

106TH CONGRESS  
2D SESSION

# H. R. 5262

To amend the Family and Medical Leave Act of 1993 to allow leave to address domestic violence and its effects, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 2000

Ms. ROYBAL-ALLARD (for herself, Mrs. MALONEY of New York, Mr. HINCHEY, and Ms. WOOLSEY) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, Government Reform, and House Administration, 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 to address domestic violence and its effects, 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,*

3 **SECTION 1. SHORT TITLE AND REFERENCE.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Battered Women’s Employment Protection Act”.

6       (b) **REFERENCE.**—Whenever in section 4 an amend-  
7 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference  
2 shall be considered to be made to a section or other provi-  
3 sion of the Family and Medical Leave Act of 1993.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) violence against women is the leading cause  
7 of physical injury to women, and the Department of  
8 Justice estimates that intimate partners commit  
9 more than one million violent crimes against women  
10 every year;

11 (2) approximately 95 percent of the victims of  
12 domestic violence are women;

13 (3) violence against women dramatically affects  
14 women's work force participation, insofar as one-  
15 quarter of battered women surveyed had lost a job  
16 due at least in part to the effects of domestic vio-  
17 lence, and over half had been harassed by their  
18 abuser at work;

19 (4) a report by the New York City Victims  
20 Services Agency found that abusive spouses and  
21 lovers harass 74 percent of battered women at work,  
22 54 percent of battering victims miss at least 3 days  
23 of work per month, 56 percent are late for work at  
24 least 5 times per month, and a University of Min-  
25 nesota study found that 24 percent of women in

1 support groups for battered women had lost a job  
2 partly because of being abused;

3 (5) a study by Domestic Violence Intervention  
4 Services, Inc. found that 96 percent of employed do-  
5 mestic violence victims had some type of problem in  
6 the workplace as a direct result of their abuse or  
7 abuser;

8 (6) the availability of economic support is a  
9 critical factor in women’s ability to leave abusive sit-  
10 uations that threaten them and their children, and  
11 over half of battered women surveyed stayed with  
12 their batterers because they lacked resources to sup-  
13 port themselves and their children; and

14 (7) existing Federal and State legislation does  
15 not expressly authorize battered women to take leave  
16 from work to seek legal assistance and redress,  
17 counseling, or assistance with safety planning and  
18 activities.

19 **SEC. 3. UNEMPLOYMENT COMPENSATION.**

20 (a) UNEMPLOYMENT COMPENSATION.—Section  
21 3304(a) of the Internal Revenue Code of 1986 is  
22 amended—

23 (1) by striking “and” at the end of paragraph  
24 (18),

1           (2) by striking the period at the end of para-  
2           graph (19) and inserting “; and”,

3           (3) by adding after paragraph (19) the fol-  
4           lowing:

5           “(20) compensation is to be provided where an  
6           individual is separated from employment due to cir-  
7           cumstances directly resulting from the individual’s  
8           experience of domestic violence.”,

9           (4) by redesignating subsections (b) through (f)  
10          as subsections (c) through (g), respectively, and

11          (5) by adding after subsection (a) the following:

12          “(b) CONSTRUCTION.—

13                 “(1) For the purpose of determining, under  
14                 subsection (a)(20), whether an employee’s separation  
15                 from employment is ‘directly resulting’ from the in-  
16                 dividual’s experience of domestic violence, it shall be  
17                 sufficient if the separation from employment re-  
18                 sulted from—

19                         “(A) the employee’s reasonable fear of fu-  
20                         ture domestic violence at or en route to or from  
21                         her place of employment;

22                         “(B) the employee’s wish to relocate to an-  
23                         other geographic area in order to avoid future  
24                         domestic violence against the employee or the  
25                         employee’s family;

1           “(C) the employee’s need to recover from  
2           traumatic stress resulting from the employee’s  
3           experience of domestic violence;

4           “(D) the employer’s denial of the employ-  
5           ee’s request for the temporary leave from em-  
6           ployment to address domestic violence and its  
7           effects authorized by section 102 of the Family  
8           and Medical Leave Act of 1993; or

9           “(E) any other respect in which domestic  
10          violence causes the employee to reasonably be-  
11          lieve that termination of employment is nec-  
12          essary for the future safety of the employee or  
13          the employee’s family.

14          “(2) For purposes of subsection (a)(20), where  
15          State law requires the employee to have made rea-  
16          sonable efforts to retain employment as a condition  
17          for receiving unemployment compensation, it shall be  
18          sufficient that the employee—

19                 “(A) sought protection from or assistance  
20                 in responding to domestic violence, including  
21                 calling the police or seeking legal, social work,  
22                 medical, clergy, or other assistance;

23                 “(B) sought safety, including refuge in a  
24                 shelter or temporary or permanent relocation,

1           whether or not the employee actually obtained  
2           such refuge or accomplished such relocation; or

3           “(C) reasonably believed that options such  
4           as a leave, transfer, or alternative work sched-  
5           ule would not be sufficient to guarantee the em-  
6           ployee or the employee’s family’s safety.

7           “(3) For purposes of subsection (a)(20), where  
8           State law requires the employee to actively search  
9           for employment after separation from employment  
10          as a condition for receiving unemployment com-  
11          pensation, such requirement shall be deemed to be  
12          met where the employee is temporarily unable to ac-  
13          tively search for employment because the employee is  
14          engaged in seeking safety or relief for the employee  
15          or the employee’s family from domestic violence,  
16          including—

17                 “(A) going into hiding or relocating or at-  
18                 tempting to do so, including activities associ-  
19                 ated with such relocation or hiding, such as  
20                 seeking to obtain sufficient shelter, food, school-  
21                 ing for children, or other necessities of life for  
22                 the employee or the employee’s family;

23                 “(B) actively pursuing legal protection or  
24                 remedies, including meeting with the police,  
25                 going to court to make inquiries or file papers,

1 meeting with attorneys, or attending court pro-  
2 ceedings; or

3 “(C) participating in psychological, social,  
4 or religious counseling or support activities to  
5 assist the employee in ending domestic violence.

6 “(4) In determining if an employee meets the  
7 requirements of paragraphs (1), (2), and (3), the  
8 employer of an employee may require the employee  
9 to provide—

10 “(A) documentation of the domestic vio-  
11 lence, such as police or court records, or docu-  
12 mentation of the domestic violence from a shel-  
13 ter worker, attorney, clergy, or medical or other  
14 professional from whom the employee has  
15 sought assistance in addressing domestic vio-  
16 lence and its effects; or

17 “(B) other corroborating evidence, such as  
18 a statement from any other individual with  
19 knowledge of the circumstances which provide  
20 the basis for the claim, or physical evidence of  
21 domestic violence, such as photographs, torn or  
22 bloody clothes, etc.”.

23 All evidence of domestic violence experienced by an  
24 employee, including an employee’s statement, any  
25 corroborating evidence, and the fact that an em-

1       employee has applied for or inquired about unemploy-  
2       ment compensation available under section  
3       3304(a)(20) shall be retained in the strictest con-  
4       fidence of the employer, except to the extent con-  
5       sented to by the employee where disclosure is nec-  
6       essary to protect the employee’s safety.”.

7       (b) SOCIAL SECURITY PERSONNEL TRAINING.—Sec-  
8       tion 303(a) of the Social Security Act (42 U.S.C.  
9       503(a)(4)) is amended by redesignating paragraphs (4)  
10      through (10) as paragraphs (5) through (11), respectively,  
11      and by adding after paragraph (3) the following:

12               “(4) Such methods of administration as will en-  
13      sure that claims reviewers and hearing personnel are  
14      adequately trained in the nature and dynamics of  
15      domestic violence and in methods of ascertaining  
16      and keeping confidential information about possible  
17      experiences of domestic violence, so that employment  
18      separations stemming from domestic violence are re-  
19      liably screened, identified, and adjudicated and full  
20      confidentiality is provided for the employee’s claim  
21      and submitted evidence.”.

22      (c) DEFINITIONS.—Section 3306 of the Internal Rev-  
23      enue Code of 1986 is amended by adding at the end the  
24      following:



1       “(u) DOMESTIC VIOLENCE.—The term ‘domestic vio-  
2 lence’ includes abuse committed against an employee or  
3 a family member of the employee by—

4           “(1) a current or former spouse of the em-  
5 ployee;

6           “(2) a person with whom the employee shares  
7 a child in common;

8           “(3) a person who is cohabitating with or has  
9 cohabitated with the employee as a romantic or inti-  
10 mate partner; or

11          “(4) a person from whom the employee would  
12 be eligible for protection under the domestic vio-  
13 lence, protection order, or family laws of the juris-  
14 diction in which the employee resides or the em-  
15 ployer is located.

16       “(v) ABUSE.—The term ‘abuse’ includes—

17           “(1) physical acts resulting in, or threatening to  
18 result in, physical injury;

19           “(2) sexual abuse, sexual activity involving a  
20 dependent child, or threats of or attempts at sexual  
21 abuse;

22           “(3) mental abuse, including threats, intimidat-  
23 tion, acts designed to induce terror, or restraints on  
24 liberty; and

1           “(4) deprivation of medical care, housing, food  
2           or other necessities of life.”.

3 **SEC. 4. ENTITLEMENT TO LEAVE FOR DOMESTIC VIO-**  
4 **LENCE.**

5           (a) **AUTHORITY FOR LEAVE.**—Section 102(a)(1) (29  
6 U.S.C. 2612(a)(1)) is amended by adding at the end the  
7 following:

8                   “(E) In order to care for the child or par-  
9                   ent of the employee, if such child or parent is  
10                   addressing domestic violence and its effects.

11                   “(F) Because the employee is addressing  
12                   domestic violence and its effects, the employee  
13                   is unable to perform any of the functions of the  
14                   position of such employee.”.

15           (b) **DEFINITION.**—Section 101 (29 U.S.C. 2611) is  
16 amended by adding at the end the following:

17                   “(14) **ADDRESSING DOMESTIC VIOLENCE AND**  
18                   **ITS EFFECTS.**—The term ‘addressing domestic vio-

19                   lence and its effects’ means—  
20                   “(A) experiencing domestic violence,

21                   “(B) seeking medical attention for or re-  
22                   covering from injuries caused by domestic vio-  
23                   lence,

24                   “(C) seeking legal assistance or remedies,  
25                   including communicating with the police or an

1 attorney, or participating in any legal pro-  
2 ceeding related to domestic violence,

3 “(D) attending support groups for victims  
4 of domestic violence,

5 “(E) obtaining psychological counseling re-  
6 lated to experiences of domestic violence,

7 “(F) participating in safety planning and  
8 other actions to increase safety from future do-  
9 mestic violence, including temporary or perma-  
10 nent relocation and

11 “(G) any other activity necessitated by do-  
12 mestic violence which must be undertaken dur-  
13 ing hours of employment.”.

14 (c) INTERMITTENT OR REDUCED LEAVE.—Section  
15 102(b) (29 U.S.C. 2612(b)) is amended by adding at the  
16 end the following:

17 “(3) DOMESTIC VIOLENCE.—Leave under sub-  
18 paragraph (E) or (F) of subsection (a)(1) may be  
19 taken by an employee intermittently or on a reduced  
20 leave schedule. The taking of leave intermittently or  
21 on a reduced leave schedule pursuant to this para-  
22 graph shall not result in a reduction in the total  
23 amount of leave to which the employee is entitled  
24 under subsection (a) beyond the amount of leave ac-  
25 tually taken.”.

1 (d) PAID LEAVE.—Section 102(d)(2) (29 U.S.C.  
2 2612(d)) is amended by striking “(C) or (D)” and insert-  
3 ing “(C), (D), (E), or (F)”.

4 (e) CERTIFICATION.—Section 103 (29 U.S.C. 2613)  
5 is amended by redesignating subsection (e) as subsection  
6 (f) and by inserting after subsection (d) the following:

7 “(e) DOMESTIC VIOLENCE.—In determining if an  
8 employee meets the requirements of subparagraph (E) or  
9 (F) of section 102(a)(1), the employer of an employee may  
10 require the employee to provide—

11 “(1) documentation of the domestic violence,  
12 such as police or court records, or documentation of  
13 the domestic violence from a shelter worker, attor-  
14 ney, clergy, or medical or other professional from  
15 whom the employee has sought assistance in ad-  
16 dressing domestic violence and its effects; or

17 “(2) other corroborating evidence, such as a  
18 statement from any other individual with knowledge  
19 of the circumstances which provide the basis for the  
20 claim, or physical evidence of domestic violence, such  
21 as photographs, torn or bloody clothes, etc.”.

22 (f) CONFIDENTIALITY.—Section 103 (29 U.S.C.  
23 2613), as amended by subsection (e), is amended—

24 (1) in the title by adding before the period the  
25 following: “; **CONFIDENTIALITY**”, and

1 (2) by adding at the end the following:

2 “(g) CONFIDENTIALITY.—All evidence of domestic vi-  
3 olence experienced by an employee or the employee’s child  
4 or parent, including an employee’s statement, any corrobo-  
5 rating evidence, and the fact that an employee has re-  
6 quested leave for the purpose of addressing domestic vio-  
7 lence and its effects, shall be retained in the strictest con-  
8 fidence by the employer, except to the extent consented  
9 to by the employee where disclosure is necessary to protect  
10 the employee’s safety.”.

11 **SEC. 5. ENTITLEMENT TO LEAVE FOR FEDERAL EMPLOY-**  
12 **EES FOR DOMESTIC VIOLENCE.**

13 (a) AUTHORITY FOR LEAVE.—Section 6382 of title  
14 5, United States Code is amended by adding at the end  
15 the following:

16 “(E) In order to care for the child or parent of  
17 the employee, if such child or parent is addressing  
18 domestic violence and its effects.

19 “(F) Because the employee is addressing do-  
20 mestic violence and its effects, the employee is un-  
21 able to perform any of the functions of the position  
22 of such employee.”.

23 (b) DEFINITION.—Section 6381 of title 5, United  
24 States Code is amended by striking “and” at the end of  
25 paragraph (5), by striking the period at the end of para-

1 graph (6) and inserting “; and” and by adding at the end  
2 the following:

3 “(7) the term ‘addressing domestic violence and  
4 its effects’ means—

5 “(A) experiencing domestic violence,

6 “(B) seeking medical attention for or re-  
7 covering from injuries caused by domestic vio-  
8 lence,

9 “(C) seeking legal assistance or remedies,  
10 including communicating with the police or an  
11 attorney, or participating in any legal pro-  
12 ceeding related to domestic violence,

13 “(D) attending support groups for victims  
14 of domestic violence,

15 “(E) obtaining psychological counseling re-  
16 lated to experiences of domestic violence,

17 “(F) participating in safety planning and  
18 other actions to increase safety from future do-  
19 mestic violence, including temporary or perma-  
20 nent relocation and

21 “(G) any other activity necessitated by do-  
22 mestic violence which must be undertaken dur-  
23 ing hours of employment.”.

1 (c) INTERMITTENT OR REDUCED LEAVE.—Section  
2 6382(b) of title 5, United States Code, is amended by add-  
3 ing at the end the following:

4 “(3) Leave under subparagraph (E) or (F) of  
5 subsection (a)(1) may be taken by an employee  
6 intermittently or on a reduced leave schedule. The  
7 taking of leave intermittently or on a reduced leave  
8 schedule pursuant to this paragraph shall not result  
9 in a reduction in the total amount of leave to which  
10 the employee is entitled under subsection (a) beyond  
11 the amount of leave actually taken.”.

12 (d) OTHER LEAVE.—Section 6382(d) of title 5,  
13 United States Code, is amended by striking “(C) or (D)”  
14 and inserting “(C), (D), (E), or (F)”.

15 (e) CERTIFICATION.—Section 6383 of title 5, United  
16 States Code, is amended by redesignating subsection (e)  
17 as subsection (f) and by inserting after subsection (d) the  
18 following:

19 “(e) DOMESTIC VIOLENCE.—In determining if an  
20 employee meets the requirements of subparagraph (E) or  
21 (F) of section 6382(a)(1), the employer of an employee  
22 may require the employee to provide—

23 “(1) documentation of the domestic violence,  
24 such as police or court records, or documentation of  
25 the domestic violence from a shelter worker, attor-

1       ney, clergy, or medical or other professional from  
2       whom the employee has sought assistance in ad-  
3       dressing domestic violence and its effects; or

4               “(2) other corroborating evidence, such as a  
5       statement from any other individual with knowledge  
6       of the circumstances which provide the basis for the  
7       claim, or physical evidence of domestic violence, such  
8       as photographs, torn or bloody clothes, etc.”.

9       (f) CONFIDENTIALITY.—Section 6383 of title 5,  
10      United States Code, as amended by subsection (e), is  
11      amended—

12             (1) in the title by adding before the period the  
13      following: **“; Confidentiality”**, and

14             (2) by adding at the end the following:

15             “(g) CONFIDENTIALITY.—All evidence of domestic vi-  
16      olence experienced by an employee or the employee’s child  
17      or parent, including an employee’s statement, any corrobo-  
18      rating evidence, and the fact that an employee has re-  
19      quested leave for the purpose of addressing domestic vio-  
20      lence and its effects, shall be retained in the strictest con-  
21      fidence by the employer, except to the extent consented  
22      to by the employee where disclosure is necessary to protect  
23      the employee’s safety.”.



1 **SEC. 6. EFFECT ON OTHER LAWS AND EMPLOYMENT BENE-**  
2 **FITS.**

3 (1) MORE PROTECTIVE.—Nothing in this Act  
4 or the amendments made by this Act shall be con-  
5 strued to supersede any provision of any Federal,  
6 State or local law, collective bargaining agreement,  
7 or other employment benefit program which provides  
8 greater unemployment compensation or leave bene-  
9 fits for employed victims of domestic violence than  
10 the rights established under this Act or such amend-  
11 ments.

12 (2) LESS PROTECTIVE.—The rights established  
13 for employees under this Act or the amendments  
14 made by this Act shall not be diminished by any col-  
15 lective bargaining agreement, any employment ben-  
16 efit program or plan, or any State or local law.

17 **SEC. 7. EFFECTIVE DATE.**

18 (a) GENERAL RULE.—Except as provided in sub-  
19 section (b), this Act and the amendments made by this  
20 Act shall take effect upon the expiration of 180 days from  
21 the date of the enactment of this Act.

22 (b) UNEMPLOYMENT COMPENSATION.—

23 (1) IN GENERAL.—Except as provided in para-  
24 graph (2), the amendments made by section 3 shall  
25 apply in the case of compensation paid for weeks be-

1       ginning on or after the expiration of 180 days from  
2       the date of the enactment of this Act.

3               (2) MEETING OF STATE LEGISLATURE.—In the  
4       case of a State with respect to which the Secretary  
5       of Labor has determined that the State legislature  
6       is required in order to comply with the amendments  
7       made by section 3, the amendments made by section  
8       3 shall apply in the case of compensation paid for  
9       weeks which begin on or after the expiration of 180  
10      days from the date of the enactment of this Act and  
11      after the end of the first session of the State legisla-  
12      ture which begins after the date of the enactment of  
13      this Act or which began prior to the date of the en-  
14      actment of this Act and remained in session for at  
15      least 25 calendar days after such date of enactment.  
16      For purposes of the preceding sentence, the term  
17      “session” means a regular, special, budget, or other  
18      session of a State legislature.

○