

26-LS1034/C

Wayne

3/22/10

CS FOR SENATE BILL NO. 278()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY**Offered:****Referred:****Sponsor(s): SENATOR WIELECHOWSKI****A BILL****FOR AN ACT ENTITLED**

1 "An Act allowing certain teachers, public employees, and private sector employees to
2 take leave without pay when the spouse or domestic partner of the teacher or public
3 employee or the spouse of the employee not a teacher or public employee is on leave
4 from deployment in a combat zone."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 14.20.345(b) is amended to read:

7 (b) A leave of absence under this section or AS 14.20.348 is not an
8 interruption of the continuous service necessary to attain or retain retirement or tenure
9 rights under AS 14.20.150, 14.20.155, or 14.20.160. However, the time spent on leave
10 of absence under this section may not be counted in determining when a teacher has
11 sufficient service to enable the teacher to acquire retirement or tenure rights.

12 * **Sec. 2.** AS 14.20 is amended by adding a new section to read:

13 **Sec. 14.20.348. Leave without pay when spouse or domestic partner is on**
14 **leave from military deployment in a combat zone.** (a) Notwithstanding

AS 14.20.345(a), a person who is employed as a teacher at a school that voluntarily grants the teacher's request for leave under this section or at a school where any combination of 20 or more full-time, part-time, and temporary employees are employed may take leave without pay, not to exceed 10 regularly scheduled work days in a calendar year, when the teacher's spouse or domestic partner is

(1) a member of a regular, reserve, or auxiliary component of the armed forces of the United States or the organized militia under AS 26.05.010 who is deployed during a period of military conflict in a geographic area that is designated a combat zone by the President of the United States; and

(2) on leave from the military deployment described in (1) of this subsection for any reason.

(b) A teacher is required to give notice of a request for leave under this section at least 14 days in advance, or, if a related medical emergency exists and giving at least 14 days of advance notice is not practicable, the teacher is required to give as much notice as is practicable.

(c) An employer may require that a teacher who requests leave under this section provide the employer with verification that, during that leave, the teacher's spouse or domestic partner is, was, or will be on leave from military deployment in a combat zone, as required under (a) of this section.

(d) A request for leave that meets the requirements of (a) of this section may not be denied, and a teacher's employer may not, by act or omission, retaliate against the teacher for requesting or taking the leave.

(e) A leave of absence under this section

(1) is not a break in service for retirement purposes;

(2) continues the teacher in pay status, notwithstanding AS 14.20.345(d) and (f), for the purpose of ensuring that the teacher's eligibility for employee benefits, including retirement benefits, is not affected by the leave; and

(3) except as provided in (1) and (2) of this subsection, does not entitle the teacher to accrue retirement benefits that would not ordinarily accrue if the teacher were on leave of absence without pay under AS 14.20.345(a).

(f) A change to a teacher's terms or conditions of employment is void if its

1 cause is an act of retaliation that violates (d) of this section.

2 (g) In this section,

3 (1) "domestic partner" means a person who is cohabiting with another
4 in a relationship that is like a marriage but that is not a legal marriage;

5 (2) "period of military conflict" means a period

6 (A) of war declared by the United States Congress;

7 (B) of military conflict authorized by the United States
8 Congress; or

9 (C) during which a member of a reserve component of the
10 armed forces of the United States is ordered to active duty under 10 U.S.C.
11 12301 or 12302.

12 * **Sec. 3.** AS 23.10.105 is amended to read:

13 **Sec. 23.10.105. Posting summary required.** An employer subject to
14 AS 23.10.050 - 23.10.150 or 23.10.435 shall keep a summary or abstract of the
15 applicable [THESE] sections, approved by the commissioner, posted in a conspicuous
16 location at the place where a person subject to them is employed. An employer shall
17 be furnished copies of a summary by the state on request without charge. The
18 requirement under this section that a summary or abstract of AS 23.10.435 be
19 posted by the employer may be satisfied by electronic means.

20 * **Sec. 4.** AS 23.10 is amended by adding a new section to article 7 to read:

21 **Sec. 23.10.435. Leave without pay when spouse is on leave from military**
22 **deployment in a combat zone.** (a) This section applies to every person that, as an
23 employer, other than the federal or state government or the government of a political
24 subdivision of the state, employs, for 20 weeks or more during the calendar year, any
25 combination of 20 or more full-time, part-time, and temporary employees who average
26 20 or more hours a week of work for weeks worked in the calendar year and who are
27 compensated under an express or implied contract of hire that is oral or written.

28 (b) When an employee's spouse is a member of a regular, reserve, or auxiliary
29 component of the armed forces of the United States or the organized militia under
30 AS 26.05.010 who is deployed during a period of military conflict in a geographic
31 area that is designated a combat zone by the President of the United States and is on

1 leave from that military deployment for any reason, an employee of an employer
2 described in (a) of this section may take, and the employee's employer shall grant,
3 leave without pay. Leave authorized by this subsection may not exceed 10 regularly
4 scheduled work days in a calendar year, but the authorized leave may be increased
5 beyond 10 days by voluntary agreement between the employer and the employee,

6 (c) An employee is required to give notice of a request for leave under this
7 section at least 14 days in advance, or, if a related medical emergency exists and
8 giving 14 or more days of advance notice is not practicable, the employee is required
9 to give as much notice as is practicable.

10 (d) If the employee who requests leave is covered by medical insurance that is
11 provided through the employer, the employer shall allow the employee to continue the
12 coverage without interruption during the leave. The employee shall pay the expense of
13 continuing medical insurance coverage during leave under this section unless the
14 employer and the employee agree otherwise.

15 (e) An employer may require that an employee who requests leave under this
16 section provide the employer with verification that, during that leave, the employee's
17 spouse is, was, or will be on leave from military deployment in a combat zone, as
18 required under (a) of this section.

19 (f) A request for leave that meets the requirements of (b), (c), and (e) of this
20 section may not be denied.

21 (g) A leave of absence under this section

22 (1) is not a break in service for retirement purposes;

23 (2) continues the employee in pay status for the purpose of ensuring
24 that the employee's eligibility for employee benefits, including retirement benefits, is
25 not affected by the leave except as provided in (d) of this section; and

26 (3) except as provided in (1) and (2) of this subsection, does not entitle
27 the employee to accrue retirement benefits that would not ordinarily accrue when the
28 employee is on other authorized leave without pay.

29 (h) An employer may not

30 (1) hinder or delay the commissioner or an authorized representative of
31 the commissioner in the performance of a duty related to the enforcement of this

1 section;

2 (2) refuse to admit the commissioner or an authorized representative of
3 the commissioner to any place of employment as may be required for the enforcement
4 of this section;

5 (3) refuse to make a record accessible, or to furnish a sworn statement
6 of the record, or to give information required for the enforcement of this section, upon
7 demand, to the commissioner or an authorized representative of the commissioner;

8 (4) fail to post a summary or abstract of this section as required by
9 AS 23.10.105; or

10 (5) discharge or in any other manner discriminate or retaliate against
11 an employee because the employee requests the leave, takes the leave, files a
12 complaint, institutes or causes to be instituted any proceeding under or related to this
13 section, or testifies or is about to testify in a proceeding under or related to this
14 section.

15 (i) If an employer violates (h) of this section, the affected employee may bring
16 a civil action to recover wages lost as a result of the violation and other damages that
17 resulted from the violation, and may also seek an order requiring the reinstatement of
18 the employee.

19 (j) The commissioner shall adopt regulations to implement this section.

20 (k) In this section, "period of military conflict" means a period

21 (1) of war declared by the United States Congress;

22 (2) of military conflict authorized by the United States Congress; or

23 (3) during which a member of a reserve component of the armed forces
24 of the United States is ordered to active duty under 10 U.S.C. 12301 or 12302.

25 * **Sec. 5.** AS 39.20 is amended by adding a new section to read:

26 **Sec. 39.20.285. Leave without pay when spouse or domestic partner is on**
27 **leave from military deployment in a combat zone.** (a) This section applies to every
28 person who is a paid employee of

29 (1) the executive, judicial, or legislative branch of state government, a
30 state public corporation or council established by law, or the University of Alaska,
31 whether the employee is a permanent, nonpermanent, or temporary employee, who is

1 employed for an average of 20 or more scheduled hours each week, but does not
2 include employees of the Alaska Railroad Corporation;

3 (2) a political subdivision of the state.

4 (b) An employee may take leave without pay, not to exceed 10 regularly
5 scheduled work days in a calendar year, when the employee's spouse or domestic
6 partner is

7 (1) a member of a regular, reserve, or auxiliary component of the
8 armed forces of the United States or the organized militia under AS 26.05.010 who is
9 deployed during a period of military conflict in a geographic area that is designated a
10 combat zone by the President of the United States; and

11 (2) on leave from the military deployment described in (1) of this
12 subsection for any reason.

13 (c) An employee is required to give notice of a request for leave under this
14 section at least 14 days in advance, or, if a related medical emergency exists and
15 giving 14 or more days of advance notice is not practicable, the employee is required
16 to give as much notice as is practicable.

17 (d) An employer may require that an employee who requests leave under this
18 section provide the employer with verification that, during that leave, the employee's
19 spouse or domestic partner is, was, or will be on leave from military deployment in a
20 combat zone, as required under (a) of this section.

21 (e) A request for leave that meets the requirements of (b) of this section may
22 not be denied, and an employee's employer may not, by act or omission, retaliate
23 against the employee for requesting or taking the leave.

24 (f) A leave of absence under this section

25 (1) is not a break in service for retirement purposes;

26 (2) continues the employee in pay status for the purpose of ensuring
27 that the employee's eligibility for employee benefits, including retirement benefits, is
28 not affected by the leave; and

29 (3) except as provided in (1) and (2) of this subsection, does not entitle
30 the employee to accrue retirement benefits that would not ordinarily accrue when the
31 employee is on other authorized leave without pay.

(g) A change to an employee's terms or conditions of employment is void if its cause is an act of retaliation that violates (e) of this section.

(h) The director of personnel in the Department of Administration shall adopt regulations to implement this section as it applies to employees described in (a)(1) of this section.

(i) In this section,

(1) "domestic partner" means a person who is cohabiting with a another in a relationship that is like a marriage but that is not a legal marriage;

(2) "period of military conflict" means a period

(A) of war declared by the United States Congress;

(B) of military conflict authorized by the United States Congress; or

(C) during which a member of a reserve component of the armed forces of the United States is ordered to active duty under 10 U.S.C. 12301 or 12302.

* **Sec. 6.** AS 39.20.310 is amended to read:

Sec. 39.20.310. Exceptions. Except as provided in AS 39.20.275 **and 39.20.285**, AS 39.20.200 - 39.20.330 do not apply to

(1) members of the state legislature, the governor, the lieutenant governor, and justices and judges of the supreme and superior courts and of the court of appeals, but nothing in AS 39.20.200 - 39.20.330 may be construed to diminish the salaries fixed by law for these officers by reason of absence from duty on account of illness or otherwise;

(2) magistrates serving the state on less than a full-time basis;

(3) officers, members of the teaching staff, and employees of the University of Alaska;

(4) persons employed in a professional capacity to make a temporary and special inquiry, study, or examination as authorized by the governor, the legislature, or a legislative committee;

(5) members of boards, commissions, and authorities who are not otherwise employed by the state;

1 (6) temporary employees hired for periods of less than 12 consecutive
2 months;

3 (7) persons employed by the division of marine transportation as
4 masters and members of the crews operating the state ferry system who are covered by
5 collective bargaining agreements as provided in AS 23.40.040, except as expressly
6 provided by law;

7 (8) persons employed by the state who are covered by collective
8 bargaining agreements as provided in AS 23.40.210, except as expressly provided by
9 law.