

- SUBJECT:** Allowing an employee to take leave to meet with school officials
- COMMITTEE:** Economic Development — committee substitute recommended
- VOTE:** 5 ayes — Solis, Deshotel, McClendon, Seaman, Yarbrough
0 nays
4 absent — Keffer, Clark, Homer, Luna
- WITNESSES:** For — Jan Triplett, Business Success Center; *Registered but did not testify:* Jack Kelly, Texas State Teachers Association; Leslie Nicole Ramsey; Hannah Riddering, Texas National Organization for Women; Joel Romo, Association of Texas Professional Educators; Jason Sabo, Center for Public Policy Priorities; Craig Tounget, Texas PTA

Against — Ann Abrams Price, Texas Employment Law Council; *Registered but did not testify:* Jeff Clark, National Federation of Independent Business; Bill Hammond, Texas Association of Business and Chambers of Commerce; David Pinkus, Small Business United of Texas
- DIGEST:** CSHB 1761 would grant an employee the right to up to 10 hours of leave from work in each 12-month period to meet with the teacher, counselor, or principal of the employee’s child at the request of one of those officials. To qualify for leave, an employee would have to have been employed by the same employer for at least 12 consecutive months and have worked at least 1,250 total hours during those months. The bill would apply only to for-profit employers with 10 or more employees for each working day.

An employer could not suspend or fire an employee because the employee took leave, provided that the employee gave the employer written notice of the intended leave at least 24 hours in advance or had to leave for an emergency situation involving the employee’s child that required immediate unplanned leave.

To establish a violation, a complainant would have to show that the employee would not have been suspended or terminated for any other

reason. An employee who was suspended illegally or fired would be entitled to reinstatement to the employee's former position or a comparable position, compensation for lost wages, and reinstatement of any accrued paid leave and any seniority rights. Lost wages would be reduced by the amount of any interim earnings, workers' compensation benefits, and unemployment compensation benefits that the employee had received. A court could award the prevailing party court costs and reasonable attorney's fees.

To cover the leave time, an employer could require an employee, or an employee could choose, to use accrued vacation time, personal leave time, compensatory time, or other appropriate leave time. Unless the employee used or had to use one of these other forms of leave time to attend the meeting, leave under the chapter could be unpaid. At the request of the employer, the employee would have to provide the employer with documentation of the meeting.

Employers would have to inform their employees of their rights to this leave by posting a conspicuous sign in a prominent location in the employer's workplace. The Texas Workforce Commission would have to prescribe by rule the design and content of the sign.

CSHB 1761 would take effect September 1, 2001, and would apply only to a suspension or termination that occurred on or after that date.

**SUPPORTERS
SAY:**

CSHB 1761 would make it easier for parents to take time off from work to meet with their children's teachers, counselors, and principals. Many studies have shown that parental involvement is one of the most important factors in a child's success in school. For example, high dropout rates have been attributed to a lack of parental involvement, and dropouts are twice as likely to receive public assistance, three times more likely to live at or below the poverty level, and three times as likely to receive public assistance compared to high school graduates. The state must do everything possible to ensure that children succeed in school and are well prepared to enter the workforce. By making it easier for parents to take time off from work to meet with school officials, CSHB 1761 would help parents be more involved in their children's education and thus contribute to the success of these students.

Although employees have the option of meeting with school officials outside of work hours, meeting during the school day may be preferable so that parents can meet with several officials if they have concerns about their children. Arranging this sort of meeting at other times of the day can be very difficult. School officials, who already have worked a full day, also may not be able to meet after school hours.

CSHB 1761 would not create a burden on businesses. It would allow an employee only up to 10 hours of time off in a year. It would require advance notice so that employers could rearrange scheduling as necessary, and an employer could require an employee to use the employee's vacation or compensatory time. Employers already track these kinds of leave, so it would be easy for them to add this form of leave to their systems.

The bill would not cause increased litigation, since employees would have to demonstrate that taking this leave was the reason they were fired. The bill would deter frivolous lawsuits by allowing the court to impose court costs and reasonable attorney's fees against an employee who lost a suit.

OPPONENTS
SAY:

CSHB 1761 would hurt businesses. Under this bill, unlike the federal Family and Medical Leave Act, employers could not refuse to grant a leave, even in cases of business necessity. Some employers simply cannot afford to let employees off during certain hours of the day or before key deadlines. The bill could create significant scheduling problems by requiring only 24 hours' advance notice. The bill also would create an additional burden on employers by requiring them to track another category of leave time.

The state should not create another mandated category of leave time. Parents already can meet with school officials at mutually agreeable times outside of work hours or by using their vacation or compensatory time. Decisions on employee benefits, such as leave time, should be decided between the employer and employee, who can better choose the best package of benefits needed by an employee and affordable to the employer.

CSHB 1761 could cause increased litigation for employers, because any terminated employee who had taken a leave could file a suit against the employer claiming retaliation for having taken time off. Businesses would have to spend time and money defending themselves against claims.

NOTES:

The committee substitute added a provision limiting the bill's application to employers with 10 or more employees and increased from six to 12 the number of consecutive months an employee would have to work for an employer to qualify for leave. The substitute added provisions requiring an employee to demonstrate that the employee would not have been suspended or fired but for the leave; reducing the amount of lost wages that would be paid to an employee by the amount of interim wages, unemployment benefits, and workers' compensation benefits received; and allowing a court to impose court costs and reasonable attorney's fees in favor of the prevailing party, rather than only an employee if the employee prevailed. The substitute also added a provision specifying that the leave could be unpaid and allowing the employer to require the employee to use vacation, compensatory time, or other leave for the purposes of the bill.

Several bills authorizing an employee to take leave to meet with school officials or attend school activities have been filed this session. HB 55 by Chavez and HB 758 by Coleman would authorize an employee to take leave to meet with a teacher or caregiver of the employee's child or to participate in a school activity. They would specify that an employee would not have to use vacation time, compensatory time, or personal leave time for this leave. HB 856 by Dutton would authorize an employee to take leave to meet with a teacher or participate in a school activity of the employee's child and would authorize a civil penalty of up to \$1,000 for violating the bill's provisions. The House Economic Development Committee has considered all three bills in public hearings and left them pending.