

106TH CONGRESS  
1ST SESSION

# H. R. 1857

To amend the Family and Medical Leave Act of 1993 to allow leave for individuals who give living organ donations, to amend the Public Health Service Act with respect to paying travel and subsistence expenses that are incurred by individuals in donating or receiving of organs, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 18, 1999

Mrs. THURMAN (for herself, Mr. STARK, Mr. CANADY of Florida, Ms. BERKLEY, Mr. MATSUI, Mr. LEWIS of Georgia, Ms. BALDWIN, Mr. HILLIARD, Mr. BARRETT of Wisconsin, Ms. KILPATRICK, Ms. MILLENDER-MCDONALD, and Ms. HOOLEY of Oregon) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Commerce, Government Reform, House Administration, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Family and Medical Leave Act of 1993 to allow leave for individuals who give living organ donations, to amend the Public Health Service Act with respect to paying travel and subsistence expenses that are incurred by individuals in donating or receiving of organs, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Living Organ Donation  
3 Incentives Act of 1999”.

4 **SEC. 2. FAMILY AND MEDICAL LEAVE.**

5 (a) CIVILIAN POPULATION.—

6 (1) LEAVE REQUIREMENT.—Section 102(a) of  
7 the Family and Medical Leave Act of 1993 (29  
8 U.S.C. 2612(a)) is amended by adding at the end  
9 the following:

10 “(E) to provide a living organ donation, in-  
11 cluding time spent for—

12 “(i) tests used to determine if the live  
13 donor is medically suitable to donate;

14 “(ii) physical, psychological, and social  
15 evaluations of the live donor;

16 “(iii) pre-transplant outpatient serv-  
17 ices;

18 “(iv) post-operative inpatient and out-  
19 patient transplantation services;

20 “(v) travel in connection with tests,  
21 evaluations, and services described in  
22 clauses (i) through (iv); and

23 “(vi) recuperation consistent with the  
24 type of transplant.”.

25 (2) CONFORMING.—

1           (A) SECTION 102.—Sections 102(b) and  
2           102(e) of such Act (29 U.S.C. 2612(b), (e)) are  
3           each amended by striking “(C) or (D)” each  
4           place it occurs and inserting “(C), (D), or (E)”.

5           (B) SECTION 102(b).—Sections 102(b)(2)  
6           and 102(e)(2) of such Act (29 U.S.C.  
7           2612(b)(2), 2612(e)(2)) are each amended by  
8           inserting “, including living organ donation”  
9           after “treatment”.

10          (B) SECTION 103.—Section 103 of such  
11          Act (29 U.S.C. 2613) is amended—

12           (A) in subsection (b)(4), by striking “and”  
13           at the end of subparagraph (A), by striking the  
14           period at the end of subparagraph (B) and in-  
15           serting “; and”, and by adding at the end the  
16           following:

17           “(C) for purposes of leave under section  
18           6382(a)(1)(E), a statement that the employee is unable  
19           to perform the functions of the position of the employee.”;

20           (B) in subsection (b)(5), by inserting “or  
21           living organ donation” after “treatment” each  
22           place it appears; and

23           (C) in subsection (c)(1), by striking “(C)  
24           or (D)” and inserting “(C), (D), or (E)”.

1           (C) SECTION 104(a).—Section 104(a)(4)  
2 of such Act (29 U.S.C. 2614(a)(4)) is amended  
3 by inserting “or section 102(a)(1)(E)” after  
4 “(D)”.

5           (D) SECTION 104(c).—Section 104(c)(2)  
6 of such Act (29 U.S.C. 2614(c)(2)) is amended  
7 by striking “(C) or (D)” and inserting “(C),  
8 (D), or (E)” and section 104(c)(3)(A) is  
9 amended by striking “or” at the end of clause  
10 (i), by striking the period at the end of clause  
11 (ii) and inserting “; or”, and by adding at the  
12 end the following:

13                   “(iii) a certification issued by the  
14 health care provider of the eligible em-  
15 ployee, in the case of an employee unable  
16 to return to work because of a condition  
17 specified in section 102(a)(1)(E).”;

18 and section 104(c)(3)(C)(i) of such Act (29  
19 U.S.C. 2614(c)(3)(C)(i)) is amended by insert-  
20 ing “or (A)(iii)” after “(ii)”.

21           (E) SECTION 108.—Section 108(c)(1) of  
22 such Act (29 U.S.C. 2618(c)(1)) is amended by  
23 striking “(C) or (D)” and inserting “(C), (D),  
24 or (E)” and by inserting “, including living

1 organ donation” after “treatment” each place  
2 it occurs.

3 (b) FEDERAL POPULATION.—

4 (1) LEAVE REQUIREMENT.—Section 6382(a)(1)  
5 of title 5, United States Code, is amended by adding  
6 at the end the following:

7 “(E) to provide a living organ donation, includ-  
8 ing time spent for—

9 “(i) tests used to determine if the live  
10 donor is medically suitable to donate;

11 “(ii) physical, psychological, and social  
12 evaluations of the live donor;

13 “(iii) post-operative inpatient and out-  
14 patient transplantation services;

15 “(iv) pre-transplant outpatient services;

16 “(v) travel in connection with tests, evalua-  
17 tions, and services described in clauses (i)  
18 through (iv); and

19 “(vi) recuperation consistent with the type  
20 of transplant.”.

21 (2) CONFORMING.—

22 (A) SECTION 6382(b)(2).—Section  
23 6382(b)(2) of such title is amended by striking  
24 “(C) or (D)” and inserting “(C), (D), or (E)”.

1           (B) SECTION 6382(d).—Section 6382(d)  
2 of such title is amended by striking “or (D)”  
3 and inserting “(D), or (E)”.

4           (C) SECTION 6382(e)(2).—Section  
5 6382(e)(2) of such title is amended by striking  
6 “(C) or (D)” and inserting “(C), (D), or (E)”.

7           (D) SECTION 6383(a).—Section 6383(a)  
8 of such title is amended by striking “(C) or  
9 (D)” and inserting “(C), (D), or (E)”.

10          (E) SECTION 6833(b)(4).—Section  
11 6833(b)(4) of such title is amended by striking  
12 “and” at the end of subparagraph (A), by strik-  
13 ing the period at the end of subparagraph (B)  
14 and inserting “; and”, and by adding at the end  
15 the following:

16          “(C) for purposes of leave under section  
17 6382(a)(1)(E), a statement that the employee is unable  
18 to perform the functions of the position of the employee.”.

19          (F) SECTION 6833(b)(5).—Section  
20 6833(b)(5) of such title is amended by inserting  
21 “, including living organ donation” after “treat-  
22 ment”.

23          (G) SECTION 6384(d).—Section 6384(d)  
24 of such title is amended by inserting “or section  
25 6382(a)(1)(E)” after “(D)”.

1 **SEC. 3. NATIONAL PROGRAM FOR PAYMENT OF TRAVEL**  
2 **AND SUBSISTENCE EXPENSES INCURRED TO-**  
3 **WARD DONATION OR RECEIPT OF ORGANS.**

4 Part H of the Public Health Service Act (42 U.S.C.  
5 273 et seq.) is amended—

6 (1) by redesignating section 378 as section 379;

7 and

8 (2) by inserting after section 377 the following  
9 section:

10 “PAYMENT OF TRAVEL AND SUBSISTENCE EXPENSES  
11 REGARDING ORGAN DONATION

12 “SEC. 378. (a) IN GENERAL.—The Secretary may  
13 carry out a national program of making awards of grants  
14 or contracts to States, transplant centers, qualified organ  
15 procurement organizations under section 371, or other  
16 public or private entities for the purpose of providing for  
17 the payment of travel and subsistence expenses incurred  
18 by individuals, or as applicable their families, toward mak-  
19 ing or receiving donations of organs.

20 “(b) CERTAIN CRITERIA.—In establishing criteria for  
21 carrying out subsection (a), the Secretary may include the  
22 following:

23 “(1) In addition to the payment of travel and  
24 subsistence expenses, the criteria may provide for  
25 the payment of such additional nonmedical expenses  
26 as the Secretary determines to be appropriate.

1           “(2) The criteria may provide that the individ-  
2           uals for whom qualifying expenses are paid will in-  
3           clude individuals, or as applicable their families, who  
4           in good faith incur such expenses toward the in-  
5           tended donating or receiving of an organ but with  
6           respect to whom, for such reasons as the Secretary  
7           determines to be appropriate, no donating or receiv-  
8           ing of the organ occurs.

9           “(c) RELATIONSHIP TO PAYMENTS UNDER OTHER  
10          PROGRAMS.—A grant may be made under subsection (a)  
11          only if the applicant involved agrees that the grant will  
12          not be expended to pay qualifying expenses for an indi-  
13          vidual to the extent that payment has been made, or can  
14          reasonably be expected to be made, with respect to such  
15          expenses—

16                 “(1) under any State compensation program,  
17                 under an insurance policy, or under any Federal or  
18                 State health benefits program; or

19                 “(2) by an entity that provides health services  
20                 on a prepaid basis.

21          “(d) DEFINITION.—For purposes of this section, the  
22          term ‘qualifying expenses’, with respect to donating or re-  
23          ceiving an organ, means travel and subsistence expenses,  
24          and such additional nonmedical expenses as may be des-  
25          ignated under subsection (b)(1).

1       “(e) AUTHORIZATION OF APPROPRIATIONS.—For the  
2 purpose of carrying out this section, there are authorized  
3 to be appropriated such sums as may be necessary for  
4 each of the fiscal years 2000 through 2004.”.

5 **SEC. 4. INCREASE IN PAYMENT AMOUNT FOR RENAL DI-**  
6 **ALYSIS SERVICES FURNISHED UNDER THE**  
7 **MEDICARE PROGRAM.**

8       (a) IN GENERAL.—Section 1881(b)(7) of the Social  
9 Security Act (42 U.S.C. 1395rr(b)(7)) is amended by add-  
10 ing at the end the following new flush sentence:

11 “The Secretary shall increase the amount of each com-  
12 posite rate payment for dialysis services furnished on or  
13 after January 1, 2000, by 2.9 percent above such com-  
14 posite rate payment amounts for such services furnished  
15 on December 31, 1999.”.

16       (b) CONFORMING AMENDMENT.—

17           (1) IN GENERAL.—Section 9335(a) of the Om-  
18 nibus Budget Reconciliation Act of 1986 (42 U.S.C.  
19 1395rr note) is amended by striking paragraph (1).

20           (2) EFFECTIVE DATE.—The amendment made  
21 by paragraph (1) shall take effect on January 1,  
22 2000.

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