

JAN 18 2013

S.B. NO. 502

A BILL FOR AN ACT

RELATING TO LEAVE.

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

1 SECTION 1. The legislature finds that it is crucial for
2 parents to be involved in their children's education, in the
3 school and in the home. There is evidence that parent
4 involvement improves student achievement and students whose
5 parents are involved in their education have better grades, test
6 scores, long-term academic achievement, attitudes, and behavior.

7 The legislature further finds that with the constant
8 demands placed on working families and the need to promote
9 stability and economic security in the home, both parents should
10 have the option of taking leave from their employment for
11 purposes related to their children's education. Currently,
12 twelve states require employers to allow time for employees to
13 participate in their children's educational activities.
14 California is amongst the most progressive states, giving
15 parents who work for businesses with twenty-five or more
16 employees up to forty hours per year to participate in school
17 activities.



1 The purpose of this Act is to prohibit employers who employ
2 employees or more from discharging or otherwise
3 discriminating against an employee who is a parent, guardian, or
4 grandparent having custody of one or more children in
5 kindergarten or grades one through twelve for taking time off to
6 participate in the employee's children's school activities;
7 provided that certain requirements are met.

8 SECTION 2. Chapter 398, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§398- Family school leave. (a) An employee, as
12 defined in this section, who is a parent having custody of one
13 or more children in kindergarten or grades one through twelve
14 shall be entitled to a total of hours of family school
15 leave during any school year, not exceeding hours in any
16 calendar month of the school year, to participate in activities
17 of the school of any child if the employee, prior to taking the
18 time off, gives reasonable notice to the employer, as defined in
19 this section, of the planned leave. The family school leave
20 authorized pursuant to this section shall be in addition to
21 family leave authorized pursuant to section 398-3.



1 (b) If more than one parent of a child is employed by the
2 same employer at the same work location, the leave permitted
3 under subsection (a) shall apply only to the parent who first
4 gives notice to the employer; provided that the other parent may
5 take planned leave under subsection (a) simultaneously if the
6 other parent obtains the employer's approval for the requested
7 leave.

8 (c) The employee shall utilize existing vacation, sick
9 leave, personal leave, or other compensatory time off for
10 purposes of the planned leave authorized by this section, unless
11 otherwise provided by a collective bargaining agreement entered
12 into before July 1, 2013, and in effect on that date. An
13 employee may also utilize leave without pay for this purpose to
14 the extent made available by the employer. The entitlement of
15 any employee under this section shall not be diminished by any
16 collective bargaining agreement term or condition that is agreed
17 to on or after July 1, 2013.

18 (d) Notwithstanding subsection (c), in the event that all
19 permanent, full-time employees of an employer are accorded
20 vacation during the same period of time in the calendar year, an
21 employee may not utilize that accrued vacation benefit at any



1 other time for purposes of the planned leave authorized by this
2 section.

3 (e) The employee, if requested by the employer, shall
4 provide documentation from the school as proof that the employee
5 participated in school activities on a specific date and at a
6 particular time.

7 (f) For the purposes of this section:

8 "Documentation" means any written verification of parental
9 participation that the school deems appropriate and reasonable.

10 "Employee" means a person who performs services for hire
11 for not fewer than six consecutive months for the employer from
12 whom benefits are sought under this section.

13 "Employer" means any individual or organization, including
14 the State, any of its political subdivisions, any
15 instrumentality of the State or its political subdivisions, any
16 partnership, association, trust, estate, joint stock company,
17 insurance company, or corporation, whether domestic or foreign,
18 or receiver or trustee in bankruptcy, or the legal
19 representative of a deceased person, who employs or more
20 employees at the same location for each working day during each
21 of twenty or more calendar weeks in the current or preceding
22 calendar year."



1 SECTION 3. Section 398-8, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) It shall be unlawful for any employer to discharge or
4 in any other manner discriminate against any individual for
5 opposing any practice made unlawful by this chapter[-] or to
6 discharge or in any other manner discriminate against an
7 employee for taking family school leave or attempting to take
8 family school leave pursuant to section 398- ."

9 SECTION 4. Section 398-26, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "[+]§398-26[+] Remedies. (a) In addition to all
12 employment terms and benefits provided under section 398-7,
13 remedies prescribed and ordered by the department or the court
14 under this chapter may include any legal, equitable, and other
15 relief the department or court deems appropriate.

16 (b) Relief under this section may include:

17 (1) The amount of any wages, salary, employment benefits,
18 or other compensation denied or lost to the employee
19 by reason of the violation; or

20 (2) In a case in which wages, salary, employment benefits,
21 or other compensation have not been denied or lost to
22 the employee, any actual monetary losses sustained by



1 the employee as a direct result of the violation, such
2 as the cost of providing care, up to a sum equal to
3 four weeks of wages or salary for the employee.

4 (c) An employer may be liable for an additional amount as
5 liquidated damages equal to the sum of the applicable amount in
6 subsection (b) (1) and (2); provided that if an employer who has
7 violated this chapter proves to the satisfaction of the
8 department or the court that the act or omission that violated
9 this chapter was in good faith and that the employer had
10 reasonable grounds for believing that the act or omission was
11 not a violation of this chapter, the department or the court may
12 reduce the amount of the liability to the applicable amount
13 determined under subsection (b) (1) or (2).

14 (d) If an employer is found by the department or the court
15 to have violated section 398- and wilfully refuses to rehire,
16 promote, or otherwise restore an employee or former employee who
17 has otherwise been determined by the department or the court to
18 be eligible for rehiring or promotion, the employer shall be
19 subject to a civil penalty in an amount equal to three times the
20 amount of the employee's lost wages and benefits."

21 SECTION 5. Section 398-2, Hawaii Revised Statutes, is
22 repealed.



1 ~~["§398-2 Inapplicability. The rights provided under~~
2 ~~this chapter shall not apply to employees of an employer with~~
3 ~~fewer than one hundred employees."]~~

4 SECTION 6. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 7. This Act shall take effect on July 1, 2013.

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S.B. NO. 562

Report Title:

Labor; Employment; Family School Leave; Education

Description:

Authorizes family school leave for employees of employers who employ an unspecified number of employees, provided certain requirements are met, so that employees may participate in their children's school activities. Prohibits employers from discharging or otherwise discriminating against an employee for taking family school leave. Allows for a civil penalty in an amount equal to three times the amount of the employee's lost wages and benefits in certain circumstances.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

