

By: Zaffirini

S.B. No. 41

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the right of an employee to time off from work to
3 participate in certain activities of the employee's child.

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

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

7 CHAPTER 83. EMPLOYEE RIGHT TO PARTICIPATION

8 IN CERTAIN SCHOOL AND CHILD-CARE FACILITY ACTIVITIES

9 Sec. 83.001. DEFINITIONS. In this chapter:

10 (1) "Employee" means a person other than an
11 independent contractor who, for compensation, performs services
12 for an employer under a written or oral contract of hire, whether
13 express or implied.

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

17 Sec. 83.002. APPLICATION. (a) This chapter applies to an
18 employee who is a parent, legal guardian, or custodial grandparent
19 of a child who is in a licensed or certified child-care facility or
20 prekindergarten through grade 12.

21 (b) For purposes of this chapter, "employee's child" means a
22 child in the custody of an employee to whom this chapter applies.

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

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

2 (1) meet with a teacher of the employee's child or with
3 a caregiver of the child in a child-care facility; or

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

6 (b) An employee is entitled under this section to up to one
7 hour in each calendar month.

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

11 Sec. 83.004. USE OF LEAVE TIME. (a) An employee is not
12 required to use existing vacation leave time, personal leave time,
13 or compensatory leave time for the purpose of a planned absence
14 authorized by this chapter except as otherwise provided by a
15 collective bargaining agreement entered into before September 1,
16 2005.

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

20 Sec. 83.005. DOCUMENTATION. (a) An employee shall provide
21 documentation to the employer of the employee's participation in a
22 particular activity on the employer's request.

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

27 Sec. 83.006. SAME EMPLOYER. If both parents of a child are

1 employed by the same employer at the same workplace, the
2 entitlement granted under Section 83.003 may be exercised as
3 regards a specific activity of that child only by the employee who
4 first gives notice to the employer as required under Section
5 83.003(c). The other parent is entitled to time off to attend the
6 activity only as approved by the employer.

7 Sec. 83.007. EMPLOYER RETALIATION PROHIBITED. (a) An
8 employer may not suspend or terminate the employment of, or
9 otherwise discriminate against, an employee who takes a planned
10 absence authorized by this chapter to participate in an activity of
11 the employee's child if the employee has given written notice as
12 required under Section 83.003(c).

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

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

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

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

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

25 Sec. 83.008. NOTICE TO EMPLOYEES. (a) Each employer shall
26 inform its employees of their rights under this chapter by posting a
27 conspicuous sign in a prominent location in the employer's

1 workplace.

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

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

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