

107TH CONGRESS
1ST SESSION

H. R. 265

To increase the availability and affordability of quality child care and early learning services, to amend the Family and Medical Leave Act of 1993 to expand the scope of the Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 30, 2001

Ms. DELAURO (for herself, Mr. DEFAZIO, Mr. LAMPSON, and Ms. WOOLSEY) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Ways and Means, 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

A BILL

To increase the availability and affordability of quality child care and early learning services, to amend the Family and Medical Leave Act of 1993 to expand the scope of the Act, 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.**

4 This Act may be cited as the “Right Start Act of
5 2001”.

1 SEC. 2. TABLE OF CONTENTS.

2 The table of contents for this Act is as follows:

TITLE I—INVESTING IN HEAD START PROGRAMS

Sec. 101. Authorization of appropriations.

TITLE II—INVESTING IN QUALITY CHILD CARE

Sec. 201. Authorization of appropriations.

TITLE III—PROMOTING EARLY LEARNING OPPORTUNITIES

Sec. 301. Amendments to the Early Learning Opportunities Act.

TITLE IV—SUPPORTING FAMILY CHOICES IN CHILD CARE

Subtitle A—Dependent Care Tax Credit

- Sec. 401. Expanding the dependent care tax credit.
- Sec. 402. Minimum credit allowed for stay-at-home parents.
- Sec. 403. Credit made refundable.

Subtitle B—Incentives for Employer-Provided Child Care

Sec. 411. Allowance of credit for employer expenses for child care assistance.

TITLE V—EXPANDING FAMILY AND MEDICAL LEAVE

Subtitle A—Family Income to Respond to Significant Transitions

- Sec. 501. Short title.
- Sec. 502. Purposes.
- Sec. 503. Definitions.
- Sec. 504. Demonstration projects.
- Sec. 505. Evaluations and reports.
- Sec. 506. Authorization of appropriations.

Subtitle B—Family Friendly Workplaces

- Sec. 511. Short title.
- Sec. 512. Coverage of employees.

Subtitle C—Time for Schools

- Sec. 521. Short title.
- Sec. 522. General requirements for leave.
- Sec. 523. School involvement leave for civil service employees.
- Sec. 524. Effective date.

Subtitle D—Employment Protection for Battered Women

- Sec. 531. Entitlement to leave for addressing domestic violence for non-Federal employees.
- Sec. 532. Entitlement to leave for addressing domestic violence for Federal employees.
- Sec. 533. Existing leave usable for domestic violence.

1 **TITLE I—INVESTING IN HEAD**
2 **START PROGRAMS**

3 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

4 (a) IN GENERAL.—Section 639(a) of the Head Start
5 Act (42 U.S.C. 9834(a)) is amended by striking “such
6 sums” and all that follows and inserting the following:
7 “\$6,500,000,000 for fiscal year 2002, \$7,000,000,000 for
8 fiscal year 2003, \$7,750,000,000 for fiscal year 2004,
9 \$8,500,000,000 for fiscal year 2005, and \$9,750,000,000
10 for fiscal year 2006.”.

11 (b) CONFORMING AMENDMENTS.—

12 (1) RESERVATIONS.—Paragraphs (1) and (3) of
13 section 639(b) of the Head Start Act (42 U.S.C.
14 9834(b)) are amended by striking “2003” and in-
15 serting “2006”.

16 (2) DISTRIBUTION.—Paragraphs (3)(A)(i)(I)
17 and (6)(A) of section 640(a) of the Head Start Act
18 (42 U.S.C. 9835(a)) are amended by striking “fiscal
19 year 2003” and inserting “each of fiscal years 2003
20 through 2006”.

21 **TITLE II—INVESTING IN**
22 **QUALITY CHILD CARE**

23 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

24 (a) CHILD CARE AND DEVELOPMENT BLOCK GRANT
25 ACT OF 1990.—Section 658B of the Child Care and De-

1 velopment Block Grant Act of 1990 (42 U.S.C. 9858) is
2 amended by striking “\$1,000,000,000” and all that fol-
3 lows and inserting “\$2,076,000,000 for fiscal year 2002,
4 \$2,109,000,000 for fiscal year 2003, \$2,571,000,000 for
5 fiscal year 2004, \$3,051,000,000 for fiscal year 2005, and
6 \$3,766,000,000 for fiscal year 2006.”.

7 (b) SOCIAL SECURITY ACT FUNDING FOR CHILD
8 CARE.—Section 418(a)(3) of the Social Security Act (42
9 U.S.C. 618(a)(3)) is amended—

- 10 (1) in subparagraph (E), by striking “; and”;
- 11 (2) in subparagraph (F), by striking the period
12 and inserting a semicolon; and
- 13 (3) by adding at the end the following:
- 14 “(G) \$2,870,000,000 for fiscal year 2002;
- 15 “(H) \$2,936,000,000 for fiscal year 2003;
- 16 “(I) \$3,861,000,000 for fiscal year 2004;
- 17 “(J) \$4,821,000,000 for fiscal year 2005;
- 18 and
- 19 “(K) \$3,766,000,000 for fiscal year
20 2006.”.

1 **TITLE III—PROMOTING EARLY**
 2 **LEARNING OPPORTUNITIES**

3 **SEC. 301. AMENDMENTS TO THE EARLY LEARNING OPPOR-**
 4 **TUNITIES ACT.**

5 Section 805 of the Early Learning Opportunities Act,
 6 as enacted by title VIII of the Departments of Labor,
 7 Health and Human Services, and Education, and Related
 8 Agencies Appropriations Act, 2001 (as enacted into law
 9 by section 1(a)(1) of Public Law 106–554) is amended—

10 (1) in the matter preceding paragraph (1), by
 11 inserting “, and there are appropriated,”; and

12 (2) by striking paragraphs (1) through (4) and
 13 inserting the following:

14 “(1) \$750,000,000 for fiscal year 2002;

15 “(2) \$1,000,000,000 for fiscal year 2003;

16 “(3) \$1,500,000,000 for fiscal year 2004;

17 “(4) \$2,000,000,000 for fiscal year 2005; and

18 “(5) \$2,500,000,000 for fiscal year 2006.”.

19 **TITLE IV—SUPPORTING FAMILY**
 20 **CHOICES IN CHILD CARE**

21 **Subtitle A—Dependent Care Tax**
 22 **Credit**

23 **SEC. 401. EXPANDING THE DEPENDENT CARE TAX CREDIT.**

24 (a) PERCENTAGE OF EMPLOYMENT-RELATED EX-
 25 PENSES DETERMINED BY TAXPAYER STATUS.—Section

1 21(a)(2) of the Internal Revenue Code of 1986 (defining
2 applicable percentage) is amended to read as follows:

3 “(2) APPLICABLE PERCENTAGE DEFINED.—For
4 purposes of paragraph (1), the term ‘applicable per-
5 centage’ means—

6 “(A) except as provided in subparagraph
7 (B), 50 percent reduced (but not below 20 per-
8 cent) by 1 percentage point for each \$1,000, or
9 fraction thereof, by which the taxpayer’s ad-
10 justed gross income for the taxable year exceeds
11 \$30,000, and

12 “(B) in the case of employment-related ex-
13 penses described in subsection (e)(11), 50 per-
14 cent reduced (but not below zero) by 1 percent-
15 age point for each \$800, or fraction thereof, by
16 which the taxpayer’s adjusted gross income for
17 the taxable year exceeds \$30,000.”.

18 (b) INFLATION ADJUSTMENT FOR ALLOWABLE EX-
19 PENSES.—Section 21(c) of the Internal Revenue Code of
20 1986 (relating to dollar limit on amount creditable) is
21 amended by striking “The amount determined” and in-
22 serting “In the case of any taxable year beginning after
23 2002, each dollar amount referred to in paragraphs (1)
24 and (2) shall be increased by an amount equal to such
25 dollar amount multiplied by the cost-of-living adjustment

1 determined under section 1(f)(3) for the calendar year in
2 which the taxable year begins, by substituting ‘calendar
3 year 2001’ for ‘calendar year 1992’ in subparagraph (B)
4 thereof. If any dollar amount after being increased under
5 the preceding sentence is not a multiple of \$10, such dollar
6 amount shall be rounded to the nearest multiple of \$10.
7 The amount determined”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section apply to taxable years beginning after Decem-
10 ber 31, 2001.

11 **SEC. 402. MINIMUM CREDIT ALLOWED FOR STAY-AT-HOME**
12 **PARENTS.**

13 (a) IN GENERAL.—Section 21(e) of the Internal Rev-
14 enue Code of 1986 (relating to special rules) is amended
15 by adding at the end the following:

16 “(11) MINIMUM CREDIT ALLOWED FOR STAY-
17 AT-HOME PARENTS.—Notwithstanding subsection
18 (d), in the case of any taxpayer with one or more
19 qualifying individuals described in subsection
20 (b)(1)(A) under the age of 1 at any time during the
21 taxable year, such taxpayer shall be deemed to have
22 employment-related expenses with respect to such
23 qualifying individuals in an amount equal to the sum
24 of—

1 “(A) \$90 for each month in such taxable
2 year during which at least one of such quali-
3 fying individuals is under the age of 1, and

4 “(B) the amount of employment-related ex-
5 penses otherwise incurred for such qualifying
6 individuals for the taxable year (determined
7 under this section without regard to this para-
8 graph).”.

9 (b) EFFECTIVE DATE.—The amendments made by
10 this section apply to taxable years beginning after Decem-
11 ber 31, 2001.

12 **SEC. 403. CREDIT MADE REFUNDABLE.**

13 (a) IN GENERAL.—Part IV of subchapter A of chap-
14 ter 1 of the Internal Revenue Code of 1986 (relating to
15 credits against tax) is amended—

16 (1) by redesignating section 35 as section 36,
17 and

18 (2) by redesignating section 21 as section 35.

19 (b) ADVANCE PAYMENT OF CREDIT.—Chapter 25 of
20 such Code (relating to general provisions relating to em-
21 ployment taxes) is amended by inserting after section
22 3507 the following:

1 **“SEC. 3507A. ADVANCE PAYMENT OF DEPENDENT CARE**
2 **CREDIT.**

3 “(a) GENERAL RULE.—Except as otherwise provided
4 in this section, every employer making payment of wages
5 with respect to whom a dependent care eligibility certifi-
6 cate is in effect shall, at the time of paying such wages,
7 make an additional payment equal to such employee’s de-
8 pendent care advance amount.

9 “(b) DEPENDENT CARE ELIGIBILITY CERTIFI-
10 CATE.—For purposes of this title, a dependent care eligi-
11 bility certificate is a statement furnished by an employee
12 to the employer which—

13 “(1) certifies that the employee will be eligible
14 to receive the credit provided by section 35 for the
15 taxable year,

16 “(2) certifies that the employee reasonably ex-
17 pects to be an applicable taxpayer for the taxable
18 year,

19 “(3) certifies that the employee does not have
20 a dependent care eligibility certificate in effect for
21 the calendar year with respect to the payment of
22 wages by another employer,

23 “(4) states whether or not the employee’s
24 spouse has a dependent care eligibility certificate in
25 effect,

1 “(5) states the number of qualifying individuals
2 in the household maintained by the employee, and

3 “(6) estimates the amount of employment-re-
4 lated expenses for the calendar year.

5 “(c) DEPENDENT CARE ADVANCE AMOUNT.—

6 “(1) IN GENERAL.—For purposes of this title,
7 the term ‘dependent care advance amount’ means,
8 with respect to any payroll period, the amount
9 determined—

10 “(A) on the basis of the employee’s wages
11 from the employer for such period,

12 “(B) on the basis of the employee’s esti-
13 mated employment-related expenses included in
14 the dependent care eligibility certificate, and

15 “(C) in accordance with tables provided by
16 the Secretary.

17 “(2) ADVANCE AMOUNT TABLES.—The tables
18 referred to in paragraph (1)(C) shall be similar in
19 form to the tables prescribed under section 3402
20 and, to the maximum extent feasible, shall be coordi-
21 nated with such tables and the tables prescribed
22 under section 3507(c).

23 “(d) OTHER RULES.—For purposes of this section,
24 rules similar to the rules of subsections (d) and (e) of sec-
25 tion 3507 shall apply.

1 “(e) DEFINITIONS.—For purposes of this section,
2 terms used in this section which are defined in section 35
3 shall have the respective meanings given such terms by
4 section 35.”.

5 (c) CONFORMING AMENDMENTS.—

6 (1) Section 35(a)(1) of such Code, as redesignig-
7 nated by paragraph (1), is amended by striking
8 “chapter” and inserting “subtitle”.

9 (2) Section 35(e) of such Code, as so redesignig-
10 nated and amended by subsection (c), is amended by
11 adding at the end the following:

12 “(12) COORDINATION WITH ADVANCE PAY-
13 MENTS AND MINIMUM TAX.—Rules similar to the
14 rules of subsections (g) and (h) of section 32 shall
15 apply for purposes of this section.”.

16 (3) Sections 23(f)(1) and 129(a)(2)(C) of such
17 Code are each amended by striking “section 21(e)”
18 and inserting “section 35(e)”.

19 (4) Section 129(b)(2) of such Code is amended
20 by striking “section 21(d)(2)” and inserting “section
21 35(d)(2)”.

22 (5) Section 129(e)(1) of such Code is amended
23 by striking “section 21(b)(2)” and inserting “section
24 35(b)(2)”.

1 (13) The table of sections for chapter 25 of
 2 such Code is amended by adding after the item re-
 3 lating to section 3507 the following:

“Sec. 3507A. Advance payment of dependent care credit.”.

4 (14) Section 1324(b)(2) of title 31, United
 5 States Code, is amended by striking “or” before
 6 “enacted” and by inserting before the period at the
 7 end “, or from section 35 of such Code”.

8 (d) EFFECTIVE DATE.—The amendments made by
 9 this section apply to taxable years beginning after Decem-
 10 ber 31, 2001.

11 **Subtitle B—Incentives for** 12 **Employer-Provided Child Care**

13 **SEC. 411. ALLOWANCE OF CREDIT FOR EMPLOYER EX-** 14 **PENSES FOR CHILD CARE ASSISTANCE.**

15 (a) IN GENERAL.—Subpart D of part IV of sub-
 16 chapter A of chapter 1 of the Internal Revenue Code of
 17 1986 (relating to business related credits) is amended by
 18 adding at the end the following:

19 **“SEC. 45E. EMPLOYER-PROVIDED CHILD CARE CREDIT.**

20 “(a) IN GENERAL.—For purposes of section 38, the
 21 employer-provided child care credit determined under this
 22 section for the taxable year is an amount equal to the sum
 23 of—

24 “(1) 25 percent of the qualified child care ex-
 25 penditures, and

1 “(2) 10 percent of the qualified child care re-
2 source and referral expenditures,
3 of the taxpayer for such taxable year.

4 “(b) DOLLAR LIMITATION.—The credit allowable
5 under subsection (a) for any taxable year shall not exceed
6 \$150,000.

7 “(c) DEFINITIONS.—For purposes of this section—

8 “(1) QUALIFIED CHILD CARE EXPENDITURE.—

9 “(A) IN GENERAL.—The term ‘qualified
10 child care expenditure’ means any amount paid
11 or incurred—

12 “(i) to acquire, construct, rehabilitate,
13 or expand property—

14 “(I) which is to be used as part
15 of a qualified child care facility of the
16 taxpayer,

17 “(II) with respect to which a de-
18 duction for depreciation (or amortiza-
19 tion in lieu of depreciation) is allow-
20 able, and

21 “(III) which does not constitute
22 part of the principal residence (within
23 the meaning of section 121) of the
24 taxpayer or any employee of the tax-
25 payer,

1 “(ii) for the operating costs of a quali-
2 fied child care facility of the taxpayer, in-
3 cluding costs related to the training of em-
4 ployees, to scholarship programs, and to
5 the providing of increased compensation to
6 employees with higher levels of child care
7 training,

8 “(iii) under a contract with a qualified
9 child care facility to provide child care
10 services to employees of the taxpayer, or

11 “(iv) to reimburse an employee for ex-
12 penses for child care which enables the em-
13 ployee to be gainfully employed including
14 expenses related to—

15 “(I) day care and before and
16 after school care,

17 “(II) transportation associated
18 with such care, and

19 “(III) before and after school
20 and holiday programs including edu-
21 cational and recreational programs
22 and camp programs.

23 “(B) FAIR MARKET VALUE.—The term
24 ‘qualified child care expenditures’ shall not in-

1 include expenses in excess of the fair market
2 value of such care.

3 “(2) QUALIFIED CHILD CARE FACILITY.—

4 “(A) IN GENERAL.—The term ‘qualified
5 child care facility’ means a facility—

6 “(i) the principal use of which is to
7 provide child care assistance, and

8 “(ii) which meets the requirements of
9 all applicable laws and regulations of the
10 State or local government in which it is lo-
11 cated, including the licensing of the facility
12 as a child care facility.

13 Clause (i) shall not apply to a facility which is
14 the principal residence (within the meaning of
15 section 121) of the operator of the facility.

16 “(B) SPECIAL RULES WITH RESPECT TO A
17 TAXPAYER.—A facility shall not be treated as a
18 qualified child care facility with respect to a
19 taxpayer unless—

20 “(i) enrollment in the facility is open
21 to employees of the taxpayer during the
22 taxable year,

23 “(ii) if the facility is the principal
24 trade or business of the taxpayer, at least
25 30 percent of the enrollees of such facility

1 are dependents of employees of the tax-
2 payer, and

3 “(iii) the use of such facility (or the
4 eligibility to use such facility) does not dis-
5 criminate in favor of employees of the tax-
6 payer who are highly compensated employ-
7 ees (within the meaning of section 414(q)).

8 “(3) QUALIFIED CHILD CARE RESOURCE AND
9 REFERRAL EXPENDITURE.—The term ‘qualified
10 child care resource and referral expenditure’ means
11 any amount paid or incurred under a contract to
12 provide child care resource and referral services to
13 an employee of the taxpayer.

14 “(d) RECAPTURE OF ACQUISITION AND CONSTRUC-
15 TION CREDIT.—

16 “(1) IN GENERAL.—If, as of the close of any
17 taxable year, there is a recapture event with respect
18 to any qualified child care facility of the taxpayer,
19 then the tax of the taxpayer under this chapter for
20 such taxable year shall be increased by an amount
21 equal to the product of—

22 “(A) the applicable recapture percentage,
23 and

24 “(B) the aggregate decrease in the credits
25 allowed under section 38 for all prior taxable

1 years which would have resulted if the qualified
 2 child care expenditures of the taxpayer de-
 3 scribed in subsection (c)(1)(A) with respect to
 4 such facility had been zero.

5 “(2) APPLICABLE RECAPTURE PERCENTAGE.—

6 “(A) IN GENERAL.—For purposes of this
 7 subsection, the applicable recapture percentage
 8 shall be determined from the following table:

“If the recapture event occurs in:	The applicable recapture percentage is:
Years 1–3	100
Year 4	85
Year 5	70
Year 6	55
Year 7	40
Year 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

9 “(B) YEARS.—For purposes of subpara-
 10 graph (A), year 1 shall begin on the first day
 11 of the taxable year in which the qualified child
 12 care facility is placed in service by the taxpayer.

13 “(3) RECAPTURE EVENT DEFINED.—For pur-
 14 poses of this subsection, the term ‘recapture event’
 15 means—

16 “(A) CESSATION OF OPERATION.—The
 17 cessation of the operation of the facility as a
 18 qualified child care facility.

19 “(B) CHANGE IN OWNERSHIP.—

1 “(i) IN GENERAL.—Except as pro-
2 vided in clause (ii), the disposition of a
3 taxpayer’s interest in a qualified child care
4 facility with respect to which the credit de-
5 scribed in subsection (a) was allowable.

6 “(ii) AGREEMENT TO ASSUME RECAP-
7 TURE LIABILITY.—Clause (i) shall not
8 apply if the person acquiring such interest
9 in the facility agrees in writing to assume
10 the recapture liability of the person dis-
11 posing of such interest in effect imme-
12 diately before such disposition. In the
13 event of such an assumption, the person
14 acquiring the interest in the facility shall
15 be treated as the taxpayer for purposes of
16 assessing any recapture liability (computed
17 as if there had been no change in owner-
18 ship).

19 “(4) SPECIAL RULES.—

20 “(A) TAX BENEFIT RULE.—The tax for
21 the taxable year shall be increased under para-
22 graph (1) only with respect to credits allowed
23 by reason of this section which were used to re-
24 duce tax liability. In the case of credits not so
25 used to reduce tax liability, the carryforwards

1 and carrybacks under section 39 shall be appro-
2 priately adjusted.

3 “(B) NO CREDITS AGAINST TAX.—Any in-
4 crease in tax under this subsection shall not be
5 treated as a tax imposed by this chapter for
6 purposes of determining the amount of any
7 credit under subpart A, B, or D of this part.

8 “(C) NO RECAPTURE BY REASON OF CAS-
9 UALTY LOSS.—The increase in tax under this
10 subsection shall not apply to a cessation of op-
11 eration of the facility as a qualified child care
12 facility by reason of a casualty loss to the ex-
13 tent such loss is restored by reconstruction or
14 replacement within a reasonable period estab-
15 lished by the Secretary.

16 “(e) SPECIAL RULES.—For purposes of this
17 section—

18 “(1) AGGREGATION RULES.—All persons which
19 are treated as a single employer under subsections
20 (a) and (b) of section 52 shall be treated as a single
21 taxpayer.

22 “(2) PASS-THRU IN THE CASE OF ESTATES AND
23 TRUSTS.—Under regulations prescribed by the Sec-
24 retary, rules similar to the rules of subsection (d) of
25 section 52 shall apply.

1 “(3) ALLOCATION IN THE CASE OF PARTNER-
2 SHIPS.—In the case of partnerships, the credit shall
3 be allocated among partners under regulations pre-
4 scribed by the Secretary.

5 “(f) NO DOUBLE BENEFIT.—

6 “(1) REDUCTION IN BASIS.—For purposes of
7 this subtitle—

8 “(A) IN GENERAL.—If a credit is deter-
9 mined under this section with respect to any
10 property by reason of expenditures described in
11 subsection (c)(1)(A), the basis of such property
12 shall be reduced by the amount of the credit so
13 determined.

14 “(B) CERTAIN DISPOSITIONS.—If, during
15 any taxable year, there is a recapture amount
16 determined with respect to any property the
17 basis of which was reduced under subparagraph
18 (A), the basis of such property (immediately be-
19 fore the event resulting in such recapture) shall
20 be increased by an amount equal to such recap-
21 ture amount. For purposes of the preceding
22 sentence, the term ‘recapture amount’ means
23 any increase in tax (or adjustment in
24 carrybacks or carryovers) determined under
25 subsection (d).

1 “(2) OTHER DEDUCTIONS AND CREDITS.—No
2 deduction or credit shall be allowed under any other
3 provision of this chapter with respect to the amount
4 of the credit determined under this section.”.

5 (b) CONFORMING AMENDMENTS.—

6 (1) Section 38(b) of the Internal Revenue Code
7 of 1986 is amended by striking “plus” at the end of
8 paragraph (12), by striking the period at the end of
9 paragraph (13) and inserting “, plus”, and by add-
10 ing at the end the following:

11 “(14) the employer-provided child care credit
12 determined under section 45E.”.

13 (2) Subsection (d) of section 39 of such Code
14 is amended by adding at the end the following new
15 paragraph:

16 “(10) NO CARRYBACK OF EMPLOYER-PROVIDED
17 CHILD CARE CREDIT BEFORE JANUARY 1, 2002.—No
18 portion of the unused business credit for any taxable
19 year which is attributable to the credit under section
20 45E may be carried back to a taxable year ending
21 before January 1, 2002.”.

22 (3) Subsection (e) of section 196 of such Code
23 is amended by striking “and” at the end of para-
24 graph (8), by striking the period at the end of para-

1 graph (9) and inserting “, and”, and by adding at
 2 the end the following new paragraph:

3 “(10) the employer-provided child care credit
 4 determined under section 45E(a).”.

5 (4) The table of sections for subpart D of part
 6 IV of subchapter A of chapter 1 of such Code is
 7 amended by adding at the end the following:

“Sec. 45E. Employer-provided child care credit.”.

8 (5) Section 1016(a) of such Code is amended
 9 by striking “and” at the end of paragraph (26), by
 10 striking the period at the end of paragraph (27) and
 11 inserting “, and”, and by adding at the end the fol-
 12 lowing:

13 “(28) in the case of a facility with respect to
 14 which a credit was allowed under section 45E, to the
 15 extent provided in section 45E(f)(1).”.

16 (c) EFFECTIVE DATE.—The amendments made by
 17 this section shall apply to taxable years beginning after
 18 December 31, 2001.

19 **TITLE V—EXPANDING FAMILY**
 20 **AND MEDICAL LEAVE**
 21 **Subtitle A—Family Income to**
 22 **Respond to Significant Transitions**

23 **SEC. 501. SHORT TITLE.**

24 This subtitle may be cited as the “Family Income to
 25 Respond to Significant Transitions Insurance Act”.

1 **SEC. 502. PURPOSES.**

2 The purposes of this subtitle are—

3 (1) to establish a demonstration program that
4 supports the efforts of States and political subdivi-
5 sions to provide partial or full wage replacement,
6 often referred to as FIRST insurance, to new par-
7 ents so that the new parents are able to spend time
8 with a new infant or newly adopted child, and to
9 other employees; and

10 (2) to learn about the most effective mecha-
11 nisms for providing the wage replacement assistance.

12 **SEC. 503. DEFINITIONS.**

13 In this subtitle:

14 (1) SECRETARY.—The term “Secretary” means
15 the Secretary of Labor, acting after consultation
16 with the Secretary of Health and Human Services.

17 (2) SON OR DAUGHTER; STATE.—The terms
18 “son or daughter” and “State” have the meanings
19 given the terms in section 101 of the Family and
20 Medical Leave Act of 1993 (29 U.S.C. 2611).

21 **SEC. 504. DEMONSTRATION PROJECTS.**

22 (a) GRANTS.—The Secretary shall make grants to eli-
23 gible entities to pay for the Federal share of the cost of
24 carrying out projects that assist families by providing,
25 through various mechanisms, wage replacement for eligi-
26 ble individuals that are responding to caregiving needs re-

1 sulting from the birth or adoption of a son or daughter
2 or other family caregiving needs. The Secretary shall make
3 the grants for periods of 5 years.

4 (b) ELIGIBLE ENTITIES.—To be eligible to receive a
5 grant under this section, an entity shall be a State or polit-
6 ical subdivision of a State.

7 (c) USE OF FUNDS.—

8 (1) IN GENERAL.—An entity that receives a
9 grant under this section may use the funds made
10 available through the grant to provide partial or full
11 wage replacement as described in subsection (a) to
12 eligible individuals—

13 (A) directly;

14 (B) through an insurance program, such
15 as a State temporary disability insurance pro-
16 gram or the State unemployment compensation
17 benefit program;

18 (C) through a private disability or other
19 insurance plan, or another mechanism provided
20 by a private employer; or

21 (D) through another mechanism.

22 (2) ADMINISTRATIVE COSTS.—No entity may
23 use more than 10 percent of the total funds made
24 available through the grant during the 5-year period

1 of the grant to pay for the administrative costs re-
2 lating to a project described in subsection (a).

3 (d) ELIGIBLE INDIVIDUALS.—To be eligible to re-
4 ceive wage replacement under subsection (a), an individual
5 shall—

6 (1) meet such eligibility criteria as the eligible
7 entity providing the wage replacement may specify
8 in an application described in subsection (e); and

9 (2) be—

10 (A) an individual who is taking leave,
11 under the Family and Medical Leave Act of
12 1993 (29 U.S.C. 2601 et seq.), other Federal,
13 State, or local law, or a private plan, for a rea-
14 son described in subparagraph (A) or (B) of
15 section 102(a)(1) of the Family and Medical
16 Leave Act of 1993 (29 U.S.C. 2612(a)(1));

17 (B) at the option of the eligible entity, an
18 individual who—

19 (i) is taking leave, under that Act,
20 other Federal, State, or local law, or a pri-
21 vate plan, for a reason described in sub-
22 paragraph (C) or (D) of section 102(a)(1)
23 of the Family and Medical Leave Act of
24 1993 (29 U.S.C. 2612(a)(1)); or

1 (ii) leaves employment because the in-
2 dividual has elected to care for a son or
3 daughter under age 1; or

4 (C) at the option of the eligible entity, an
5 individual with other characteristics specified by
6 the eligible entity in an application described in
7 subsection (e).

8 (e) APPLICATION.—To be eligible to receive a grant
9 under this section, an entity shall submit an application
10 to the Secretary, at such time, in such manner, and con-
11 taining such information as the Secretary may require, in-
12 cluding, at a minimum—

13 (1) a plan for the project to be carried out with
14 the grant;

15 (2) information demonstrating that the appli-
16 cant consulted representatives of employers and em-
17 ployees, including labor organizations, in developing
18 the plan;

19 (3) estimates of the costs and benefits of the
20 project;

21 (4)(A) information on the number and type of
22 families to be covered by the project, and the extent
23 of such coverage in the area served under the grant;
24 and

1 (B) information on any criteria or characteris-
2 tics that the entity will use to determine whether an
3 individual is eligible for wage replacement under
4 subsection (a), as described in paragraphs (1) and
5 (2)(C) of subsection (d);

6 (5) if the project will expand on State and pri-
7 vate systems of wage replacement for eligible indi-
8 viduals, information on the manner in which the
9 project will expand on the systems;

10 (6) information demonstrating the manner in
11 which the wage replacement assistance provided
12 through the project will assist families in which an
13 individual takes leave as described in subsection
14 (d)(1); and

15 (7) an assurance that the applicant will partici-
16 pate in efforts to evaluate the effectiveness of the
17 project.

18 (f) SELECTION CRITERIA.—In selecting entities to re-
19 ceive grants for projects under this section, the Secretary
20 shall—

21 (1) take into consideration—

22 (A) the scope of the proposed projects;

23 (B) the cost-effectiveness, feasibility, and
24 financial soundness of the proposed projects;

1 (C) the extent to which the proposed
2 projects would expand access to wage replace-
3 ment in response to family caregiving needs,
4 particularly for low-wage employees, in the area
5 served by the grant; and

6 (D) the benefits that would be offered to
7 families and children through the proposed
8 projects; and

9 (2) to the extent feasible, select entities pro-
10 posing projects that utilize diverse mechanisms, in-
11 cluding expansion of State unemployment compensa-
12 tion benefit programs, and establishment or expan-
13 sion of State temporary disability insurance pro-
14 grams, to provide the wage replacement.

15 (g) FEDERAL SHARE.—

16 (1) IN GENERAL.—The Federal share of the
17 cost described in subsection (a) shall be—

18 (A) 50 percent for the first year of the
19 grant period;

20 (B) 40 percent for the second year of that
21 period;

22 (C) 30 percent for the third year of that
23 period; and

24 (D) 20 percent for each subsequent year.

1 (2) NON-FEDERAL SHARE.—The non-Federal
2 share of the cost may be in cash or in kind, fairly
3 evaluated, including plant, equipment, and services
4 and may be provided from State, local, or private
5 sources, or Federal sources other than this subtitle.

6 (h) SUPPLEMENT NOT SUPPLANT.—Funds appro-
7 priated pursuant to the authority of this subtitle shall be
8 used to supplement and not supplant other Federal, State,
9 and local public funds and private funds expended to pro-
10 vide wage replacement.

11 (i) EFFECT ON EXISTING RIGHTS.—Nothing in this
12 subtitle shall be construed to supersede, preempt, or other-
13 wise infringe on the provisions of any collective bargaining
14 agreement or any employment benefit program or plan
15 that provides greater rights to employees than the rights
16 established under this subtitle.

17 **SEC. 505. EVALUATIONS AND REPORTS.**

18 (a) AVAILABLE FUNDS.—The Secretary shall use not
19 more than 2 percent of the funds made available under
20 section 5 to carry out this section.

21 (b) EVALUATIONS.—The Secretary shall, directly or
22 by contract, evaluate the effectiveness of projects carried
23 out with grants made under section 5, including
24 conducting—

1 (1) research relating to the projects, including
2 research comparing—

3 (A) the scope of the projects, including the
4 type of insurance or other wage replacement
5 mechanism used, the method of financing used,
6 the eligibility requirements, the level of the
7 wage replacement benefit provided (such as the
8 percentage of salary replaced), and the length
9 of the benefit provided, for the projects;

10 (B) the utilization of the projects, includ-
11 ing the characteristics of individuals who ben-
12 efit from the projects, particularly low-wage
13 workers, and factors that determine the ability
14 of eligible individuals to obtain wage replace-
15 ment through the projects; and

16 (C) the costs of and savings achieved by
17 the projects, including the cost-effectiveness of
18 the projects and their benefits for children and
19 families;

20 (2) analysis of the overall need for wage re-
21 placement; and

22 (3) analysis of the impact of the projects on the
23 overall availability of wage replacement.

24 (c) REPORTS.—

1 (1) INITIAL REPORT.—Not later than 3 years
2 after the beginning of the grant period for the first
3 grant made under section 5, the Secretary shall pre-
4 pare and submit to Congress a report that contains
5 information resulting from the evaluations conducted
6 under subsection (b).

7 (2) SUBSEQUENT REPORTS.—Not later than 4
8 years after the beginning of that grant period, and
9 annually thereafter, the Secretary shall prepare and
10 submit to Congress a report that contains—

11 (A) information resulting from the evalua-
12 tions conducted under subsection (b); and

13 (B) usage data for the demonstration
14 projects, for the most recent year for which
15 data are available.

16 **SEC. 506. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated to carry out
18 this subtitle \$400,000,000 for fiscal year 2002 and such
19 sums as may be necessary for each subsequent fiscal year.

20 **Subtitle B—Family Friendly**
21 **Workplaces**

22 **SEC. 511. SHORT TITLE.**

23 This subtitle may be cited as the “Family and Med-
24 ical Leave Fairness Act of 2001”.

1 **SEC. 512. COVERAGE OF EMPLOYEES.**

2 Paragraphs (2)(B)(ii) and (4)(A)(i) of section 101 of
 3 the Family and Medical Leave Act of 1993 (29 U.S.C.
 4 2611(2)(B)(ii) and (4)(A)(i)) are amended by striking
 5 “50” each place it appears and inserting “25”.

6 **Subtitle C—Time for Schools**

7 **SEC. 521. SHORT TITLE.**

8 This subtitle may be cited as the “Time for Schools
 9 Act of 2001”.

10 **SEC. 522. GENERAL REQUIREMENTS FOR LEAVE.**

11 (a) ENTITLEMENT TO LEAVE.—Section 102(a) of the
 12 Family and Medical Leave Act of 1993 (29 U.S.C.
 13 2612(a)) is amended by adding at the end the following:

14 “(3) ENTITLEMENT TO SCHOOL INVOLVEMENT
 15 LEAVE.—

16 “(A) IN GENERAL.—Subject to section
 17 103(f), an eligible employee shall be entitled to
 18 a total of 24 hours of leave during any 12-
 19 month period to participate in an academic ac-
 20 tivity of a school of a son or daughter of the
 21 employee, such as a parent-teacher conference
 22 or an interview for a school, or to participate in
 23 literacy training under a family literacy pro-
 24 gram.

25 “(B) DEFINITIONS.—In this paragraph:

1 “(i) FAMILY LITERACY PROGRAM.—

2 The term ‘family literacy program’ means
3 a program of services that are of sufficient
4 intensity in terms of hours, and of suffi-
5 cient duration, to make sustainable
6 changes in a family and that integrate all
7 of the following activities:

8 “(I) Interactive literacy activities
9 between parents and their sons and
10 daughters.

11 “(II) Training for parents on
12 how to be the primary teacher for
13 their sons and daughters and full
14 partners in the education of their sons
15 and daughters.

16 “(III) Parent literacy training.

17 “(IV) An age-appropriate edu-
18 cation program for sons and daugh-
19 ters.

20 “(ii) LITERACY.—The term ‘literacy’,
21 used with respect to an individual, means
22 the ability of the individual to speak, read,
23 and write English, and compute and solve
24 problems, at levels of proficiency
25 necessary—

1 “(I) to function on the job, in the
2 family of the individual, and in soci-
3 ety;

4 “(II) to achieve the goals of the
5 individual; and

6 “(III) to develop the knowledge
7 potential of the individual.

8 “(iii) SCHOOL.—The term ‘school’
9 means an elementary school or secondary
10 school (as such terms are defined in sec-
11 tion 14101 of the Elementary and Sec-
12 ondary Education Act of 1965 (20 U.S.C.
13 8801)), a Head Start program assisted
14 under the Head Start Act (42 U.S.C. 9831
15 et seq.), and a child care facility operated
16 by a provider who meets the applicable
17 State or local government licensing, certifi-
18 cation, approval, or registration require-
19 ments, if any.

20 “(4) LIMITATION.—No employee may take
21 more than a total of 12 workweeks of leave under
22 paragraphs (1) and (3) during any 12-month pe-
23 riod.”.

24 (b) SCHEDULE.—Section 102(b)(1) of such Act (29
25 U.S.C. 2612(b)(1)) is amended by inserting after the sec-

1 ond sentence the following: “Leave under subsection
2 (a)(3) may be taken intermittently or on a reduced leave
3 schedule.”.

4 (c) SUBSTITUTION OF PAID LEAVE.—Section
5 102(d)(2)(A) of such Act (29 U.S.C. 2612(d)(2)(A)) is
6 amended by inserting before the period the following: “,
7 or for leave provided under subsection (a)(3) for any part
8 of the 24-hour period of such leave under such sub-
9 section”.

10 (d) NOTICE.—Section 102(e) of such Act (29 U.S.C.
11 2612(e)) is amended by adding at the end the following:

12 “(3) NOTICE FOR SCHOOL INVOLVEMENT
13 LEAVE.—In any case in which the necessity for leave
14 under subsection (a)(3) is foreseeable, the employee
15 shall provide the employer with not less than 7 days’
16 notice, before the date the leave is to begin, of the
17 employee’s intention to take leave under such sub-
18 section. If the necessity for the leave is not foresee-
19 able, the employee shall provide such notice as is
20 practicable.”.

21 (e) CERTIFICATION.—Section 103 of such Act (29
22 U.S.C. 2613) is amended by adding at the end the fol-
23 lowing:

24 “(f) CERTIFICATION FOR SCHOOL INVOLVEMENT
25 LEAVE.—An employer may require that a request for

1 leave under section 102(a)(3) be supported by a certifi-
2 cation issued at such time and in such manner as the Sec-
3 retary may by regulation prescribe.”.

4 **SEC. 523. SCHOOL INVOLVEMENT LEAVE FOR CIVIL SERV-**
5 **ICE EMPLOYEES.**

6 (a) ENTITLEMENT TO LEAVE.—Section 6382(a) of
7 title 5, United States Code, is amended by adding at the
8 end the following:

9 “(3)(A) Subject to section 6383(f), an employee shall
10 be entitled to a total of 24 hours of leave during any 12-
11 month period to participate in an academic activity of a
12 school of a son or daughter of the employee, such as a
13 parent-teacher conference or an interview for a school, or
14 to participate in literacy training under a family literacy
15 program.

16 “(B) In this paragraph:

17 “(i) The term ‘family literacy program’ means
18 a program of services that are of sufficient intensity
19 in terms of hours, and of sufficient duration, to
20 make sustainable changes in a family and that inte-
21 grate all of the following activities:

22 “(I) Interactive literacy activities between
23 parents and their sons and daughters.

24 “(II) Training for parents on how to be
25 the primary teacher for their sons and daugh-

1 ters and full partners in the education of their
2 sons and daughters.

3 “(III) Parent literacy training.

4 “(IV) An age-appropriate education pro-
5 gram for sons and daughters.

6 “(ii) The term ‘literacy’, used with respect to
7 an individual, means the ability of the individual to
8 speak, read, and write English, and compute and
9 solve problems, at levels of proficiency necessary—

10 “(I) to function on the job, in the family
11 of the individual, and in society;

12 “(II) to achieve the goals of the individual;
13 and

14 “(III) to develop the knowledge potential
15 of the individual.

16 “(iii) The term ‘school’ means an elementary
17 school or secondary school (as such terms are de-
18 fined in section 14101 of the Elementary and Sec-
19 ondary Education Act of 1965 (20 U.S.C. 8801)), a
20 Head Start program assisted under the Head Start
21 Act (42 U.S.C. 9831 et seq.), and a child care facil-
22 ity operated by a provider who meets the applicable
23 State or local government licensing, certification, ap-
24 proval, or registration requirements, if any.

1 “(4) No employee may take more than a total of 12
2 workweeks of leave under paragraphs (1) and (3) during
3 any 12-month period.”.

4 (b) SCHEDULE.—Section 6382(b)(1) of such title is
5 amended by inserting after the second sentence the fol-
6 lowing: “Leave under subsection (a)(3) may be taken
7 intermittently or on a reduced leave schedule.”.

8 (c) SUBSTITUTION OF PAID LEAVE.—Section
9 6382(d) of such title is amended by inserting before “,
10 except” the following: “, or for leave provided under sub-
11 section (a)(3) any of the employee’s accrued or accumu-
12 lated annual leave under subchapter I for any part of the
13 24-hour period of such leave under such subsection”.

14 (d) NOTICE.—Section 6382(e) of such title is amend-
15 ed by adding at the end the following:

16 “(3) In any case in which the necessity for leave
17 under subsection (a)(3) is foreseeable, the employee shall
18 provide the employing agency with not less than 7 days’
19 notice, before the date the leave is to begin, of the employ-
20 ee’s intention to take leave under such subsection. If the
21 necessity for the leave is not foreseeable, the employee
22 shall provide such notice as is practicable.”.

23 (e) CERTIFICATION.—Section 6383 of such title is
24 amended by adding at the end the following:

1 “(f) An employing agency may require that a request
 2 for leave under section 6382(a)(3) be supported by a cer-
 3 tification issued at such time and in such manner as the
 4 Office of Personnel Management may by regulation pre-
 5 scribe.”.

6 **SEC. 524. EFFECTIVE DATE.**

7 This subtitle takes effect 120 days after the date of
 8 enactment of this Act.

9 **Subtitle D—Employment**
 10 **Protection for Battered Women**

11 **SEC. 531. ENTITLEMENT TO LEAVE FOR ADDRESSING DO-**
 12 **MESTIC VIOLENCE FOR NON-FEDERAL EM-**
 13 **PLOYEES.**

14 (a) DEFINITIONS.—Section 101 of the Family and
 15 Medical Leave Act of 1993 (29 U.S.C. 2611) is amended
 16 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) being unable to attend or perform
 21 work due to an incident of domestic violence;

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

1 “(C) seeking legal assistance or remedies,
2 including communicating with the police or an
3 attorney, or participating in any legal pro-
4 ceeding, related to domestic violence;

5 “(D) obtaining services from a domestic vi-
6 olence shelter or program or rape crisis center
7 as a result of domestic violence;

8 “(E) obtaining psychological counseling re-
9 lated to experiences of domestic violence;

10 “(F) participating in safety planning and
11 other actions to increase safety from future do-
12 mestic violence, including temporary or perma-
13 nent relocation; and

14 “(G) participating in any other activity ne-
15 cessitated by domestic violence that must be un-
16 dertaken during the hours of employment in-
17 volved.

18 “(15) DOMESTIC VIOLENCE.—The term ‘domes-
19 tic violence’ means domestic violence, and dating vio-
20 lence, as such terms are defined in section 2105 of
21 the Omnibus Crime Control and Safe Streets Act of
22 1968 (42 U.S.C. 3796hh-4).”.

23 (b) LEAVE REQUIREMENT.—Section 102 of the Fam-
24 ily and Medical Leave Act of 1993 (29 U.S.C. 2612) is
25 amended—

1 (1) in subsection (a)(1), by adding at the end
2 the following:

3 “(E) In order to care for the son, daugh-
4 ter, or parent of the employee, if such son,
5 daughter, or parent is addressing domestic vio-
6 lence and its effects.

7 “(F) Because the employee is addressing
8 domestic violence and its effects, which make
9 the employee unable to perform the functions of
10 the position of such employee.”;

11 (2) in subsection (b), by adding at the end the
12 following:

13 “(3) DOMESTIC VIOLENCE.—Leave under sub-
14 paragraph (E) or (F) of subsection (a)(1) may be
15 taken by an eligible employee intermittently or on a
16 reduced leave schedule. The taking of leave intermit-
17 tently or on a reduced leave schedule pursuant to
18 this paragraph shall not result in a reduction in the
19 total amount of leave to which the employee is enti-
20 tled under subsection (a) beyond the amount of leave
21 actually taken.”; and

22 (3) in subsection (d)(2)(B), by striking “(C) or
23 (D)” and inserting “(C), (D), (E), or (F)”.

1 (c) CERTIFICATION.—Section 103 of the Family and
2 Medical Leave Act of 1993 (29 U.S.C. 2613), as amended
3 by section 522(e), is further amended—

4 (1) in the title of the section, by inserting be-
5 fore the period the following: “; **CONFIDEN-**
6 **TIALITY**”; and

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

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

12 “(1) a written statement describing the domes-
13 tic violence and its effects;

14 “(2) documentation of the domestic violence in-
15 volved, such as a police or court record, or docu-
16 mentation from a shelter worker, an employee of a
17 domestic violence program, an attorney, a member
18 of the clergy, or a medical or other professional,
19 from whom the employee has sought assistance in
20 addressing domestic violence and its effects; or

21 “(3) other corroborating evidence, such as a
22 statement from any other individual with knowledge
23 of the circumstances that provide the basis for the
24 claim of domestic violence, or physical evidence of

1 domestic violence, such as a photograph, torn or
2 bloody clothing, or any other damaged property.

3 “(h) CONFIDENTIALITY.—All evidence provided to
4 the employer under subsection (g) of domestic violence ex-
5 perience by an employee or the son, daughter, or parent
6 of an employee, including a statement of an employee, any
7 other documentation or corroborating evidence, and the
8 fact that an employee has requested leave for the purpose
9 of addressing, or caring for a son, daughter, or parent who
10 is addressing, domestic violence and its effects, shall be
11 retained in the strictest confidence by the employer, except
12 to the extent that disclosure is requested, or consented to,
13 by the employee for the purpose of—

14 “(1) protecting the safety of the employee or a
15 family member or co-worker of the employee; or

16 “(2) assisting in documenting domestic violence
17 for a court or agency.”.

18 **SEC. 532. ENTITLEMENT TO LEAVE FOR ADDRESSING DO-**
19 **MESTIC VIOLENCE FOR FEDERAL EMPLOY-**
20 **EES.**

21 (a) DEFINITIONS.—Section 6381 of title 5, United
22 States Code, is amended—

23 (1) at the end of paragraph (5), by striking
24 “and”;

1 (2) in paragraph (6), by striking the period and
2 inserting a semicolon; and

3 (3) by adding at the end the following:

4 “(7) the term ‘addressing domestic violence and
5 its effects’ has the meaning given the term in section
6 101 of the Family and Medical Leave Act of 1993
7 (29 U.S.C. 2611); and

8 “(8) the term ‘domestic violence’ means domes-
9 tic violence, and dating violence, as such terms are
10 defined in section 2105 of the Omnibus Crime Con-
11 trol and Safe Streets Act of 1968 (42 U.S.C.
12 3796hh-4).”.

13 (b) LEAVE REQUIREMENT.—Section 6382 of title 5,
14 United States Code, is amended—

15 (1) in subsection (a)(1), by adding at the end
16 the following:

17 “(E) In order to care for the son, daughter, or
18 parent of the employee, if such son, daughter, or
19 parent is addressing domestic violence and its ef-
20 fects.

21 “(F) Because the employee is addressing do-
22 mestic violence and its effects, which make the em-
23 ployee unable to perform the functions of the posi-
24 tion of such employee.”;

1 (2) in subsection (b), by adding at the end the
2 following:

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

12 (3) in subsection (d), by striking “(C), or (D)”
13 and inserting “(C), (D), (E), or (F)”.

14 (c) CERTIFICATION.—Section 6383 of title 5, United
15 States Code, as amended by section 523(e), is further
16 amended—

17 (1) in the title of the section, by adding at the
18 end the following: “; **confidentiality**”; and

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

20 “(g) In determining if an employee meets the require-
21 ments of subparagraph (E) or (F) of section 6382(a)(1),
22 the employing agency of an employee may require the em-
23 ployee to provide—

24 “(1) a written statement describing the domes-
25 tic violence and its effects;

1 “(2) documentation of the domestic violence in-
2 volved, such as a police or court record, or docu-
3 mentation from a shelter worker, an employee of a
4 domestic violence program, an attorney, a member
5 of the clergy, or a medical or other professional,
6 from whom the employee has sought assistance in
7 addressing domestic violence and its effects; or

8 “(3) other corroborating evidence, such as a
9 statement from any other individual with knowledge
10 of the circumstances that provide the basis for the
11 claim of domestic violence, or physical evidence of
12 domestic violence, such as a photograph, torn or
13 bloody clothing, or other damaged property.

14 “(h) All evidence provided to the employing agency
15 under subsection (g) of domestic violence experienced by
16 an employee or the son, daughter, or parent of an em-
17 ployee, including a statement of an employee, any other
18 documentation or corroborating evidence, and the fact
19 that an employee has requested leave for the purpose of
20 addressing, or caring for a son, daughter, or parent who
21 is addressing, domestic violence and its effects, shall be
22 retained in the strictest confidence by the employing agen-
23 cy, except to the extent that disclosure is requested, or
24 consented to, by the employee for the purpose of—

1 “(1) protecting the safety of the employee or a
2 family member or co-worker of the employee; or

3 “(2) assisting in documenting domestic violence
4 for a court or agency.”.

5 **SEC. 533. EXISTING LEAVE USABLE FOR DOMESTIC VIO-**
6 **LENCE.**

7 (a) DEFINITIONS.—In this section:

8 (1) ADDRESSING DOMESTIC VIOLENCE AND ITS
9 EFFECTS.—The term “addressing domestic violence
10 and its effects” has the meaning given the term in
11 section 101 of the Family and Medical Leave Act of
12 1993 (29 U.S.C. 2611), as amended in section
13 531(a).

14 (2) EMPLOYEE.—The term “employee” means
15 any person employed by an employer. In the case of
16 an individual employed by a public agency, such
17 term means an individual employed as described in
18 section 3(e) of the Fair Labor Standards Act of
19 1938 (29 U.S.C. 203(e)).

20 (3) EMPLOYER.—The term “employer”—

21 (A) means any person engaged in com-
22 merce or in any industry or activity affecting
23 commerce who employs individuals, if such per-
24 son is also subject to the Family and Medical
25 Leave Act of 1993 (29 U.S.C. 2601 et seq.) or

1 to any provision of a State or local law, collec-
2 tive bargaining agreement, or employment bene-
3 fits program or plan, addressing paid or unpaid
4 leave from employment (including family, med-
5 ical, sick, annual, personal, or similar leave);
6 and

7 (B) includes any person acting directly or
8 indirectly in the interest of an employer in rela-
9 tion to any employee, and includes a public
10 agency, who is subject to a law, agreement, pro-
11 gram, or plan described in subparagraph (A),
12 but does not include any labor organization
13 (other than when acting as an employer) or
14 anyone acting in the capacity of officer or agent
15 of such labor organization.

16 (4) EMPLOYMENT BENEFITS.—The term “em-
17 ployment benefits” has the meaning given the term
18 in section 101 of the Family and Medical Leave Act
19 of 1993 (29 U.S.C. 2611).

20 (5) PARENT; SON OR DAUGHTER.—The terms
21 “parent” and “son or daughter” have the meanings
22 given the terms in section 101 of the Family and
23 Medical Leave Act of 1993 (29 U.S.C. 2611).

24 (6) PUBLIC AGENCY.—The term “public agen-
25 cy” has the meaning given the term in section 3 of

1 the Fair Labor Standards Act of 1938 (29 U.S.C.
2 203).

3 (b) USE OF EXISTING LEAVE.—An employee who is
4 entitled to take paid or unpaid leave (including family,
5 medical, sick, annual, personal, or similar leave) from em-
6 ployment, pursuant to State or local law, a collective bar-
7 gaining agreement, or an employment benefits program or
8 plan, shall be permitted to use such leave for the purpose
9 of addressing domestic violence and its effects, or for the
10 purpose of caring for a son or daughter or parent of the
11 employee, if such son or daughter or parent is addressing
12 domestic violence and its effects.

13 (c) CERTIFICATION.—In determining whether an em-
14 ployee qualifies to use leave as described in subsection (b),
15 an employer may require a written statement, documenta-
16 tion of domestic violence, or corroborating evidence con-
17 sistent with section 103(g) of the Family and Medical
18 Leave Act of 1993 (29 U.S.C. 2613(g)), as amended by
19 section 531(c).

20 (d) CONFIDENTIALITY.—All evidence provided to the
21 employer under subsection (c) of domestic violence experi-
22 enced by an employee or the son or daughter or parent
23 of the employee, including a statement of an employee,
24 any other documentation or corroborating evidence, and
25 the fact that an employee has requested leave for the pur-

1 pose of addressing, or caring for a son or daughter or par-
2 ent who is addressing, domestic violence and its effects,
3 shall be retained in the strictest confidence by the em-
4 ployer, except to the extent that disclosure is requested,
5 or consented to, by the employee for the purpose of—

6 (1) protecting the safety of the employee or a
7 family member or co-worker of the employee; or

8 (2) assisting in documenting domestic violence
9 for a court or agency.

10 (e) PROHIBITED ACTS.—

11 (1) INTERFERENCE WITH RIGHTS.—

12 (A) EXERCISE OF RIGHTS.—It shall be un-
13 lawful for any employer to interfere with, re-
14 strain, or deny the exercise of or the attempt to
15 exercise, any right provided under this section.

16 (B) DISCRIMINATION.—It shall be unlaw-
17 ful for any employer to discharge or in any
18 other manner discriminate against an individual
19 for opposing any practice made unlawful by this
20 section.

21 (2) INTERFERENCE WITH PROCEEDINGS OR IN-
22 QUIRIES.—It shall be unlawful for any person to dis-
23 charge or in any other manner discriminate against
24 any individual because such individual—

1 (A) has filed any charge, or had instituted
2 or caused to be instituted any proceeding,
3 under or related to this section;

4 (B) has given, or is about to give, any in-
5 formation in connection with any inquiry or
6 proceeding relating to any right provided under
7 this section; or

8 (C) has testified, or is about to testify, in
9 any inquiry or proceeding relating to any right
10 provided under this section.

11 (f) ENFORCEMENT.—

12 (1) PUBLIC ENFORCEMENT.—The Secretary of
13 Labor shall have the powers set forth in subsections
14 (b), (c), (d), and (e) of section 107 of the Family
15 and Medical Leave Act of 1993 (29 U.S.C. 2617)
16 for the purpose of public agency enforcement of any
17 alleged violation of subsection (e) against any em-
18 ployer.

19 (2) PRIVATE ENFORCEMENT.—The remedies
20 and procedures set forth in section 107(a) of the
21 Family and Medical Leave Act of 1993 (29 U.S.C.
22 2617(a)) shall be the remedies and procedures pur-
23 suant to which an employee may initiate a legal ac-
24 tion against an employer for alleged violations of
25 subsection (e).

1 (3) REFERENCES.—For purposes of paragraph
2 (1) and (2), references in section 107 of the Family
3 and Medical Leave Act of 1993 to section 105 of
4 such Act shall be considered to be references to sub-
5 section (e).

6 (4) EMPLOYER LIABILITY UNDER OTHER
7 LAWS.—Nothing in this section shall be construed to
8 limit the liability of an employer to an employee for
9 harm suffered relating to the employee’s experience
10 of domestic violence pursuant to any other Federal
11 or State law, including a law providing for a legal
12 remedy.

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