

113TH CONGRESS
1ST SESSION

S. 857

To amend the Family and Medical Leave Act of 1993 to permit leave to care for a same-sex spouse, domestic partner, parent-in-law, adult child, sibling, grandchild, or grandparent who has a serious health condition.

IN THE SENATE OF THE UNITED STATES

MAY 6, 2013

Mr. DURBIN (for himself, Mr. LEAHY, Mr. WHITEHOUSE, Mr. SANDERS, Mrs. MURRAY, Mr. COONS, Mrs. GILLIBRAND, Mr. LAUTENBERG, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Family and Medical Leave Act of 1993 to permit leave to care for a same-sex spouse, domestic partner, parent-in-law, adult child, sibling, grandchild, or grandparent who has a serious health condition.

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 “Family and Medical
5 Leave Inclusion Act”.

1 **SEC. 2. LEAVE TO CARE FOR A SAME-SEX SPOUSE, DOMES-**
 2 **TIC PARTNER, PARENT-IN-LAW, ADULT**
 3 **CHILD, SIBLING, GRANDCHILD, OR GRAND-**
 4 **PARENT.**

5 (a) DEFINITIONS.—

6 (1) INCLUSION OF ADULT CHILDREN AND CHIL-
 7 DREN OF A DOMESTIC PARTNER.—Section 101(12)
 8 of such Act (29 U.S.C. 2611(12)) is amended—

9 (A) by inserting “a child of an individual’s
 10 domestic partner,” after “a legal ward,”; and

11 (B) by striking “who is—” and all that
 12 follows and inserting “and includes an adult
 13 child.”.

14 (2) INCLUSION OF GRANDCHILDREN, GRAND-
 15 PARENTS, PARENTS-IN-LAW, SIBLINGS, AND DOMES-
 16 TIC PARTNERS.—Section 101 of such Act (29 U.S.C.
 17 2611) is further amended by adding at the end the
 18 following:

19 “(20) DOMESTIC PARTNER.—The term ‘domes-
 20 tic partner’, used with respect to an employee,
 21 means—

22 “(A) the person recognized as the domestic
 23 partner of the employee under any domestic
 24 partner registry or civil union law of the State
 25 or political subdivision of a State where the em-
 26 ployee resides, or the person who is lawfully

1 married to the employee under the law of the
2 State where the employee resides and who is
3 the same sex as the employee; or

4 “(B) in the case of an unmarried employee
5 who lives in a State where a person cannot
6 marry a person of the same sex under the laws
7 of the State, a single, unmarried adult person
8 of the same sex as the employee who is in a
9 committed, personal (as defined in regulations
10 issued by the Secretary) relationship with the
11 employee, who is not a domestic partner to any
12 other person, and who is designated to the em-
13 ployer by such employee as that employee’s do-
14 mestic partner.

15 “(21) GRANDCHILD.—The term ‘grandchild’,
16 used with respect to an employee, means any person
17 who is a son or daughter of a son or daughter of
18 the employee.

19 “(22) GRANDPARENT.—The term ‘grand-
20 parent’, used with respect to an employee, means a
21 parent of a parent of the employee.

22 “(23) PARENT-IN-LAW.—The term ‘parent-in-
23 law’, used with respect to an employee, means a par-
24 ent of the spouse or domestic partner of the em-
25 ployee.

1 “(24) SIBLING.—The term ‘sibling’, used with
2 respect to an employee, means any person who is a
3 son or daughter of the employee’s parent.

4 “(25) SON-IN-LAW OR DAUGHTER-IN-LAW.—
5 The term ‘son-in-law or daughter-in-law’, used with
6 respect to an employee, means any person who is a
7 spouse or domestic partner of a son or daughter of
8 the employee.”.

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

12 (1) in subsection (a)(1)—

13 (A) in subparagraph (C), by striking
14 “spouse, or a son, daughter, or parent, of the
15 employee, if such spouse, son, daughter, or par-
16 ent” and inserting “spouse or domestic partner,
17 or a son, daughter, parent, parent-in-law,
18 grandparent, or sibling, of the employee if such
19 spouse, domestic partner, son, daughter, parent,
20 parent-in-law, grandparent, or sibling”; and

21 (B) in subparagraph (E), by striking
22 “spouse, or a son, daughter, or parent” and in-
23 serting “spouse or domestic partner, or a son,
24 daughter, parent, parent-in-law, grandchild, or
25 sibling,”;

1 (2) in subsection (a)(3), by striking “spouse,
2 son, daughter, parent,” and inserting “spouse or do-
3 mestic partner, son, daughter, parent, son-in-law or
4 daughter-in-law, grandparent, sibling,”;

5 (3) in subsection (e)—

6 (A) in paragraph (2)(A), by striking
7 “spouse, parent,” and inserting “spouse, do-
8 mestic partner, parent, parent-in-law, grand-
9 child, grandparent, sibling,”; and

10 (B) in paragraph (3), by striking “spouse,
11 or a son, daughter, or parent,” and inserting
12 “spouse or domestic partner, or a son, daugh-
13 ter, parent, parent-in-law, grandchild, or sib-
14 ling,”; and

15 (4) in subsection (f)—

16 (A) in paragraph (1), by striking “a hus-
17 band and wife” and inserting “2 spouses or 2
18 domestic partners”; and

19 (B) in paragraph (2)—

20 (i) in subparagraph (A), by striking
21 “that husband and wife” and inserting
22 “those spouses or those domestic part-
23 ners”; and

24 (ii) in subparagraph (B), by striking
25 “the husband and wife” and inserting

1 “those spouses or those domestic part-
2 ners”.

3 (c) CERTIFICATION.—Section 103 of the Family and
4 Medical Leave Act of 1993 (29 U.S.C. 2613) is amend-
5 ed—

6 (1) in subsection (a), by striking “spouse, or
7 parent” and inserting “spouse, domestic partner,
8 parent, parent-in-law, grandchild, grandparent, or
9 sibling”; and

10 (2) in subsection (b)—

11 (A) in paragraph (4)(A), by striking
12 “spouse, or parent and an estimate of the
13 amount of time that such employee is needed to
14 care for the son, daughter, spouse, or parent”
15 and inserting “spouse, domestic partner, par-
16 ent, parent-in-law, grandparent, or sibling and
17 an estimate of the amount of time that such
18 employee is needed to care for such son, daugh-
19 ter, spouse, domestic partner, parent, parent-in-
20 law, grandparent, or sibling”; and

21 (B) in paragraph (7), by striking “parent,
22 or spouse” and inserting “spouse, domestic
23 partner, parent, parent-in-law, grandparent, or
24 sibling”.

1 (d) EMPLOYMENT AND BENEFITS PROTECTION.—
2 Section 104(c)(3) of the Family and Medical Leave Act
3 of 1993 (29 U.S.C. 2614(c)(3)) is amended—

4 (1) in subparagraph (A)(i), by striking “spouse,
5 or parent” and inserting “spouse, domestic partner,
6 parent, parent-in-law, grandparent, or sibling”; and

7 (2) in subparagraph (C)(ii), by striking
8 “spouse, or parent” and inserting “spouse, domestic
9 partner, parent, parent-in-law, grandparent, or sib-
10 ling”.

11 **SEC. 3. FEDERAL EMPLOYEES.**

12 (a) DEFINITIONS.—

13 (1) INCLUSION OF ADULT CHILDREN AND CHIL-
14 DREN OF A DOMESTIC PARTNER.—Section 6381(6)
15 of title 5, United States Code, is amended—

16 (A) by inserting “a child of an individual’s
17 domestic partner,” after “a legal ward,”; and

18 (B) by striking “who is—” and all that
19 follows and inserting “and includes an adult
20 child.”.

21 (2) INCLUSION OF GRANDCHILDREN, GRAND-
22 PARENTS, PARENTS-IN-LAW, SIBLINGS, AND DOMES-
23 TIC PARTNERS.—Section 6381 of such title is fur-
24 ther amended—

1 (A) in paragraph (11)(B), by striking “;
2 and” and inserting a semicolon;

3 (B) in paragraph (12), by striking the pe-
4 riod and inserting a semicolon; and

5 (C) by adding at the end the following:

6 “(13) the term ‘domestic partner’, used with re-
7 spect to an employee, means—

8 “(A) the person recognized as the domestic
9 partner of the employee under any domestic
10 partner registry or civil union law of the State
11 or political subdivision of a State where the em-
12 ployee resides, or the person who is lawfully
13 married to the employee under the law of the
14 State where the employee resides and who is
15 the same sex as the employee; or

16 “(B) in the case of an unmarried employee
17 who lives in a State where a person cannot
18 marry a person of the same sex under the laws
19 of the State, a single, unmarried adult person
20 of the same sex as the employee who is in a
21 committed, personal (as defined in regulations
22 issued by the Office of Personnel Management)
23 relationship with the employee, who is not a do-
24 mestic partner to any other person, and who is

1 designated to the employer by such employee as
2 that employee's domestic partner;

3 “(14) the term ‘grandchild’, used with respect
4 to an employee, means any person who is a son or
5 daughter of a son or daughter of the employee;

6 “(15) the term ‘grandparent’, used with respect
7 to an employee, means a parent of a parent of the
8 employee;

9 “(16) the term ‘parent-in-law’, used with re-
10 spect to an employee, means a parent of the spouse
11 or domestic partner of the employee;

12 “(17) the term ‘sibling’, used with respect to an
13 employee, means any person who is a son or daugh-
14 ter of the employee's parent; and

15 “(18) the term ‘son-in-law or daughter-in-law’,
16 used with respect to an employee, means any person
17 who is a spouse or domestic partner of a son or
18 daughter of the employee.”.

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

21 (1) in subsection (a)(1)—

22 (A) in subparagraph (C), by striking
23 “spouse, or a son, daughter, or parent, of the
24 employee, if such spouse, son, daughter, or par-
25 ent” and inserting “spouse or domestic partner,

1 or a son, daughter, parent, parent-in-law,
2 grandparent, or sibling, of the employee, if such
3 spouse, domestic partner, son, daughter, parent,
4 parent-in-law, grandparent, or sibling”; and

5 (B) in subparagraph (E), by striking
6 “spouse, or a son, daughter, or parent” and in-
7 serting “spouse or domestic partner, or a son,
8 daughter, parent, parent-in-law, grandchild, or
9 sibling,”;

10 (2) in subsection (a)(3), by striking “spouse,
11 son, daughter, parent,” and inserting “spouse or do-
12 mestic partner, son, daughter, parent, son-in-law or
13 daughter-in-law, grandparent, sibling,”; and

14 (3) in subsection (e)—

15 (A) in paragraph (2)(A), by striking
16 “spouse, parent” and inserting “spouse, domes-
17 tic partner, parent, parent-in-law, grandchild,
18 grandparent, sibling”; and

19 (B) in paragraph (3), by striking “spouse,
20 or a son, daughter, or parent,” and inserting
21 “spouse or domestic partner, or a son, daugh-
22 ter, parent, parent-in-law, grandchild, or sib-
23 ling,”.

24 (c) CERTIFICATION.—Section 6383 of title 5, United
25 States Code, is amended—

1 (1) in subsection (a), by striking “spouse, or
2 parent” and inserting “spouse, domestic partner,
3 parent, parent-in-law, grandchild, grandparent, or
4 sibling”; and

5 (2) in subsection (b)(4)(A), by striking “spouse,
6 or parent, and an estimate of the amount of time
7 that such employee is needed to care for such son,
8 daughter, spouse, or parent” and inserting “spouse,
9 domestic partner, parent, parent-in-law, grand-
10 parent, or sibling and an estimate of the amount of
11 time that such employee is needed to care for such
12 son, daughter, spouse, domestic partner, parent,
13 parent-in-law, grandparent, or sibling”.

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