State aid shall not be paid to a district for any year, unless every
3 teacher, administrator, principal, and supervisor employed by the district during
4 that year is under a contract providing for leave of absence by reason of sickness of
5 such person, without deduction from salary, for not less than 5 days per year or the
6 leave accrued under s. 103.10 (4m) (c), whichever is greater, and for accumulation of
7 unused sick leave from year to year to a total of not less than 30 days. No allowance
8 may be paid for such absences from teaching or other educational services rendered
9 in evening school by any person employed at least 30 hours per week in day school.
10 ~~This subsection does not apply~~ Section 103.10 (4m), rather than this subsection,
11 applies to a person employed by the district board for less than 30 hours per week.

12 **SECTION 2.** 50.05 (7) (h) of the statutes is amended to read:

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1 50.05 (7) (h) Shall have full power to direct and manage and to discharge
2 employees of the facility, subject to any contract rights they may have. The receiver
3 shall pay employees at the same rate of compensation, including benefits, that the
4 employees would have received from the operator, except that the receiver shall
5 compensate employees for time actually worked during the period of receivership
6 and may, subject to s. 103.10 (4m), reimburse for vacations or periods of sick leave.
7 The receiver may grant salary increases and fringe benefits to employees of a nursing
8 home, in accord with the facility payment formula under s. 49.45 (6m). Receivership
9 does not relieve the operator of any obligation to employees not carried out by the
10 receiver.

11 **SECTION 3.** 103.10 (title) of the statutes is amended to read:

12 **103.10 (title) Family or, medical, and paid sick leave.**

13 **SECTION 4.** 103.10 (1) (a) (intro.) of the statutes is amended to read:

14 103.10 (1) (a) (intro.) “Child” means a natural, adopted, foster or treatment
15 foster child, a stepchild, or a legal ward, or an individual for whom an employee
16 stands in the place of a parent, to whom any of the following applies:

17 **SECTION 5.** 103.10 (1) (a) 2. of the statutes is amended to read:

18 103.10 (1) (a) 2. The individual is 18 years of age or older and cannot care for
19 himself or herself is incapable of self-care because of a serious health condition
20 physical or mental disability.

21 **SECTION 6.** 103.10 (1) (ap) of the statutes is created to read:

22 103.10 (1) (ap) “Domestic abuse” has the meaning given in s. 813.12 (1) (am)
23 and also includes abuse, as defined in s. 813.122 (1) (a), of a child and any of the acts
24 specified in s. 813.12 (1) (am) 1. to 5. against a domestic partner.

25 **SECTION 7.** 103.10 (1) (ar) of the statutes is created to read:

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1 103.10 (1) (ar) “Domestic partner” means a person in a domestic partnership.

2 **SECTION 8.** 103.10 (1) (at) of the statutes is created to read:

3 103.10 (1) (at) “Domestic partnership” means a relationship between 2 persons
4 that satisfies all of the following conditions:

5 1. Each person is at least 18 years of age and is otherwise competent to enter
6 into a contract.

7 2. Neither person is married to, or in a domestic partnership with, another
8 person.

9 3. The 2 persons are not related by blood in any way that would prohibit
10 marriage under s. 765.03.

11 4. The 2 persons consider themselves to be members of each other’s immediate
12 family.

13 5. The 2 persons agree to be responsible for each other’s basic living expenses.

14 **SECTION 9.** 103.10 (1) (c) of the statutes is amended to read:

15 103.10 (1) (c) ~~Except as provided in sub. (14) (b), “employer”~~ “Employer” means
16 a person engaging in any activity, enterprise, or business in this state employing at
17 least 50 individuals on a permanent basis, except that for purposes of paid sick leave
18 “employer” means a person engaging in any activity, enterprise, or business in this
19 state employing at least 5 individuals on a permanent basis. “Employer” includes
20 the state and any office, department, independent agency, authority, institution,
21 association, society, or other body in state government created or authorized to be
22 created by the constitution or any law, including the legislature and the courts.

23 **SECTION 10.** 103.10 (1) (dm) of the statutes is created to read:

24 103.10 (1) (dm) “Family member” means a child, spouse or domestic partner,
25 parent, sibling, or grandparent of an employee, a child, parent, sibling, or

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1 grandparent of an employee’s spouse or domestic partner, and, for purposes of paid
2 sick leave under sub. (4m) (b) 4., also includes any other person who is related by
3 blood or adoption to an employee or to an employee’s spouse or domestic partner.

4 **SECTION 11.** 103.10 (1) (ed) of the statutes is created to read:

5 103.10 (1) (ed) “Health condition” means a physical or mental illness, injury,
6 impairment, or condition.

7 **SECTION 12.** 103.10 (1) (f) of the statutes is amended to read:

8 103.10 (1) (f) “Parent” means a natural parent, foster parent, treatment foster
9 parent, adoptive parent, stepparent or legal guardian of an employee or of an
10 employee’s spouse or domestic partner or a person who stood in the place of a parent
11 of the employee or of the employee’s spouse or domestic partner when the employee,
12 spouse, or domestic partner was a child.

13 **SECTION 13.** 103.10 (2) (a) of the statutes is amended to read:

14 103.10 (2) (a) Nothing in this section prohibits an employer from providing
15 employees with rights to family leave ~~or~~, medical leave ~~which, or paid sick leave that~~
16 are more generous to the employee than the rights provided under this section.

17 **SECTION 14.** 103.10 (2) (c) of the statutes is amended to read:

18 103.10 (2) (c) This section only applies to an employee who has been employed
19 by the same employer for more than 52 consecutive weeks and who worked for the
20 employer for at least 1,000 hours during the preceding 52–week period, except that
21 for purposes of accruing paid sick leave under sub. (4m) (c) this section applies to any
22 employee who works for an employer for at least 12 hours during a week and for
23 purposes of taking paid sick leave under sub. (4m) (b) this section applies to any
24 employee who has been employed by the same employer for at least 60 consecutive
25 days.

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1 **SECTION 15.** 103.10 (3) (b) 3. of the statutes is amended to read:

2 103.10 **(3)** (b) 3. To care for ~~the employee's child, spouse or parent, if the child,~~
3 ~~spouse or parent~~ a family member, if the family member has a serious health
4 condition.

5 **SECTION 16.** 103.10 (4m) of the statutes is created to read:

6 103.10 **(4m)** PAID SICK LEAVE. (a) An employer shall provide an employee who
7 has been employed by the employer for at least 60 consecutive days with paid sick
8 leave as provided in this subsection. The leave shall be provided at the employee's
9 regular rate of pay or, if the employee's compensation is not based on a fixed salary
10 or hourly rate of pay, at a rate that is no less than the minimum wage rate established
11 under ch. 104 for adults or minors, as the case may be, in nontipped employment or
12 the federal minimum hourly wage under 29 USC 206 (a) (1), whichever is greater.
13 An employer may meet the requirement under this paragraph by providing paid
14 leave that an employee may take solely for the reasons specified in par. (b) or by
15 providing paid leave that an employee may take for multiple reasons, including the
16 reasons specified in par. (b), so long as the employee accrues that paid leave at a rate
17 that is no less than the rate specified in par. (c) 1. An employer may not reduce the
18 amount of any leave of any type provided by the employer on the day before the
19 effective date of this paragraph [revisor inserts date], because the employer is
20 providing the leave required under this subsection.

21 (b) An employee may take paid sick leave that the employee has accrued under
22 par. (c) for any of the following reasons:

23 1. To care for a health condition of the employee that makes the employee
24 unable to perform his or her employment duties.

25 2. To care for a family member who has a health condition.

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1 3. To obtain for the employee or a family member services from a health care
2 provider that are directed toward the prevention, diagnosis, care, or treatment of a
3 health condition.

4 4. To participate in any civil or criminal proceedings relating to the domestic
5 abuse of the employee or of a family member.

6 (c) 1. Subject to subd. 2., an employee who works at least 12 hours in a week
7 shall accrue paid sick leave for each hour worked in the employee's normal work week
8 as established by the employer at the rate of one hour for each 30 hours worked. An
9 employee who works less than 12 hours in a week may not accrue paid sick leave for
10 hours worked that week, but may in that week take paid sick leave that the employee
11 has accrued in previous weeks.

12 2. Paid sick leave accrued shall carry over from year to year, but an employee
13 may accumulate no more than 72 hours of unused paid sick leave. An employee's
14 unused balance of paid sick leave shall be reduced by one hour for each hour or
15 portion of an hour of paid sick leave taken by the employee under par. (b).

16 3. Unused paid sick shall have no cash value on termination of employment.
17 If an employee returns to work for a former employer, the employer is not required
18 to restore unused paid sick leave accrued during the former employment, but is
19 required to count days worked during the period of former employment toward the
20 60-day requirement under par. (a).

21 **SECTION 17.** 103.10 (6) (b) (intro.) of the statutes is amended to read:

22 103.10 **(6)** (b) (intro.) If an employee intends to take family leave because of the
23 planned medical treatment or supervision of a ~~child, spouse or parent~~ family member
24 or intends to take medical leave because of the planned medical treatment or
25 supervision of the employee, the employee shall do all of the following:

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1 **SECTION 18.** 103.10 (6) (b) 1. of the statutes is amended to read:

2 103.10 **(6)** (b) 1. Make a reasonable effort to schedule the medical treatment
3 or supervision so that it does not unduly disrupt the employer's operations, subject
4 to the approval of the health care provider of the ~~child, spouse, parent or employee~~
5 or family member.

6 **SECTION 19.** 103.10 (6) (c) of the statutes is created to read:

7 103.10 **(6)** (c) If an employee intends to take paid sick leave, the employee shall
8 give the employer notice of the employee's need to take the leave that includes the
9 reason for taking the leave and the expected duration of the leave. If the need for
10 leave is unforeseeable, the employee shall give the employer notice of the employee's
11 need to take leave as soon as practicable after the employee becomes aware of the
12 need to take leave. If the need for leave is foreseeable, the employee shall give the
13 employer advance notice of the employee's need to take leave in a reasonable and
14 practicable manner. If the leave is for a reason specified in sub. (4m) (b) 3., the
15 employee shall make a reasonable effort to schedule the leave so that it does not
16 unduly disrupt the employer's operations, subject to the approval of the health care
17 provider of the employee or family member.

18 **SECTION 20.** 103.10 (7) (title) of the statutes is amended to read:

19 103.10 **(7)** (title) CERTIFICATION; FAMILY OR MEDICAL LEAVE.

20 **SECTION 21.** 103.10 (7) (a) of the statutes is amended to read:

21 103.10 **(7)** (a) If an employee requests family leave for a reason described in sub.
22 (3) (b) 3. or requests medical leave, the employer may require the employee to provide
23 certification, as described in par. (b), issued by the health care provider or Christian
24 Science practitioner of the ~~child, spouse, parent or employee~~ or family member,
25 whichever is appropriate.

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1 **SECTION 22.** 103.10 (7) (b) (intro.) of the statutes is amended to read:

2 103.10 (7) (b) (intro.) No employer may require certification under par. (a)
3 stating more than the following:

4 **SECTION 23.** 103.10 (7) (b) 1. of the statutes is amended to read:

5 103.10 (7) (b) 1. That the ~~child, spouse, parent or employee~~ or family member
6 has a serious health condition.

7 **SECTION 24.** 103.10 (7m) of the statutes is created to read:

8 103.10 (7m) CERTIFICATION; PAID SICK LEAVE. (a) If an employee requests paid
9 sick leave for a reason described in sub. (4m) (b) 1., 2., or 3. and if the leave is
10 anticipated to last, or actually lasts, for more than 3 consecutive days, the employer
11 may require the employee to provide certification, as described in par. (b), issued by
12 the health care provider or Christian Science practitioner of the employee or family
13 member, whichever is appropriate. The employee shall provide a copy of the
14 certification to the employer in a timely manner, not later than 30 days after the first
15 day of the leave. The employer may not delay the commencement of the leave or deny
16 pay for the leave on the basis that the employer has not yet received a copy of the
17 certification. If the cost of obtaining certification under this paragraph is not covered
18 under a health insurance policy or plan provided by the employer, the employer shall
19 reimburse the employee for any out-of-pocket expenses incurred by the employee
20 in connection with obtaining that certification.

21 (b) No employer may require certification under par. (a) stating more than the
22 following:

23 1. That the employee has a health condition that makes the employee unable
24 to perform his or her employment duties and the employee need to take leave to care
25 for that condition, that a family member has a health condition and the employee

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1 needs to take leave to care for the family member, or that the employee or a family
2 member has a health condition and the employee needs to take leave to obtain
3 services from a health care provider as provided in sub. (4m) (b) 3.

4 2. The date the health condition commenced and its probable duration.

5 3. Within the knowledge of the health care provider or Christian Science
6 practitioner, the medical facts regarding the health condition.

7 (c) The employer may require the employee to obtain the opinion of a 2nd health
8 care provider, chosen and paid for by the employer, concerning any information
9 certified under par. (b).

10 (d) If an employee requests paid sick leave to participate in a civil or criminal
11 proceeding described in sub. (4m) (b) 4., the employer may require the employee to
12 provide, as certification of the need to take leave, a copy of the notice of the
13 proceeding.

14 **SECTION 25.** 103.10 (8) (a) (intro.) of the statutes is amended to read:

15 103.10 **(8)** (a) (intro.) Subject to par. (c), when an employee returns from family
16 leave ~~or~~, medical leave, or paid sick leave, his or her employer shall immediately
17 place the employee in an employment position as follows:

18 **SECTION 26.** 103.10 (8) (a) 1. of the statutes is amended to read:

19 103.10 **(8)** (a) 1. If the employment position which the employee held
20 immediately before the family leave ~~or~~, medical leave, or paid sick leave began is
21 vacant when the employee returns, in that position.

22 **SECTION 27.** 103.10 (8) (a) 2. of the statutes is amended to read:

23 103.10 **(8)** (a) 2. If the employment position which the employee held
24 immediately before the family leave ~~or~~, medical leave, or paid sick leave began is not
25 vacant when the employee returns, in an equivalent employment position having

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1 equivalent compensation, benefits, working shift, hours of employment, and other
2 terms and conditions of employment.

3 **SECTION 28.** 103.10 (8) (b) of the statutes is amended to read:

4 103.10 (8) (b) No employer may, because an employee received family leave ~~or,~~
5 medical leave, or paid sick leave, reduce or deny an employment benefit ~~which that~~
6 accrued to the employee before his or her leave began or, consistent with sub. (9),
7 accrued after his or her leave began.

8 **SECTION 29.** 103.10 (8) (c) of the statutes is amended to read:

9 103.10 (8) (c) Notwithstanding par. (a), if an employee on ~~a~~ family leave,
10 medical or family leave, or paid sick leave wishes to return to work before the end
11 of the leave as scheduled, the employer shall place the employee in an employment
12 position of the type described in par. (a) 1. or 2. within a reasonable time not
13 exceeding the duration of the leave as scheduled.

14 **SECTION 30.** 103.10 (9) (a) of the statutes is amended to read:

15 103.10 (9) (a) Except as provided in par. (b), nothing in this section entitles a
16 returning employee to a right, employment benefit, or employment position to which
17 the employee would not have been entitled had he or she not taken family leave ~~or,~~
18 medical leave, or paid sick leave or to the accrual of any seniority or employment
19 benefit during a period of family leave ~~or,~~ medical leave, or paid sick leave.

20 **SECTION 31.** 103.10 (9) (b) of the statutes is amended to read:

21 103.10 (9) (b) Subject to par. (c), during a period an employee takes family leave
22 ~~or,~~ medical leave, or paid sick leave, his or her employer shall maintain group health
23 insurance coverage under the conditions that applied immediately before the family
24 leave ~~or,~~ medical leave, or paid sick leave began. If the employee continues making
25 any contribution required for participation in the group health insurance plan, the

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1 employer shall continue making group health insurance premium contributions as
2 if the employee had not taken the family leave ~~or~~, medical leave, or paid sick leave.

3 **SECTION 32.** 103.10 (9) (c) 4. of the statutes is amended to read:

4 103.10 **(9)** (c) 4. If an employee ends his or her employment with an employer
5 during or within 30 days after a period of family leave ~~or~~, medical leave, or paid sick
6 leave, the employer may deduct from the amount returned to the employee under
7 subd. 3. any premium or similar expense paid by the employer for the employee's
8 group health insurance coverage while the employee was on family leave ~~or~~, medical
9 leave, or paid sick leave.

10 **SECTION 33.** 103.10 (9) (d) of the statutes is amended to read:

11 103.10 **(9)** (d) If an employee ends his or her employment with an employer
12 during or at the end of a period of family leave ~~or~~, medical leave, or paid sick leave,
13 the time period for conversion to individual coverage under s. 632.897 (6) shall be
14 calculated as beginning on the day that on which the employee began the period of
15 family leave ~~or~~, medical leave, or paid sick leave.

16 **SECTION 34.** 103.10 (10) of the statutes is amended to read:

17 103.10 **(10)** ALTERNATIVE EMPLOYMENT. Nothing in this section prohibits an
18 employer and an employee with a serious health condition from mutually agreeing
19 to alternative employment for the employee while the serious health condition lasts.
20 No period of alternative employment, with the same employer, reduces the
21 employee's right to family leave ~~or~~, medical leave, or paid sick leave.

22 **SECTION 35.** 103.10 (12) (c) of the statutes is amended to read:

23 103.10 **(12)** (c) If 2 or more health care providers disagree about any of the
24 information required to be certified under sub. (7) (b) or (7m) (b), the department may
25 appoint another health care provider to examine the ~~child, spouse, parent or~~

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1 employee or family member and render an opinion as soon as possible. The
2 department shall promptly notify the employee and the employer of the
3 appointment. The employer and the employee shall each pay 50% of the cost of the
4 examination and opinion.

5 **SECTION 36.** 103.10 (12) (d) of the statutes is amended to read:

6 103.10 (12) (d) The department shall issue its decision and order within 30 days
7 after the hearing. If the department finds that an employer violated sub. (11) (a) or
8 (b), it may order the employer to take action to remedy the violation, including
9 providing the requested family leave or, medical leave, or paid sick leave, reinstating
10 an employee, providing back pay accrued not more than 2 years before the complaint
11 was filed, and paying reasonable actual attorney fees to the complainant.

12 **SECTION 37.** 108.04 (1) (b) 3. (intro.) of the statutes is amended to read:

13 108.04 (1) (b) 3. (intro.) While the employee is on family or medical leave under
14 ~~the federal family and medical leave act~~ Family and Medical Leave Act of 1993 (P.L.
15 103-3), 29 USC 2601 to 2654, or s. 103.10 or paid sick leave under s. 103.10, until
16 whichever of the following occurs first:

17 **SECTION 38.** 111.91 (2) (f) of the statutes is amended to read:

18 111.91 (2) (f) Family leave and medical leave rights below the minimum
19 afforded under the federal Family and Medical Leave Act of 1993, 29 USC 2601 to
20 2654, and s. 103.10 and paid sick leave rights below the minimum afforded under s.
21 103.10. Nothing in this paragraph prohibits the employer from bargaining on rights
22 to family leave or medical leave which that are more generous to the employee than
23 the rights provided under the federal Family and Medical Leave Act of 1993, 29 USC
24 2601 to 2654, and s. 103.10 and on rights to paid sick leave that are more generous
25 to the employee than the rights provided under s. 103.10.

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1 **SECTION 39.** 230.26 (4) of the statutes is amended to read:

2 230.26 **(4)** Fringe benefits specifically authorized by statutes, with the
3 exception of deferred compensation plan participation under subch. VII of ch. 40,
4 worker's compensation, unemployment insurance, group insurance, retirement, and
5 social security coverage, shall be denied employees hired under this section. Such
6 employees may not be considered permanent employees and do not qualify for
7 tenure, vacation, paid holidays, ~~sick leave~~, performance awards, ~~or~~ the right to
8 compete in promotional examinations, or, except as provided in s. 103.10 (4m), paid
9 sick leave.

10 **SECTION 40.** 230.35 (2m) of the statutes is amended to read:

11 230.35 **(2m)** An employee shall be eligible for medical or family leave under s.
12 103.10 upon the expiration, extension, or renewal of any collective bargaining
13 agreement in effect on April 26, 1988, ~~which~~ that covers the employee. An employee
14 shall be eligible for paid sick leave under s. 103.10 upon the expiration, extension,
15 or renewal of any collective bargaining agreement in effect on the effective date of
16 this subsection [revisor inserts date], that covers the employee.

17 **SECTION 41.** 253.10 (3) (d) 1. of the statutes is amended to read:

18 253.10 **(3)** (d) 1. Geographically indexed materials that are designed to inform
19 a woman about public and private agencies, including adoption agencies, and
20 services that are available to provide information on family planning, as defined in
21 s. 253.07 (1) (a), including natural family planning information, to provide
22 ultrasound imaging services, to assist her if she has received a diagnosis that her
23 unborn child has a disability or if her pregnancy is the result of sexual assault or
24 incest and to assist her through pregnancy, upon childbirth and while the child is
25 dependent. The materials shall include a comprehensive list of the agencies

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1 available, a description of the services that they offer and a description of the manner
2 in which they may be contacted, including telephone numbers and addresses, or, at
3 the option of the department, the materials shall include a toll-free, 24-hour
4 telephone number that may be called to obtain an oral listing of available agencies
5 and services in the locality of the caller and a description of the services that the
6 agencies offer and the manner in which they may be contacted. The materials shall
7 provide information on the availability of governmentally funded programs that
8 serve pregnant women and children. Services identified for the woman shall include
9 medical assistance for pregnant women and children under s. 49.47 (4) (am), the
10 availability of family ~~or~~, medical, and paid sick leave under s. 103.10, the Wisconsin
11 works program under ss. 49.141 to 49.161, child care services, child support laws and
12 programs, and the credit for expenses for household and dependent care and services
13 necessary for gainful employment under section 21 of the ~~internal revenue code~~
14 Internal Revenue Code. The materials shall state that it is unlawful to perform an
15 abortion for which consent has been coerced, that any physician who performs or
16 induces an abortion without obtaining the woman's voluntary and informed consent
17 is liable to her for damages in a civil action and is subject to a civil penalty, that the
18 father of a child is liable for assistance in the support of the child, even in instances
19 in which the father has offered to pay for an abortion, and that adoptive parents may
20 pay the costs of prenatal care, childbirth, and neonatal care. The materials shall
21 include information, for a woman whose pregnancy is the result of sexual assault or
22 incest, on legal protections available to the woman and her child if she wishes to
23 oppose establishment of paternity or to terminate the father's parental rights. The
24 materials shall state that fetal ultrasound imaging and auscultation of fetal heart

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1 tone services are obtainable by pregnant women who wish to use them and shall
2 describe the services.

3 **SECTION 42.** 893.96 (title) of the statutes is repealed and recreated to read:

4 **893.96 (title) Family, medical, and paid sick leave; civil remedies.**

5 **SECTION 43. Initial applicability.**

6 (1) This act first applies to an employee, as defined in section 103.10 (1) (b) of
7 the statutes, who is affected by a collective bargaining agreement that contains
8 provisions inconsistent with this act on the day on which the collective bargaining
9 agreement expires or is extended, modified, or renewed, whichever occurs first.

10 **SECTION 44. Effective date.**

11 (1) This act takes effect on the first day of the 6th month beginning after
12 publication.

13 (END)