

114TH CONGRESS
1ST SESSION

S. 497

To allow Americans to earn paid sick time so that they can address their own health needs and the health needs of their families.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 2015

Mrs. MURRAY (for herself, Mrs. GILLIBRAND, Mr. SANDERS, Mr. COONS, Ms. MIKULSKI, Ms. WARREN, Mr. MURPHY, Mr. CASEY, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. DURBIN, Mr. BROWN, Mr. HEINRICH, Ms. BALDWIN, Mr. BOOKER, Ms. HIRONO, Mr. MERKLEY, Mr. PETERS, Mr. BLUMENTHAL, Mr. MARKEY, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To allow Americans to earn paid sick time so that they can address their own health needs and the health needs of their families.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Healthy Families Act”.

5 **SEC. 2. FINDINGS.**

6 Congress makes the following findings:

1 (1) Working Americans need time to meet their
2 own health care needs and to care for family mem-
3 bers. The absence of paid sick time has forced
4 Americans to make untenable choices between need-
5 ed income and jobs on the one hand and caring for
6 their own and their family's health on the other. It
7 is in the national interest to ensure that all Ameri-
8 cans can care for their own health and the health of
9 their families while prospering at work.

10 (2) Nearly 40 percent of the private sector
11 workforce, and 11 percent of the public sector work-
12 force, lacks paid sick time. Another 4,000,000 theo-
13 retically have access to sick time, but have not been
14 on the job long enough to use it. Millions more lack
15 sick time they can use to care for a sick child or ill
16 family member.

17 (3) A 2012 study published by BioMed Central
18 Public Health of results of the National Health
19 Interview Survey found that lack of paid sick leave
20 is a barrier to receiving cancer screenings and pre-
21 ventive care.

22 (4) When parents cannot afford to miss work
23 and must send children with contagious illnesses to
24 child care centers or schools, infection can spread
25 rapidly through child care centers and schools.

1 (5) A 2012 study published in the American
2 Journal of Public Health found that a lack of work-
3 place policies like paid sick days contributed to an
4 additional 5,000,000 cases of influenza-like illness
5 during the H1N1 pandemic of 2009.

6 (6) A 2011 study by the Institute for Women's
7 Policy Research found that a universal paid sick
8 days policy would reduce preventable visits to the
9 emergency room and result in cost savings of
10 \$1,100,000,000 per year, including \$500,000,000 in
11 savings for public health insurance like Medicaid.

12 (7) A 2009 study by the Center for Economic
13 and Policy Research found that, of 22 countries with
14 comparable economies, the United States was 1 of
15 only 3 countries that did not provide any paid time
16 off for workers with short-term illnesses.

17 (8) The American Productivity Audit completed
18 in 2003 found that lost productivity due to illness
19 costs \$226,000,000,000 annually, and that 71 per-
20 cent of that cost stems from presenteeism, the prac-
21 tice of employees coming to work despite illness.
22 Studies in the Journal of Occupational and Environ-
23 mental Medicine, the Employee Benefit News, and
24 the Harvard Business Review show that

1 presenteeism is a larger productivity drain than ei-
2 ther absenteeism or short-term disability.

3 (9) Working while sick also increases a worker's
4 probability of suffering an injury on the job. A 2012
5 study published by the American Journal of Public
6 Health found that workers with access to paid sick
7 leave were 28 percent less likely than workers with-
8 out paid sick leave to suffer nonfatal occupational
9 injuries.

10 (10)(A) Workers' access to paid sick time varies
11 dramatically by wage level.

12 (B) For private sector workers—

13 (i) for workers in the lowest quartile of
14 earners, 70 percent lack paid sick time;

15 (ii) for workers in the next 2 quartiles, 36
16 and 27 percent, respectively, lack paid sick
17 time; and

18 (iii) even for workers in the highest quar-
19 tile, 13 percent lack paid sick time.

20 (C) For public sector workers—

21 (i) for workers in the lowest quartile of
22 earners, 26 percent lack paid sick time;

23 (ii) for workers in the next 2 quartiles, 7
24 percent lack paid sick time; and

1 (iii) for workers in the highest quartile, 2
2 percent lack paid sick time.

3 (11) Nearly 1 in 3 American women report physical
4 or sexual abuse by a husband or boyfriend at some point
5 in their lives. Domestic violence also affects men. Women
6 account for about 85 percent of the victims of domestic
7 violence and men account for approximately 15 percent
8 of the victims. Therefore, women disproportionately need
9 time off to care for their health or to find solutions, such
10 as obtaining a restraining order or finding housing, to
11 avoid or prevent physical or sexual abuse.

12 (12) Without paid sick days that can be used to ad-
13 dress the effects of domestic violence, these victims are
14 in grave danger of losing their jobs. One survey found that
15 96 percent of employed domestic violence victims experi-
16 enced problems at work related to the violence. The Gov-
17 ernment Accountability Office similarly found that 24 to
18 52 percent of victims report losing a job due, at least in
19 part, to domestic violence. The loss of employment can be
20 particularly devastating for victims of domestic violence,
21 who often need economic security to ensure safety.

22 (13) The Centers for Disease Control and Prevention
23 has estimated that domestic violence costs over
24 \$700,000,000 annually due to the victims' lost produc-
25 tivity in employment.

1 (14) Efforts to assist abused employees result in posi-
2 tive outcomes for employers as well as employees because
3 employers can retain workers who might otherwise be
4 compelled to leave.

5 **SEC. 3. PURPOSES.**

6 The purposes of this Act are—

7 (1) to ensure that working Americans can ad-
8 dress their own health needs and the health needs
9 of their families by requiring employers to permit
10 employees to earn up to 56 hours of paid sick time
11 including paid time for family care;

12 (2) to diminish public and private health care
13 costs by enabling workers to seek early and routine
14 medical care for themselves and their family mem-
15 bers;

16 (3) to assist employees who are, or whose fam-
17 ily members are, victims of domestic violence, sexual
18 assault, or stalking, by providing the employees with
19 paid time away from work to allow the victims to re-
20 ceive treatment and to take the necessary steps to
21 ensure their protection;

22 (4) to address the historical and persistent
23 widespread pattern of employment discrimination on
24 the basis of gender by both private and public sector
25 employers;

1 (5) to accomplish the purposes described in
 2 paragraphs (1) through (4) in a manner that is fea-
 3 sible for employers; and

4 (6) consistent with the provision of the 14th
 5 Amendment to the Constitution relating to equal
 6 protection of the laws, and pursuant to Congress’
 7 power to enforce that provision under section 5 of
 8 that Amendment—

9 (A) to accomplish the purposes described
 10 in paragraphs (1) through (4) in a manner that
 11 minimizes the potential for employment dis-
 12 crimination on the basis of sex by ensuring gen-
 13 erally that paid sick time is available for eligible
 14 medical reasons on a gender-neutral basis; and

15 (B) to promote the goal of equal employ-
 16 ment opportunity for women and men.

17 **SEC. 4. DEFINITIONS.**

18 In this Act:

19 (1) CHILD.—The term “child” means a biologi-
 20 cal, foster, or adopted child, a stepchild, a child of
 21 a domestic partner, a legal ward, or a child of a per-
 22 son standing in loco parentis, who is—

23 (A) under 18 years of age; or

1 (B) 18 years of age or older and incapable
2 of self-care because of a mental or physical dis-
3 ability.

4 (2) DOMESTIC PARTNER.—

5 (A) IN GENERAL.—The term “domestic
6 partner”, with respect to an individual, means
7 another individual with whom the individual is
8 in a committed relationship.

9 (B) COMMITTED RELATIONSHIP DE-
10 FINED.—The term “committed relationship”
11 means a relationship between two individuals,
12 each at least 18 years of age, in which each in-
13 dividual is the other individual’s sole domestic
14 partner and both individuals share responsi-
15 bility for a significant measure of each other’s
16 common welfare. The term includes any such
17 relationship between two individuals, including
18 individuals of the same sex, that is granted
19 legal recognition by a State or political subdivi-
20 sion of a State as a marriage or analogous rela-
21 tionship, including a civil union or domestic
22 partnership.

23 (3) DOMESTIC VIOLENCE.—The term “domestic
24 violence” has the meaning given the term in section
25 40002(a) of the Violence Against Women Act of

1 1994 (42 U.S.C. 13925(a)), except that the ref-
2 erence in such section to the term “jurisdiction re-
3 ceiving grant monies” shall be deemed to mean the
4 jurisdiction in which the victim lives or the jurisdic-
5 tion in which the employer involved is located. Such
6 term also includes dating violence, as that term is
7 defined in such section.

8 (4) EMPLOYEE.—The term “employee” means
9 an individual who is—

10 (A)(i) an employee, as defined in section
11 3(e) of the Fair Labor Standards Act of 1938
12 (29 U.S.C. 203(e)), who is not covered under
13 subparagraph (E), including such an employee
14 of the Library of Congress, except that a ref-
15 erence in such section to an employer shall be
16 considered to be a reference to an employer de-
17 scribed in clauses (i)(I) and (ii) of paragraph
18 (5)(A); or

19 (ii) an employee of the Government Ac-
20 countability Office;

21 (B) a State employee described in section
22 304(a) of the Government Employee Rights Act
23 of 1991 (42 U.S.C. 2000e–16c(a));

24 (C) a covered employee, as defined in sec-
25 tion 101 of the Congressional Accountability

1 Act of 1995 (2 U.S.C. 1301), other than an ap-
2 plicant for employment;

3 (D) a covered employee, as defined in sec-
4 tion 411(c) of title 3, United States Code; or

5 (E) a Federal officer or employee covered
6 under subchapter V of chapter 63 of title 5,
7 United States Code.

8 (5) EMPLOYER.—

9 (A) IN GENERAL.—The term “employer”
10 means a person who is—

11 (i)(I) a covered employer, as defined
12 in subparagraph (B), who is not covered
13 under subclause (V);

14 (II) an entity employing a State em-
15 ployee described in section 304(a) of the
16 Government Employee Rights Act of 1991;

17 (III) an employing office, as defined
18 in section 101 of the Congressional Ac-
19 countability Act of 1995;

20 (IV) an employing office, as defined in
21 section 411(c) of title 3, United States
22 Code; or

23 (V) an employing agency covered
24 under subchapter V of chapter 63 of title
25 5, United States Code; and

1 (ii) is engaged in commerce (including
2 government), or an industry or activity af-
3 fecting commerce (including government),
4 as defined in subparagraph (B)(iii).

5 (B) COVERED EMPLOYER.—

6 (i) IN GENERAL.—In subparagraph
7 (A)(i)(I), the term “covered employer”—

8 (I) means any person engaged in
9 commerce or in any industry or activ-
10 ity affecting commerce who employs
11 15 or more employees for each work-
12 ing day during each of 20 or more
13 calendar workweeks in the current or
14 preceding year;

15 (II) means a smaller employer, as
16 defined in subparagraph (C), to which
17 the special rule in paragraph (3) of
18 section 5(a) applies;

19 (III) includes—

20 (aa) any person who acts,
21 directly or indirectly, in the inter-
22 est of an employer to any of the
23 employees of such employer; and

24 (bb) any successor in inter-
25 est of an employer;

1 (IV) includes any “public agen-
 2 cy”, as defined in section 3(x) of the
 3 Fair Labor Standards Act of 1938
 4 (29 U.S.C. 203(x)); and

5 (V) includes the Government Ac-
 6 countability Office and the Library of
 7 Congress.

8 (ii) PUBLIC AGENCY.—For purposes
 9 of clause (i)(IV), a public agency shall be
 10 considered to be a person engaged in com-
 11 merce or in an industry or activity affect-
 12 ing commerce.

13 (iii) DEFINITIONS.—For purposes of
 14 this subparagraph:

15 (I) COMMERCE.—The terms
 16 “commerce” and “industry or activity
 17 affecting commerce” mean any activ-
 18 ity, business, or industry in commerce
 19 or in which a labor dispute would
 20 hinder or obstruct commerce or the
 21 free flow of commerce, and include
 22 “commerce” and any “industry affect-
 23 ing commerce”, as defined in para-
 24 graphs (1) and (3) of section 501 of

1 the Labor Management Relations Act,
2 1947 (29 U.S.C. 142 (1) and (3)).

3 (II) EMPLOYEE.—The term “em-
4 ployee” has the same meaning given
5 such term in section 3(e) of the Fair
6 Labor Standards Act of 1938 (29
7 U.S.C. 203(e)).

8 (III) PERSON.—The term “per-
9 son” has the same meaning given
10 such term in section 3(a) of the Fair
11 Labor Standards Act of 1938 (29
12 U.S.C. 203(a)).

13 (C) SMALLER EMPLOYER.—The term
14 “smaller employer” means any person engaged
15 in commerce or in any industry or activity af-
16 fecting commerce who employs fewer than 15
17 employees for each working day during each of
18 20 or more calendar workweeks in the pre-
19 ceding year.

20 (D) PREDECESSORS.—Any reference in
21 this paragraph to an employer shall include a
22 reference to any predecessor of such employer.

23 (6) EMPLOYMENT BENEFITS.—The term “em-
24 ployment benefits” means all benefits provided or
25 made available to employees by an employer, includ-

1 ing group life insurance, health insurance, disability
 2 insurance, sick leave, annual leave, educational bene-
 3 fits, and pensions, regardless of whether such bene-
 4 fits are provided by a practice or written policy of
 5 an employer or through an “employee benefit plan”,
 6 as defined in section 3(3) of the Employee Retire-
 7 ment Income Security Act of 1974 (29 U.S.C.
 8 1002(3)).

9 (7) HEALTH CARE PROVIDER.—The term
 10 “health care provider” means a provider who—

11 (A)(i) is a doctor of medicine or osteopathy
 12 who is authorized to practice medicine or sur-
 13 gery (as appropriate) by the State in which the
 14 doctor practices; or

15 (ii) is any other person determined by the
 16 Secretary to be capable of providing health care
 17 services; and

18 (B) is not employed by an employer for
 19 whom the provider issues certification under
 20 this Act.

21 (8) PAID SICK TIME.—The term “paid sick
 22 time” means an increment of compensated leave that
 23 can be earned by an employee for use during an ab-
 24 sence from employment for any of the reasons de-

1 scribed in paragraphs (1) through (4) of section
2 5(b).

3 (9) PARENT.—The term “parent” means a bio-
4 logical, foster, or adoptive parent of an employee, a
5 stepparent of an employee, parent-in-law, parent of
6 a domestic partner, or a legal guardian or other per-
7 son who stood in loco parentis to an employee when
8 the employee was a child.

9 (10) SECRETARY.—The term “Secretary”
10 means the Secretary of Labor.

11 (11) SEXUAL ASSAULT.—The term “sexual as-
12 sault” has the meaning given the term in section
13 40002(a) of the Violence Against Women Act of
14 1994 (42 U.S.C. 13925(a)).

15 (12) SPOUSE.—The term “spouse”, with re-
16 spect to an employee, has the meaning given such
17 term by the marriage laws of the State in which the
18 marriage was celebrated.

19 (13) STALKING.—The term “stalking” has the
20 meaning given the term in section 40002(a) of the
21 Violence Against Women Act of 1994 (42 U.S.C.
22 13925(a)).

23 (14) STATE.—The term “State” has the mean-
24 ing given the term in section 3 of the Fair Labor
25 Standards Act of 1938 (29 U.S.C. 203).

1 (15) UNPAID SICK TIME.—The term “unpaid
2 sick time” means the leave earned and used in the
3 same manner and under the same conditions as paid
4 sick time for the purposes of this Act, except that
5 no compensation shall be paid.

6 (16) VICTIM SERVICES ORGANIZATION.—The
7 term “victim services organization” means a non-
8 profit, nongovernmental organization that provides
9 assistance to victims of domestic violence, sexual as-
10 sault, or stalking or advocates for such victims, in-
11 cluding a rape crisis center, an organization carrying
12 out a domestic violence, sexual assault, or stalking
13 prevention or treatment program, an organization
14 operating a shelter or providing counseling services,
15 or a legal services organization or other organization
16 providing assistance through the legal process.

17 **SEC. 5. EARNED PAID SICK TIME.**

18 (a) EARNING OF PAID SICK TIME.—

19 (1) IN GENERAL.—An employer shall provide
20 each employee employed by the employer not less
21 than 1 hour of earned paid sick time for every 30
22 hours worked, to be used as described in subsection
23 (b). An employer shall not be required to permit an
24 employee to earn, under this section, more than 56

1 hours of paid sick time in a year, unless the em-
2 ployer chooses to set a higher limit.

3 (2) EXEMPT EMPLOYEES.—

4 (A) IN GENERAL.—Except as provided in
5 paragraph (4), for purposes of this section, an
6 employee who is exempt from overtime require-
7 ments under section 13(a)(1) of the Fair Labor
8 Standards Act of 1938 (29 U.S.C. 213(a)(1))
9 shall be assumed to work 40 hours in each
10 workweek.

11 (B) SHORTER NORMAL WORKWEEK.—If
12 the normal workweek of such an employee is
13 less than 40 hours, the employee shall earn
14 paid sick time based upon that normal work-
15 week.

16 (3) SPECIAL RULE FOR SMALLER EMPLOY-
17 ERS.—A smaller employer may provide paid sick
18 time as provided under paragraph (1) but if such
19 smaller employer opts not to do so, the smaller em-
20 ployer shall provide not fewer than 56 hours of un-
21 paid sick time to each employee per year to be used
22 for the same purposes and under the same condi-
23 tions as set out in this Act. The provision and earn-
24 ing of unpaid sick time shall be treated in all re-
25 spects the same as the provision and earning of paid

1 sick time under this Act. References in this Act to
2 paid sick time shall, with respect to smaller employ-
3 ers, be deemed to be references to unpaid sick time.

4 (4) DATES FOR BEGINNING TO EARN PAID SICK
5 TIME AND USE.—Employees shall begin to earn paid
6 sick time under this section at the commencement of
7 their employment. An employee shall be entitled to
8 use the earned paid sick time beginning on the 60th
9 calendar day following commencement of the em-
10 ployee's employment. After that 60th calendar day,
11 the employee may use the paid sick time as the time
12 is earned. An employer may, at the discretion of the
13 employer, loan paid sick time to an employee for use
14 by such employee in advance of the employee earn-
15 ing such sick time as provided in this subsection and
16 may permit use before the 60th day of employment.

17 (5) CARRYOVER.—

18 (A) IN GENERAL.—Except as provided in
19 subparagraph (B), paid sick time earned under
20 this section shall carry over from 1 year to the
21 next.

22 (B) CONSTRUCTION.—This Act shall not
23 be construed to require an employer to permit
24 an employee to earn more than 56 hours of
25 earned paid sick time at a given time.

1 (6) EMPLOYERS WITH EXISTING POLICIES.—

2 Any employer with a paid leave policy who makes
3 available an amount of paid leave that is sufficient
4 to meet the requirements of this section and that
5 may be used for the same purposes and under the
6 same conditions as the purposes and conditions out-
7 lined in subsection (b) shall not be required to per-
8 mit an employee to earn additional paid sick time
9 under this section.

10 (7) CONSTRUCTION.—Nothing in this section
11 shall be construed as requiring financial or other re-
12 imbursement to an employee from an employer upon
13 the employee's termination, resignation, retirement,
14 or other separation from employment for earned
15 paid sick time that has not been used.

16 (8) REINSTATEMENT.—If an employee is sepa-
17 rated from employment with an employer and is re-
18 hired, within 12 months after that separation, by the
19 same employer, the employer shall reinstate the em-
20 ployee's previously earned paid sick time. The em-
21 ployee shall be entitled to use the earned paid sick
22 time and earn additional paid sick time at the re-
23 commencement of employment with the employer.

24 (9) PROHIBITION.—An employer may not re-
25 quire, as a condition of providing paid sick time

1 under this Act, that the employee involved search for
2 or find a replacement employee to cover the hours
3 during which the employee is using paid sick time.

4 (b) USES.—Paid sick time earned under this section
5 may be used by an employee for any of the following:

6 (1) An absence resulting from a physical or
7 mental illness, injury, or medical condition of the
8 employee.

9 (2) An absence resulting from obtaining profes-
10 sional medical diagnosis or care, or preventive med-
11 ical care, for the employee.

12 (3) An absence for the purpose of caring for a
13 child, a parent, a spouse, a domestic partner, or any
14 other individual related by blood or affinity whose
15 close association with the employee is the equivalent
16 of a family relationship, who—

17 (A) has any of the conditions or needs for
18 diagnosis or care described in paragraph (1) or
19 (2);

20 (B) in the case of someone who is a child,
21 is required to attend a school meeting or a
22 meeting at a place where the child is receiving
23 care necessitated by the child's health condition
24 or disability; or

25 (C) is otherwise in need of care.

1 (4) An absence resulting from domestic vio-
2 lence, sexual assault, or stalking, if the time is to—

3 (A) seek medical attention for the em-
4 ployee or the employee's child, parent, spouse,
5 domestic partner, or an individual related to the
6 employee as described in paragraph (3), to re-
7 cover from physical or psychological injury or
8 disability caused by domestic violence, sexual
9 assault, or stalking;

10 (B) obtain or assist a related person de-
11 scribed in paragraph (3) in obtaining services
12 from a victim services organization;

13 (C) obtain or assist a related person de-
14 scribed in paragraph (3) in obtaining psycho-
15 logical or other counseling;

16 (D) seek relocation; or

17 (E) take legal action, including preparing
18 for or participating in any civil or criminal legal
19 proceeding related to or resulting from domestic
20 violence, sexual assault, or stalking.

21 (c) SCHEDULING.—An employee shall make a reason-
22 able effort to schedule a period of paid sick time under
23 this Act in a manner that does not unduly disrupt the
24 operations of the employer.

25 (d) PROCEDURES.—

1 (1) IN GENERAL.—Paid sick time shall be pro-
2 vided upon the oral or written request of an em-
3 ployee. Such request shall—

4 (A) include the expected duration of the
5 period of such time;

6 (B) in a case in which the need for such
7 period of time is foreseeable at least 7 days in
8 advance of such period, be provided at least 7
9 days in advance of such period; and

10 (C) otherwise, be provided as soon as prac-
11 ticable after the employee is aware of the need
12 for such period.

13 (2) CERTIFICATION IN GENERAL.—

14 (A) PROVISION.—

15 (i) IN GENERAL.—Subject to subpara-
16 graph (C), an employer may require that a
17 request for paid sick time under this sec-
18 tion for a purpose described in paragraph
19 (1), (2), or (3) of subsection (b) be sup-
20 ported by a certification issued by the
21 health care provider of the eligible em-
22 ployee or of an individual described in sub-
23 section (b)(3), as appropriate, if the period
24 of such time covers more than 3 consecu-
25 tive workdays.

1 (ii) TIMELINESS.—The employee shall
 2 provide a copy of such certification to the
 3 employer in a timely manner, not later
 4 than 30 days after the first day of the pe-
 5 riod of time. The employer shall not delay
 6 the commencement of the period of time on
 7 the basis that the employer has not yet re-
 8 ceived the certification.

9 (B) SUFFICIENT CERTIFICATION.—

10 (i) IN GENERAL.—A certification pro-
 11 vided under subparagraph (A) shall be suf-
 12 ficient if it states—

13 (I) the date on which the period
 14 of time will be needed;

15 (II) the probable duration of the
 16 period of time;

17 (III) the appropriate medical
 18 facts within the knowledge of the
 19 health care provider regarding the
 20 condition involved, subject to clause
 21 (ii); and

22 (IV)(aa) for purposes of paid sick
 23 time under subsection (b)(1), a state-
 24 ment that absence from work is medi-
 25 cally necessary;

1 (bb) for purposes of such time
2 under subsection (b)(2), the dates on
3 which testing for a medical diagnosis
4 or care is expected to be given and the
5 duration of such testing or care; and

6 (cc) for purposes of such time
7 under subsection (b)(3), in the case of
8 time to care for someone who is not a
9 child, a statement that care is needed
10 for an individual described in such
11 subsection, and an estimate of the
12 amount of time that such care is
13 needed for such individual.

14 (ii) LIMITATION.—In issuing a certifi-
15 cation under subparagraph (A), a health
16 care provider shall make reasonable efforts
17 to limit the medical facts described in
18 clause (i)(III) that are disclosed in the cer-
19 tification to the minimum necessary to es-
20 tablish a need for the employee to utilize
21 paid sick time.

22 (C) REGULATIONS.—Regulations pre-
23 scribed under section 14 shall specify the man-
24 ner in which an employee who does not have

1 health insurance shall provide a certification for
 2 purposes of this paragraph.

3 (D) CONFIDENTIALITY AND NONDISCLO-
 4 SURE.—

5 (i) PROTECTED HEALTH INFORMA-
 6 TION.—Nothing in this Act shall be con-
 7 strued to require a health care provider to
 8 disclose information in violation of section
 9 1177 of the Social Security Act (42 U.S.C.
 10 1320d–6) or the regulations promulgated
 11 pursuant to section 264(c) of the Health
 12 Insurance Portability and Accountability
 13 Act of 1996 (42 U.S.C. 1320d–2 note).

14 (ii) HEALTH INFORMATION
 15 RECORDS.—If an employer possesses
 16 health information about an employee or
 17 an employee’s child, parent, spouse, domes-
 18 tic partner, or an individual related to the
 19 employee as described in subsection (b)(3),
 20 such information shall—

21 (I) be maintained on a separate
 22 form and in a separate file from other
 23 personnel information;

24 (II) be treated as a confidential
 25 medical record; and

1 (III) not be disclosed except to
2 the affected employee or with the per-
3 mission of the affected employee.

4 (3) CERTIFICATION IN THE CASE OF DOMESTIC
5 VIOLENCE, SEXUAL ASSAULT, OR STALKING.—

6 (A) IN GENERAL.—An employer may re-
7 quire that a request for paid sick time under
8 this section for a purpose described in sub-
9 section (b)(4) be supported by any 1 of the fol-
10 lowing forms of documentation, but the em-
11 ployer may not specify the particular form of
12 documentation to be provided:

13 (i) A police report indicating that the
14 employee, or a member of the employee's
15 family described in subsection (b)(4), was
16 a victim of domestic violence, sexual as-
17 sault, or stalking.

18 (ii) A court order protecting or sepa-
19 rating the employee or a member of the
20 employee's family described in subsection
21 (b)(4) from the perpetrator of an act of
22 domestic violence, sexual assault, or stalk-
23 ing, or other evidence from the court or
24 prosecuting attorney that the employee or
25 a member of the employee's family de-

1 scribed in subsection (b)(4) has appeared
2 in court or is scheduled to appear in court
3 in a proceeding related to domestic vio-
4 lence, sexual assault, or stalking.

5 (iii) Other documentation signed by
6 an employee or volunteer working for a vic-
7 tim services organization, an attorney, a
8 police officer, a medical professional, a so-
9 cial worker, an antiviolence counselor, or a
10 member of the clergy, affirming that the
11 employee or a member of the employee's
12 family described in subsection (b)(4) is a
13 victim of domestic violence, sexual assault,
14 or stalking.

15 (B) REQUIREMENTS.—The requirements
16 of paragraph (2) shall apply to certifications
17 under this paragraph, except that—

18 (i) subclauses (III) and (IV) of sub-
19 paragraph (B)(i) and subparagraph (B)(ii)
20 of such paragraph shall not apply;

21 (ii) the certification shall state the
22 reason that the leave is required with the
23 facts to be disclosed limited to the min-
24 imum necessary to establish a need for the
25 employee to be absent from work, and the

employee shall not be required to explain the details of the domestic violence, sexual assault, or stalking involved; and

(iii) with respect to confidentiality under subparagraph (D) of such paragraph, any information provided to the employer under this paragraph shall be confidential, except to the extent that any disclosure of such information is—

(I) requested or consented to in writing by the employee; or

(II) otherwise required by applicable Federal or State law.

SEC. 6. NOTICE REQUIREMENT.

(a) IN GENERAL.—Each employer shall notify each employee and include in any employee handbook the information described in paragraphs (1) through (4). Each employer shall post and keep posted a notice, to be prepared or approved in accordance with procedures specified in regulations prescribed under section 14, setting forth excerpts from, or summaries of, the pertinent provisions of this Act including—

(1) information describing paid sick time available to employees under this Act;

1 (2) information pertaining to the filing of an
2 action under this Act;

3 (3) the details of the notice requirement for a
4 foreseeable period of time under section 5(d)(1)(B);
5 and

6 (4) information that describes—

7 (A) the protections that an employee has
8 in exercising rights under this Act; and

9 (B) how the employee can contact the Sec-
10 retary (or other appropriate authority as de-
11 scribed in section 8) if any of the rights are vio-
12 lated.

13 (b) LOCATION.—The notice described under sub-
14 section (a) shall be posted—

15 (1) in conspicuous places on the premises of the
16 employer, where notices to employees (including ap-
17 plicants) are customarily posted; or

18 (2) in employee handbooks.

19 (c) VIOLATION; PENALTY.—Any employer who will-
20 fully violates the posting requirements of this section shall
21 be subject to a civil fine in an amount not to exceed \$100
22 for each separate offense.

23 **SEC. 7. PROHIBITED ACTS.**

24 (a) INTERFERENCE WITH RIGHTS.—

1 (1) EXERCISE OF RIGHTS.—It shall be unlawful
 2 for any employer to interfere with, restrain, or deny
 3 the exercise of, or the attempt to exercise, any right
 4 provided under this Act, including—

5 (A) discharging or discriminating against
 6 (including retaliating against) any individual,
 7 including a job applicant, for exercising, or at-
 8 tempting to exercise, any right provided under
 9 this Act;

10 (B) using the taking of paid sick time or
 11 unpaid sick time under this Act as a negative
 12 factor in an employment action, such as hiring,
 13 promotion, reducing hours or number of shifts,
 14 or a disciplinary action; or

15 (C) counting the paid sick time or unpaid
 16 sick time under a no-fault attendance policy or
 17 any other absence control policy.

18 (2) DISCRIMINATION.—It shall be unlawful for
 19 any employer to discharge or in any other manner
 20 discriminate against (including retaliating against)
 21 any individual, including a job applicant, for oppos-
 22 ing any practice made unlawful by this Act.

23 (b) INTERFERENCE WITH PROCEEDINGS OR INQUIR-
 24 IES.—It shall be unlawful for any person to discharge or
 25 in any other manner discriminate against (including retali-

1 ating against) any individual, including a job applicant,
 2 because such individual—

3 (1) has filed an action, or has instituted or
 4 caused to be instituted any proceeding, under or re-
 5 lated to this Act;

6 (2) has given, or is about to give, any informa-
 7 tion in connection with any inquiry or proceeding re-
 8 lating to any right provided under this Act; or

9 (3) has testified, or is about to testify, in any
 10 inquiry or proceeding relating to any right provided
 11 under this Act.

12 (c) CONSTRUCTION.—Nothing in this section shall be
 13 construed to state or imply that the scope of the activities
 14 prohibited by section 105 of the Family and Medical Leave
 15 Act of 1993 (29 U.S.C. 2615) is less than the scope of
 16 the activities prohibited by this section.

17 **SEC. 8. ENFORCEMENT AUTHORITY.**

18 (a) IN GENERAL.—

19 (1) DEFINITION.—In this subsection—

20 (A) the term “employee” means an em-
 21 ployee described in subparagraph (A) or (B) of
 22 section 4(4); and

23 (B) the term “employer” means an em-
 24 ployer described in subclause (I) or (II) of sec-
 25 tion 4(5)(A)(i).

1 (2) INVESTIGATIVE AUTHORITY.—

2 (A) IN GENERAL.—To ensure compliance
3 with the provisions of this Act, or any regula-
4 tion or order issued under this Act, the Sec-
5 retary shall have, subject to subparagraph (C),
6 the investigative authority provided under sec-
7 tion 11(a) of the Fair Labor Standards Act of
8 1938 (29 U.S.C. 211(a)), with respect to em-
9 ployers, employees, and other individuals af-
10 fected.

11 (B) OBLIGATION TO KEEP AND PRESERVE
12 RECORDS.—An employer shall make, keep, and
13 preserve records pertaining to compliance with
14 this Act in accordance with section 11(c) of the
15 Fair Labor Standards Act of 1938 (29 U.S.C.
16 211(c)) and in accordance with regulations pre-
17 scribed by the Secretary.

18 (C) REQUIRED SUBMISSIONS GENERALLY
19 LIMITED TO AN ANNUAL BASIS.—The Secretary
20 shall not require, under the authority of this
21 paragraph, an employer to submit to the Sec-
22 retary any books or records more than once
23 during any 12-month period, unless the Sec-
24 retary has reasonable cause to believe there
25 may exist a violation of this Act or any regula-

tion or order issued pursuant to this Act, or is investigating a charge pursuant to paragraph (4).

(D) SUBPOENA AUTHORITY.—For the purposes of any investigation provided for in this paragraph, the Secretary shall have the subpoena authority provided for under section 9 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209).

(3) CIVIL ACTION BY EMPLOYEES OR INDIVIDUALS.—

(A) RIGHT OF ACTION.—An action to recover the damages or equitable relief prescribed in subparagraph (B) may be maintained against any employer in any Federal or State court of competent jurisdiction by one or more employees or individuals or their representative for and on behalf of—

(i) the employees or individuals; or

(ii) the employees or individuals and others similarly situated.

(B) LIABILITY.—Any employer who violates section 7 (including a violation relating to rights provided under section 5) shall be liable to any employee or individual affected—

1 (i) for damages equal to—

2 (I) the amount of—

3 (aa) any wages, salary, em-
4 ployment benefits, or other com-
5 pensation denied or lost by rea-
6 son of the violation; or

7 (bb) in a case in which
8 wages, salary, employment bene-
9 fits, or other compensation have
10 not been denied or lost, any ac-
11 tual monetary losses sustained as
12 a direct result of the violation up
13 to a sum equal to 56 hours of
14 wages or salary for the employee
15 or individual;

16 (II) the interest on the amount
17 described in subclause (I) calculated
18 at the prevailing rate; and

19 (III) an additional amount as liq-
20 uidated damages; and

21 (ii) for such equitable relief as may be
22 appropriate, including employment, rein-
23 statement, and promotion.

24 (C) FEES AND COSTS.—The court in an
25 action under this paragraph shall, in addition to

1 any judgment awarded to the plaintiff, allow a
2 reasonable attorney's fee, reasonable expert wit-
3 ness fees, and other costs of the action to be
4 paid by the defendant.

5 (4) ACTION BY THE SECRETARY.—

6 (A) ADMINISTRATIVE ACTION.—The Sec-
7 retary shall receive, investigate, and attempt to
8 resolve complaints of violations of section 7 (in-
9 cluding a violation relating to rights provided
10 under section 5) in the same manner that the
11 Secretary receives, investigates, and attempts to
12 resolve complaints of violations of sections 6
13 and 7 of the Fair Labor Standards Act of 1938
14 (29 U.S.C. 206 and 207).

15 (B) CIVIL ACTION.—The Secretary may
16 bring an action in any court of competent juris-
17 diction to recover the damages described in
18 paragraph (3)(B)(i).

19 (C) SUMS RECOVERED.—Any sums recov-
20 ered by the Secretary pursuant to subparagraph
21 (B) shall be held in a special deposit account
22 and shall be paid, on order of the Secretary, di-
23 rectly to each employee or individual affected.
24 Any such sums not paid to an employee or indi-
25 vidual affected because of inability to do so

1 within a period of 3 years shall be deposited
2 into the Treasury of the United States as mis-
3 cellaneous receipts.

4 (5) LIMITATION.—

5 (A) IN GENERAL.—Except as provided in
6 subparagraph (B), an action may be brought
7 under paragraph (3), (4), or (6) not later than
8 2 years after the date of the last event consti-
9 tuting the alleged violation for which the action
10 is brought.

11 (B) WILLFUL VIOLATION.—In the case of
12 an action brought for a willful violation of sec-
13 tion 7 (including a willful violation relating to
14 rights provided under section 5), such action
15 may be brought within 3 years of the date of
16 the last event constituting the alleged violation
17 for which such action is brought.

18 (C) COMMENCEMENT.—In determining
19 when an action is commenced under paragraph
20 (3), (4), or (6) for the purposes of this para-
21 graph, it shall be considered to be commenced
22 on the date when the complaint is filed.

23 (6) ACTION FOR INJUNCTION BY SECRETARY.—

24 The district courts of the United States shall have

1 jurisdiction, for cause shown, in an action brought
2 by the Secretary—

3 (A) to restrain violations of section 7 (in-
4 cluding a violation relating to rights provided
5 under section 5), including the restraint of any
6 withholding of payment of wages, salary, em-
7 ployment benefits, or other compensation, plus
8 interest, found by the court to be due to em-
9 ployees or individuals eligible under this Act; or

10 (B) to award such other equitable relief as
11 may be appropriate, including employment, re-
12 instatement, and promotion.

13 (7) SOLICITOR OF LABOR.—The Solicitor of
14 Labor may appear for and represent the Secretary
15 on any litigation brought under paragraph (4) or
16 (6).

17 (8) GOVERNMENT ACCOUNTABILITY OFFICE
18 AND LIBRARY OF CONGRESS.—Notwithstanding any
19 other provision of this subsection, in the case of the
20 Government Accountability Office and the Library of
21 Congress, the authority of the Secretary of Labor
22 under this subsection shall be exercised respectively
23 by the Comptroller General of the United States and
24 the Librarian of Congress.

1 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-
 2 COUNTABILITY ACT OF 1995.—The powers, remedies, and
 3 procedures provided in the Congressional Accountability
 4 Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as de-
 5 fined in section 101 of that Act (2 U.S.C. 1301)), or any
 6 person, alleging a violation of section 202(a)(1) of that
 7 Act (2 U.S.C. 1312(a)(1)) shall be the powers, remedies,
 8 and procedures this Act provides to that Board, or any
 9 person, alleging an unlawful employment practice in viola-
 10 tion of this Act against an employee described in section
 11 4(4)(C).

12 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE
 13 3, UNITED STATES CODE.—The powers, remedies, and
 14 procedures provided in chapter 5 of title 3, United States
 15 Code, to the President, the Merit Systems Protection
 16 Board, or any person, alleging a violation of section
 17 412(a)(1) of that title, shall be the powers, remedies, and
 18 procedures this Act provides to the President, that Board,
 19 or any person, respectively, alleging an unlawful employ-
 20 ment practice in violation of this Act against an employee
 21 described in section 4(4)(D).

22 (d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE
 23 5, UNITED STATES CODE.—The powers, remedies, and
 24 procedures provided in title 5, United States Code, to an
 25 employing agency, provided in chapter 12 of that title to

1 the Merit Systems Protection Board, or provided in that
 2 title to any person, alleging a violation of chapter 63 of
 3 that title, shall be the powers, remedies, and procedures
 4 this Act provides to that agency, that Board, or any per-
 5 son, respectively, alleging an unlawful employment prac-
 6 tice in violation of this Act against an employee described
 7 in section 4(4)(E).

8 (e) REMEDIES FOR STATE EMPLOYEES.—

9 (1) WAIVER OF SOVEREIGN IMMUNITY.—A
 10 State's receipt or use of Federal financial assistance
 11 for any program or activity of a State shall con-
 12 stitute a waiver of sovereign immunity, under the
 13 11th Amendment to the Constitution or otherwise,
 14 to a suit brought by an employee of that program
 15 or activity under this Act for equitable, legal, or
 16 other relief authorized under this Act.

17 (2) OFFICIAL CAPACITY.—An official of a State
 18 may be sued in the official capacity of the official by
 19 any employee who has complied with the procedures
 20 under subsection (a)(3), for injunctive relief that is
 21 authorized under this Act. In such a suit the court
 22 may award to the prevailing party those costs au-
 23 thorized by section 722 of the Revised Statutes (42
 24 U.S.C. 1988).

1 (3) APPLICABILITY.—With respect to a par-
 2 ticular program or activity, paragraph (1) applies to
 3 conduct occurring on or after the day, after the date
 4 of enactment of this Act, on which a State first re-
 5 ceives or uses Federal financial assistance for that
 6 program or activity.

7 (4) DEFINITION OF PROGRAM OR ACTIVITY.—In
 8 this subsection, the term “program or activity” has
 9 the meaning given the term in section 606 of the
 10 Civil Rights Act of 1964 (42 U.S.C. 2000d–4a).

11 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS FOR EDU-**
 12 **CATION AND OUTREACH.**

13 There is authorized to be appropriated to the Sec-
 14 retary of Labor such sums as may be necessary in order
 15 that the Secretary may conduct a public awareness cam-
 16 paign to educate and inform the public of the require-
 17 ments for paid sick time required by this Act.

18 **SEC. 10. COLLECTION OF DATA ON PAID SICK TIME AND**
 19 **FURTHER STUDY.**

20 (a) COMPILATION OF INFORMATION.—The Commis-
 21 sioner of Labor Statistics shall annually compile informa-
 22 tion on the following:

23 (1) The amount of paid and unpaid sick time
 24 available to employees by occupation and type of em-
 25 ployment establishment.

1 (2) An estimate of the average sick time used
2 by employees according to occupation and the type
3 of employment establishment.

4 (b) GAO STUDY.—Not later than 5 years after the
5 date of enactment of this Act, the Comptroller General
6 of the United States shall conduct a study to evaluate the
7 implementation of this Act. Such study shall include an
8 estimation of employees’ access to paid sick time, employ-
9 ees’ awareness of their rights under this Act, and employ-
10 ers’ experiences complying with this Act. Such study shall
11 take into account access, awareness and experiences of
12 employees by race, ethnicity, gender, and occupation.

13 (c) REPORT.—Upon completion of the study required
14 by subsection (b), the Comptroller General of the United
15 States shall prepare and submit a report to the appro-
16 priate committees of Congress concerning the results of
17 the study and the information compiled pursuant to sub-
18 section (a).

19 **SEC. 11. EFFECT ON OTHER LAWS.**

20 (a) FEDERAL AND STATE ANTIDISCRIMINATION
21 LAWS.—Nothing in this Act shall be construed to modify
22 or affect any Federal or State law prohibiting discrimina-
23 tion on the basis of race, religion, color, national origin,
24 sex, age, disability, sexual orientation, gender identity,

1 marital status, familial status, or any other protected sta-
2 tus.

3 (b) STATE AND LOCAL LAWS.—Nothing in this Act
4 shall be construed to supersede (including preempting)
5 any provision of any State or local law that provides great-
6 er paid sick time or leave rights (including greater
7 amounts of paid sick time or leave, or greater coverage
8 of those eligible for paid sick time or leave) than the rights
9 established under this Act.

10 **SEC. 12. EFFECT ON EXISTING EMPLOYMENT BENEFITS.**

11 (a) MORE PROTECTIVE.—Nothing in this Act shall
12 be construed to diminish the obligation of an employer to
13 comply with any contract, collective bargaining agreement,
14 or any employment benefit program or plan that provides
15 greater paid sick leave or other leave rights to employees
16 or individuals than the rights established under this Act.

17 (b) LESS PROTECTIVE.—The rights established for
18 employees under this Act shall not be diminished by any
19 contract, collective bargaining agreement, or any employ-
20 ment benefit program or plan.

21 **SEC. 13. ENCOURAGEMENT OF MORE GENEROUS LEAVE**
22 **POLICIES.**

23 Nothing in this Act shall be construed to discourage
24 employers from adopting or retaining leave policies more

1 generous than policies that comply with the requirements
 2 of this Act.

3 **SEC. 14. REGULATIONS.**

4 (a) IN GENERAL.—

5 (1) AUTHORITY.—Except as provided in para-
 6 graph (2), not later than 180 days after the date of
 7 enactment of this Act, the Secretary shall prescribe
 8 such regulations as are necessary to carry out this
 9 Act with respect to employees described in subpara-
 10 graph (A) or (B) of section 4(4) and other individ-
 11 uals affected by employers described in subclause (I)
 12 or (II) of section 4(5)(A)(i).

13 (2) GOVERNMENT ACCOUNTABILITY OFFICE; LI-
 14 BRARY OF CONGRESS.—The Comptroller General of
 15 the United States and the Librarian of Congress
 16 shall prescribe the regulations with respect to em-
 17 ployees of the Government Accountability Office and
 18 the Library of Congress, respectively, and other indi-
 19 viduals affected by the Comptroller General of the
 20 United States and the Librarian of Congress, re-
 21 spectively.

22 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-
 23 COUNTABILITY ACT OF 1995.—

24 (1) AUTHORITY.—Not later than 90 days after
 25 the Secretary prescribes regulations under sub-

1 section (a), the Board of Directors of the Office of
2 Compliance shall prescribe (in accordance with sec-
3 tion 304 of the Congressional Accountability Act of
4 1995 (2 U.S.C. 1384)) such regulations as are nec-
5 essary to carry out this Act with respect to employ-
6 ees described in section 4(4)(C) and other individ-
7 uals affected by employers described in section
8 4(5)(A)(i)(III).

9 (2) AGENCY REGULATIONS.—The regulations
10 prescribed under paragraph (1) shall be the same as
11 substantive regulations promulgated by the Sec-
12 retary to carry out this Act except insofar as the
13 Board may determine, for good cause shown and
14 stated together with the regulations prescribed
15 under paragraph (1), that a modification of such
16 regulations would be more effective for the imple-
17 mentation of the rights and protections involved
18 under this section.

19 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE
20 3, UNITED STATES CODE.—

21 (1) AUTHORITY.—Not later than 90 days after
22 the Secretary prescribes regulations under sub-
23 section (a), the President (or the designee of the
24 President) shall prescribe such regulations as are
25 necessary to carry out this Act with respect to em-

1 ployees described in section 4(4)(D) and other indi-
 2 viduals affected by employers described in section
 3 4(5)(A)(i)(IV).

4 (2) AGENCY REGULATIONS.—The regulations
 5 prescribed under paragraph (1) shall be the same as
 6 substantive regulations promulgated by the Sec-
 7 retary to carry out this Act except insofar as the
 8 President (or designee) may determine, for good
 9 cause shown and stated together with the regula-
 10 tions prescribed under paragraph (1), that a modi-
 11 fication of such regulations would be more effective
 12 for the implementation of the rights and protections
 13 involved under this section.

14 (d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE
 15 5, UNITED STATES CODE.—

16 (1) AUTHORITY.—Not later than 90 days after
 17 the Secretary prescribes regulations under sub-
 18 section (a), the Director of the Office of Personnel
 19 Management shall prescribe such regulations as are
 20 necessary to carry out this Act with respect to em-
 21 ployees described in section 4(4)(E) and other indi-
 22 viduals affected by employers described in section
 23 4(5)(A)(i)(V).

24 (2) AGENCY REGULATIONS.—The regulations
 25 prescribed under paragraph (1) shall be the same as

1 substantive regulations promulgated by the Sec-
 2 retary to carry out this Act except insofar as the Di-
 3 rector may determine, for good cause shown and
 4 stated together with the regulations prescribed
 5 under paragraph (1), that a modification of such
 6 regulations would be more effective for the imple-
 7 mentation of the rights and protections involved
 8 under this section.

9 **SEC. 15. EFFECTIVE DATES.**

10 (a) **EFFECTIVE DATE.**—This Act shall take effect 6
 11 months after the date of issuance of regulations under sec-
 12 tion 14(a)(1).

13 (b) **COLLECTIVE BARGAINING AGREEMENTS.**—In the
 14 case of a collective bargaining agreement in effect on the
 15 effective date prescribed by subsection (a), this Act shall
 16 take effect on the earlier of—

17 (1) the date of the termination of such agree-
 18 ment; or

19 (2) the date that occurs 18 months after the
 20 date of issuance of regulations under section
 21 14(a)(1).

○