

# As Introduced

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Representative Ujvagi

Cosponsors: Representatives Phillips, Murray, Pryor, Harris, Dodd, Lundy,  
Book, Letson, Fende, Yuko, Skindell

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## A B I L L

To amend section 4117.10 and to enact sections 1  
5906.01, 5906.02, 5906.03, and 5906.99 of the 2  
Revised Code to provide two weeks of leave for any 3  
employee who is the spouse or parent of a member 4  
of the uniformed services who is called to active 5  
duty or is injured, wounded, or hospitalized while 6  
serving in a combat zone. 7

### BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

**Section 1.** That section 4117.10 be amended and sections 8  
5906.01, 5906.02, 5906.03, and 5906.99 of the Revised Code be 9  
enacted to read as follows: 10

**Sec. 4117.10.** (A) An agreement between a public employer and 11  
an exclusive representative entered into pursuant to this chapter 12  
governs the wages, hours, and terms and conditions of public 13  
employment covered by the agreement. If the agreement provides for 14  
a final and binding arbitration of grievances, public employers, 15  
employees, and employee organizations are subject solely to that 16  
grievance procedure and the state personnel board of review or 17  
civil service commissions have no jurisdiction to receive and 18

determine any appeals relating to matters that were the subject of 19  
a final and binding grievance procedure. Where no agreement exists 20  
or where an agreement makes no specification about a matter, the 21  
public employer and public employees are subject to all applicable 22  
state or local laws or ordinances pertaining to the wages, hours, 23  
and terms and conditions of employment for public employees. Laws 24  
pertaining to civil rights, affirmative action, unemployment 25  
compensation, workers' compensation, the retirement of public 26  
employees, and residency requirements, the minimum educational 27  
requirements contained in the Revised Code pertaining to public 28  
education including the requirement of a certificate by the fiscal 29  
officer of a school district pursuant to section 5705.41 of the 30  
Revised Code, the provisions of division (A) of section 124.34 of 31  
the Revised Code governing the disciplining of officers and 32  
employees who have been convicted of a felony, and the minimum 33  
standards promulgated by the state board of education pursuant to 34  
division (D) of section 3301.07 of the Revised Code prevail over 35  
conflicting provisions of agreements between employee 36  
organizations and public employers. The law pertaining to the 37  
leave of absence and compensation provided under section 5923.05 38  
of the Revised Code prevails over any conflicting provisions of 39  
such agreements if the terms of the agreement contain benefits 40  
which are less than those contained in that section or the 41  
agreement contains no such terms and the public authority is the 42  
state or any agency, authority, commission, or board of the state 43  
or if the public authority is another entity listed in division 44  
(B) of section 4117.01 of the Revised Code that elects to provide 45  
leave of absence and compensation as provided in section 5923.05 46  
of the Revised Code. The law pertaining to the leave established 47  
under section 5906.02 of the Revised Code prevails over any 48  
conflicting provision of an agreement between an employee 49  
organization and public employer if the terms of the agreement 50  
contain benefits that are less than those contained in section 51

5906.02 of the Revised Code. Except for sections 306.08, 306.12, 52  
306.35, and 4981.22 of the Revised Code and arrangements entered 53  
into thereunder, and section 4981.21 of the Revised Code as 54  
necessary to comply with section 13(c) of the "Urban Mass 55  
Transportation Act of 1964," 87 Stat. 295, 49 U.S.C.A. 1609(c), as 56  
amended, and arrangements entered into thereunder, this chapter 57  
prevails over any and all other conflicting laws, resolutions, 58  
provisions, present or future, except as otherwise specified in 59  
this chapter or as otherwise specified by the general assembly. 60  
Nothing in this section prohibits or shall be construed to 61  
invalidate the provisions of an agreement establishing 62  
supplemental workers' compensation or unemployment compensation 63  
benefits or exceeding minimum requirements contained in the 64  
Revised Code pertaining to public education or the minimum 65  
standards promulgated by the state board of education pursuant to 66  
division (D) of section 3301.07 of the Revised Code. 67

(B) The public employer shall submit a request for funds 68  
necessary to implement an agreement and for approval of any other 69  
matter requiring the approval of the appropriate legislative body 70  
to the legislative body within fourteen days of the date on which 71  
the parties finalize the agreement, unless otherwise specified, 72  
but if the appropriate legislative body is not in session at the 73  
time, then within fourteen days after it convenes. The legislative 74  
body must approve or reject the submission as a whole, and the 75  
submission is deemed approved if the legislative body fails to act 76  
within thirty days after the public employer submits the 77  
agreement. The parties may specify that those provisions of the 78  
agreement not requiring action by a legislative body are effective 79  
and operative in accordance with the terms of the agreement, 80  
provided there has been compliance with division (C) of this 81  
section. If the legislative body rejects the submission of the 82  
public employer, either party may reopen all or part of the entire 83  
agreement. 84

As used in this section, "legislative body" includes the 85  
governing board of a municipal corporation, school district, 86  
college or university, village, township, or board of county 87  
commissioners or any other body that has authority to approve the 88  
budget of their public jurisdiction and, with regard to the state, 89  
"legislative body" means the controlling board. 90

(C) The chief executive officer, or the chief executive 91  
officer's representative, of each municipal corporation, the 92  
designated representative of the board of education of each school 93  
district, college or university, or any other body that has 94  
authority to approve the budget of their public jurisdiction, the 95  
designated representative of the board of county commissioners and 96  
of each elected officeholder of the county whose employees are 97  
covered by the collective negotiations, and the designated 98  
representative of the village or the board of township trustees of 99  
each township is responsible for negotiations in the collective 100  
bargaining process; except that the legislative body may accept or 101  
reject a proposed collective bargaining agreement. When the 102  
matters about which there is agreement are reduced to writing and 103  
approved by the employee organization and the legislative body, 104  
the agreement is binding upon the legislative body, the employer, 105  
and the employee organization and employees covered by the 106  
agreement. 107

(D) There is hereby established an office of collective 108  
bargaining in the department of administrative services for the 109  
purpose of negotiating with and entering into written agreements 110  
between state agencies, departments, boards, and commissions and 111  
the exclusive representative on matters of wages, hours, terms and 112  
other conditions of employment and the continuation, modification, 113  
or deletion of an existing provision of a collective bargaining 114  
agreement. Nothing in any provision of law to the contrary shall 115  
be interpreted as excluding the bureau of workers' compensation 116

and the industrial commission from the preceding sentence. This 117  
office shall not negotiate on behalf of other statewide elected 118  
officials or boards of trustees of state institutions of higher 119  
education who shall be considered as separate public employers for 120  
the purposes of this chapter; however, the office may negotiate on 121  
behalf of these officials or trustees where authorized by the 122  
officials or trustees. The staff of the office of collective 123  
bargaining are in the unclassified service. The director of 124  
administrative services shall fix the compensation of the staff. 125

The office of collective bargaining shall: 126

(1) Assist the director in formulating management's 127  
philosophy for public collective bargaining as well as planning 128  
bargaining strategies; 129

(2) Conduct negotiations with the exclusive representatives 130  
of each employee organization; 131

(3) Coordinate the state's resources in all mediation, 132  
fact-finding, and arbitration cases as well as in all labor 133  
disputes; 134

(4) Conduct systematic reviews of collective bargaining 135  
agreements for the purpose of contract negotiations; 136

(5) Coordinate the systematic compilation of data by all 137  
agencies that is required for negotiating purposes; 138

(6) Prepare and submit an annual report and other reports as 139  
requested to the governor and the general assembly on the 140  
implementation of this chapter and its impact upon state 141  
government. 142

**Sec. 5906.01. As used in this chapter:** 143

(A) "Active duty" means full-time duty in the active military 144  
service of the United States or active duty pursuant to an 145  
executive order of the president of the United States, an act of 146

the congress of the United States, or a proclamation of the 147  
governor. "Active duty" does not include active duty for training, 148  
initial active duty for training, or the period of time for which 149  
a person is absent from a position of employment for the purpose 150  
of an examination to determine the fitness of the person to 151  
perform any duty unless such period is contemporaneous with an 152  
active duty period. 153

(B) "Benefits" means the employment benefits, other than 154  
salary or wages, that an employer regularly provides or makes 155  
available to employees, including, but not limited to, medical 156  
insurance, disability insurance, life insurance, pension plans, 157  
and retirement plans. 158

(C) "Employer" means a person who employs fifteen or more 159  
employees and includes the state or any agency or instrumentality 160  
of the state, and any municipal corporation, county, township, 161  
school district, or other political subdivision of the state. 162

(D) "Employee" has the same meaning as in section 4113.51 of 163  
the Revised Code. 164

(E) "Uniformed services" means the armed forces, the Ohio 165  
organized militia when engaged in full-time national guard duty, 166  
the commissioned corps of the public health service, and any other 167  
category of persons designated by the president of the United 168  
States in time of war or emergency. 169

**Sec. 5906.02.** (A) An employer shall allow an employee to take 170  
leave up to ten days or eighty hours, whichever is less, if all of 171  
the following conditions are satisfied: 172

(1) The employer has employed the employee for at least 173  
twelve consecutive months and for at least one thousand two 174  
hundred fifty hours in the twelve months immediately preceding 175  
commencement of the leave. 176

(2) The employee is the parent or spouse of a person who is a 177  
member of the uniformed services and who is called into active 178  
duty in the uniformed services for a period longer than thirty 179  
days. 180

(3) The employee gives notice to the employer that the 181  
employee intends to take leave pursuant to this section at least 182  
fourteen days prior to taking the leave. 183

(4) The dates on which the employee takes leave pursuant to 184  
this section occur no more than two weeks prior to or one week 185  
after the deployment date of the employee's spouse or child. 186

(5) The employee does not have any other leave available for 187  
the employee's use except sick leave or disability leave. 188

(B) An employer shall continue to provide benefits to the 189  
employee during the period of time the employee is on leave 190  
pursuant to this section. The employee shall be responsible for 191  
the same proportion of the cost of the benefits as the employee 192  
regularly pays during periods of time when the employee is not on 193  
leave. The employer is not required to pay salary or wages to the 194  
employee during the period of time the employee is on leave 195  
pursuant to this section. 196

Upon the completion of the leave taken pursuant to this 197  
section, the employer shall restore the employee to the position 198  
the employee held prior to taking that leave or a position with 199  
equivalent seniority, benefits, pay, and other terms and 200  
conditions of employment. 201

(C) An employer may require an employee requesting to use the 202  
leave established under this section to provide certification from 203  
the appropriate military authority to verify that the employee 204  
satisfies the criteria described in divisions (A)(2), (3), and (4) 205  
of this section. 206

Sec. 5906.03. (A) An employer shall not interfere with, 207  
restrain, or deny the exercise or attempted exercise of a right 208  
established under this chapter. 209

(B) An employer shall not discharge, fine, suspend, expel, 210  
discipline, or discriminate against an employee with respect to 211  
any term or condition of employment because of the employee's 212  
actual or potential exercise, or support for another employee's 213  
exercise, of any right established under this chapter. This 214  
division does not prevent an employer from taking an employment 215  
action that is independent of the exercise of a right under this 216  
chapter. 217

(C) An employer shall not deprive an employee who takes leave 218  
pursuant to section 5906.02 of the Revised Code of any benefit 219  
that accrued before the date that leave commences. 220

(D) An employer shall not require an employee to waive the 221  
rights to which the employee is entitled pursuant to this chapter. 222

(E) On and after the effective date of this section, an 223  
employer shall not enter into a collective bargaining agreement or 224  
employee benefit plan that limits or requires an employee to waive 225  
the rights established under this chapter. An employer shall 226  
comply with any collective bargaining agreement or employee 227  
benefit plan that provides leave benefits similar to the type 228  
established under this chapter that are greater than the leave 229  
benefits established under this chapter. 230

(F) An employer may provide leave benefits greater than those 231  
established under this chapter. 232

Sec. 5906.99. Whoever violates this chapter is subject to a 233  
civil action for injunctive relief or any other relief that a 234  
court finds necessary to secure a right provided by this chapter. 235



**Section 2.** That existing section 4117.10 of the Revised Code 236  
is hereby repealed. 237

**Section 3.** This act does apply to employers and employees, as 238  
defined in section 5906.01 of the Revised Code as enacted by this 239  
act, who have entered into a collective bargaining agreement or 240  
other contract of employment that is in effect before the 241  
effective date of this act and that conflicts with this act, but 242  
shall apply to such employers and employees immediately upon the 243  
expiration of such conflicting agreement or contract. 244