

ASSEMBLY, No. 1837

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED JANUARY 24, 2008

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington and Camden)

SYNOPSIS

Authorizes leave for parents and guardians of children with special needs.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/23/2008)

1 AN ACT authorizing leave for certain parents and guardians of
2 children with special needs attending a public school and
3 supplementing Title 18A of the New Jersey Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. As used in this act:

9 "Child with special needs" means a biological, adopted or foster
10 child, stepchild, legal ward or child of a parent who:

11 (1) Is less than 18 years of age or is 18 years of age or older but
12 incapable to self-care because of a mental or physical impairment;
13 and

14 (2) Has identified specific academic needs or disciplinary
15 concerns, including, but not limited to, behavior problems, social
16 problems, problems with tardiness or lateness or health-related
17 concerns.

18 "Commissioner" means the Commissioner of Education.

19 "Employ" means to suffer or permit to work for compensation,
20 and includes ongoing, contractual relationships in which the
21 employer retains substantial direct or indirect control over the
22 employee's employment opportunities or terms and conditions of
23 employment.

24 "Employee" means a person who is employed for at least 12
25 months by an employer, with respect to whom benefits are sought
26 under this act, for not less than 1,000 base hours during the
27 immediately preceding 12 month period.

28 "Employer" means a person or corporation, partnership,
29 individual proprietorship, joint venture, firm or company or other
30 similar legal entity which engages the services of an employee and
31 which from the effective date of this act, employs 50 or more
32 employees for each working day during each of 20 or more calendar
33 workweeks in the then current or immediately preceding calendar
34 year. "Employer" includes the State, any political subdivision
35 thereof, and all public offices, agencies, boards and bodies.

36 "Employment benefits" means all benefits and policies provided
37 or made available to employees by an employer, and includes group
38 life insurance, health insurance, disability insurance, sick leave,
39 annual leave, pensions, or similar benefits.

40 "Identified" means an informal or formal determination by a
41 parent, school teacher or school administrator that the child has
42 specific academic needs or problems or disciplinary concerns,
43 including but not limited to behavior problems, social problems,
44 problems with tardiness or lateness or health-related concerns. An
45 Individualized Education Plan is not required in a determination
46 that a child has identified needs.

47 "Parent" means a person who is the biological parent, adoptive
48 parent, foster parent, stepparent, parent-in-law or legal guardian,

1 having a parent-child relationship with a child as defined by law, or
2 having sole or joint legal or physical custody, care, guardianship, or
3 visitation with child.

4 "Reduced leave schedule" means leave scheduled for fewer than
5 an employee's usual number of hours worked per workweek.

6
7 2. a. Any employee of an employer in this State who is the
8 parent of a child with special needs enrolled in a public school shall
9 be entitled, in addition to the 12 weeks of family leave provided by
10 the Family Leave Act, P.L.1989, c.261 (C.34:11B-1 et seq.), to
11 leave of 24 hours in any 12-month period, for the purpose of
12 attending any school-related conference, meeting, event, or function
13 which is requested or required by the school administration, by any
14 school teacher, or by any professional staff member who has any
15 responsibility for the education of the child, and the leave shall be
16 provided by the employer with full pay, benefits, and emoluments
17 of employment.

18 b. In cases of a parent taking leave to attend a school-related
19 conference, meeting, event or function, the principal of the child's
20 school shall provide the employee with prior written notice of the
21 need for the leave, which the employee shall provide to the
22 employer, and subsequent certification of the employee's
23 attendance. The prior notice shall be provided to the employer as
24 far in advance as is reasonable and practical under the
25 circumstances, and in a manner which is consistent with any
26 applicable regulations promulgated by the commissioner. The leave
27 provided by an employer to one parent for a meeting, conference,
28 event or school function shall not relieve the employer of the
29 obligation to grant leave to the other parent under this section,
30 irrespective of whether both parents are employed by the same or
31 by a different employer.

32 c. An employee shall be entitled, at the employee's option, to
33 take this leave on a reduced leave schedule.

34
35 3. This act shall not limit, restrict, or reduce any employee's
36 right to leave under the Family Leave Act, P.L.1989, c.261
37 (C.34:11B-1 et seq.), or the federal Family and Medical Leave Act
38 of 1993, Pub.L.103-3 (29 U.S.C.s.2601 et seq.), or under any
39 collective agreement or other employer policy.

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41 4. An employer shall display conspicuous notice of its
42 employees' rights and obligations pursuant to the provisions of this
43 act, and use other appropriate means to keep its employees so
44 informed.

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46 5. a. It shall be unlawful for any employer to interfere with,
47 restrain or deny the exercise of, or the attempt to exercise, the rights
48 provided under this act or to withhold the benefits provided for

1 under this act.

2 b. It shall be unlawful for any employer to discharge or
3 discriminate against an individual for opposing a practice made
4 unlawful by this act.

5 c. It shall be unlawful for a person to discharge or discriminate
6 against an individual because the individual: has filed a charge, or
7 has instituted or caused to be instituted a proceeding, under or
8 related to this act; has given or is about to give information in
9 connection with an inquiry or proceeding relating to a right
10 provided under this act; or has testified or is about to testify in an
11 inquiry or proceeding relating to a right provided under this act.

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13 6. The penalty for an employer violating this act is, in addition
14 to other relief or affirmative action provided by law, not more than
15 \$2,000 for the first offense and not more than \$5,000 for the second
16 and each subsequent offense, to be recovered in a summary civil
17 action in the name of the Attorney General and collected pursuant
18 to the "Penalty Enforcement Law of 1999," P.L.1999, c.274
19 (C.2A:58-10 et seq.).

20

21 7. Any person may initiate suit in Superior Court or file a
22 complaint with the Division of Civil Rights on either an individual
23 or class basis. In addition to the remedies provided in section 16 of
24 P.L.1945, c.169 (C.10:5-17), the aggrieved party may be awarded
25 punitive damages in an amount not greater than \$10,000 except that
26 in the case of a class action or a director's complaint the total
27 amount of punitive damages shall not exceed \$500,000 or 1% of the
28 net worth of the defendant, whichever is less. In determining the
29 amount of punitive damages, the court or director shall consider,
30 among other relevant factors, the amount of compensatory damages
31 awarded, the amount of civil penalty to be paid by the employer, the
32 frequency and persistence of the violation of this act by the
33 employer, the resources of the employer, and whether the
34 employer's failure to comply with this act was intentional. In an
35 action or complaint brought under this act, the prevailing party may
36 be awarded reasonable attorneys' fees as part of this case, provided
37 however, that no attorneys' fees shall be awarded to the employer
38 unless there is a determination that the action was brought in bad
39 faith.

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41 8. No provision of this act shall be deemed to justify an
42 employer in reducing employment benefits provided by the
43 employer or required by a collective bargaining agreement which
44 are in excess of those required by this act. Nor shall any provision
45 of this act, or any regulations promulgated to implement or enforce
46 this act, be construed to prohibit the negotiation and provision
47 through collective bargaining agreements of leave policies or
48 benefit programs which provide benefits in excess of those required

1 by this act. This provision shall apply irrespectively of the date that
2 a collective bargaining agreement takes effect.

3
4 9. The Commissioner shall promulgate rules and regulations in
5 accordance with the "Administrative Procedures Act" P.L.1968,
6 c.410 (C.52:14B-1 et seq.) deemed necessary for the
7 implementation and enforcement of this act.

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9 10. This act shall take effect immediately.

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STATEMENT

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14 This bill supplements Title 18A of the New Jersey Statutes to
15 provide up to 24 hours in family leave time during any 12-month
16 period for a parent or guardian of a child with special needs
17 enrolled in a public school, if the parent or guardian works for a
18 public employer or a private employer who employs 50 or more
19 employees. The leave time is provided to attend any conference,
20 meeting, function or other event requested or required by the school
21 administration or any responsible teacher or professional staff
22 member. The bill requires the employer to provide full pay,
23 benefits and emoluments of employment during the leave. Both
24 parents or guardians are entitled to the leave, whether or not they
25 work for the same employer.

26 The principal of the child's school is required to provide prior
27 notice of the need for the leave and subsequent certification of the
28 employee's attendance. The employee is required provide the prior
29 written notice to the employer as early as possible. The employee
30 may take the leave on a reduced leave schedule.

31 This bill does not limit, restrict or reduce an employee's right to
32 leave under New Jersey's Family Leave Act, the federal Family and
33 Medical Leave Act of 1993 or any collective bargaining agreement
34 or other employer policy. Employers are required to post notice of
35 employee rights and obligations under the bill.

36 The bill prohibits employers from interfering with, restraining or
37 denying employees the exercise of rights provided by the bill, and
38 from discriminating against or discharging employees for filing
39 charges against, providing information about, or otherwise opposing
40 practices prohibited by the bill. Penalties are set at not more than
41 \$2,000 for the first offense and not more than \$5,000 for each
42 subsequent offense. Individuals may also initiate suits in Superior
43 Court or file with the Division of Civil Rights.

44 Studies show that parental involvement is key to a child's
45 success, especially academic success. The importance of
46 communication between parents and teachers, relative to the
47 progress of their children, especially children at risk, cannot be
48 underestimated. This bill will remove a potential barrier to parents

A1837 CONAWAY

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- 1 who seek to become more actively involved in their child's
- 2 schooling and academic career.