

By: Dutton

H.B. No. 426

A BILL TO BE ENTITLED

AN ACT

relating to the right of an employee to time off from work to participate in certain school activities of the employee's child; providing a penalty.

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 PARTICIPATION

IN CERTAIN SCHOOL ACTIVITIES

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 under a written or oral contract of hire, whether express or implied.

(2) "Employee's child" means a child in the custody of an employee to whom this chapter applies.

(3) "Employer" means a person who employs 10 or more employees at the same workplace. The term includes a public employer.

Sec. 83.002. APPLICATION. This chapter applies to an employee who is a parent, legal guardian, or custodial grandparent of a child who is in prekindergarten through grade 12.

Sec. 83.003. RIGHT TO PARTICIPATE IN CERTAIN SCHOOL ACTIVITIES. (a) An employee who is subject to this chapter is

1 entitled to time off as provided by this section to:

2 (1) meet with a teacher of the employee's child; or

3 (2) participate in a school activity of the employee's
4 child.

5 (b) An employee is entitled under this section to up to two
6 hours in each semester.

7 (c) Before taking time off under this section, an employee
8 must provide the employer with reasonable advance written notice of
9 the planned absence of the employee.

10 Sec. 83.004. USE OF LEAVE TIME. (a) An employee is not
11 required to use existing vacation leave time, personal leave time,
12 or compensatory leave time for the purpose of a planned absence
13 authorized by this chapter except as otherwise provided by a
14 collective bargaining agreement entered into before September 1,
15 2005.

16 (b) The use of leave time under this section may not be
17 restricted by a term or condition adopted under a collective
18 bargaining agreement that is entered into on or after September 1,
19 2005.

20 Sec. 83.005. EFFECT ON EMPLOYEE PAY. An employer may not
21 reduce the pay otherwise owed to the employee for any pay period
22 because the employee took time off during that pay period for the
23 purpose of a planned absence authorized by this chapter.

24 Sec. 83.006. DOCUMENTATION. (a) An employee shall provide
25 documentation to the employer of the employee's participation in a
26 particular school activity on the employer's request.

27 (b) For purposes of this section, "documentation" means any

1 verification of parental participation in a school activity that
2 the child's school considers reasonable and appropriate.

3 Sec. 83.007. SAME EMPLOYER. If both parents of a child are
4 employed by the same employer at the same workplace, the
5 entitlement granted under Section 83.003 may be exercised as
6 regards a specific school activity of that child only by the
7 employee who first gives notice to the employer as required under
8 Section 83.003(c). The other parent is entitled to time off to
9 attend the school activity only as approved by the employer.

10 Sec. 83.008. EMPLOYER RETALIATION PROHIBITED. (a) An
11 employer may not suspend or terminate the employment of, or
12 otherwise discriminate against, an employee who takes a planned
13 absence authorized by this chapter to participate in a school
14 activity of the employee's child if the employee has given written
15 notice as required under Section 83.003(c).

16 (b) An employee whose employment is suspended or terminated
17 in violation of this chapter is entitled to:

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

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

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

25 Sec. 83.009. CIVIL PENALTY. (a) An employer who suspends
26 or terminates the employment of an employee in violation of this
27 chapter is liable for a civil penalty not to exceed \$1,000.

1 (b) The attorney general or an appropriate prosecuting
2 attorney may sue to collect a civil penalty under this section.

3 (c) A civil penalty collected under this section shall be
4 deposited in the state treasury to the credit of the general revenue
5 fund.

6 Sec. 83.010. NOTICE TO EMPLOYEES. (a) Each employer shall
7 inform its employees of their rights under this chapter by posting a
8 conspicuous sign in a prominent location in the employer's
9 workplace.

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

12 SECTION 2. This Act applies only to a suspension,
13 termination, or other adverse employment action that is taken by an
14 employer against an employee because of an employee absence
15 authorized under Chapter 83, Labor Code, as added by this Act, that
16 occurs on or after the effective date of this Act. A suspension,
17 termination, or other adverse employment action that is taken by an
18 employer against an employee before the effective date of this Act
19 is governed by the law in effect on the date that the employment
20 action is taken, and the former law is continued in effect for that
21 purpose.

22 SECTION 3. This Act takes effect September 1, 2005.