

116TH CONGRESS
1ST SESSION

H. R. 1940

To amend title II of the Social Security Act to make available parental leave benefits to parents following the birth or adoption of a child, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 27, 2019

Mrs. WAGNER (for herself, Mr. CRENSHAW, Mr. RODNEY DAVIS of Illinois, Ms. STEFANIK, Mr. OLSON, Mr. DIAZ-BALART, Mr. LUETKEMEYER, and Mrs. MILLER) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend title II of the Social Security Act to make available parental leave benefits to parents following the birth or adoption of a child, 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 “New Parents Act of
5 2019”.

6 **SEC. 2. PARENTAL LEAVE BENEFITS.**

7 Title II of the Social Security Act is amended by in-
8 serting after section 218 the following:

1 **“SEC. 219. PARENTAL LEAVE BENEFITS.**

2 “(a) IN GENERAL.—Every individual—

3 “(1) who has—

4 “(A) not less than 8 quarters of coverage,
5 4 of which are credited to calendar quarters
6 during the calendar year preceding the calendar
7 year in which the 1st month of the benefit pe-
8 riod described in subsection (c) occurs; or

9 “(B) not less than 12 quarters of coverage;

10 and

11 “(2) who has filed an application for a parental
12 leave benefit with respect to a qualified child of the
13 individual,

14 shall be entitled to a parental leave benefit with respect
15 to such qualified child.

16 “(b) BENEFIT AMOUNT.—Such individual’s parental
17 leave benefit shall be an amount equal to the product of—

18 “(1) the number of benefit months (not to ex-
19 ceed 3) selected by the individual in the individual’s
20 application for a parental leave benefit, multiplied by

21 “(2) an amount equal to the primary insurance
22 amount for the individual that would be determined
23 under section 215 if—

24 “(A) the individual had attained age 62 in
25 the first month of the individual’s benefit pe-
26 riod; and

1 “(B) the individual had become entitled to
2 an old-age insurance benefit under section 202
3 beginning with such month.

4 For the purposes of the preceding sentence, the elapsed
5 years referred to in section 215(b)(2)(B)(iii) shall not in-
6 clude the year in which the individual’s benefit period be-
7 gins, or any year thereafter.

8 “(c) PAYMENT OF BENEFIT.—

9 “(1) SELECTION OF NUMBER OF BENEFIT
10 MONTHS.—In filing an application for a parental
11 leave benefit under this section, an individual shall
12 select the number of months (not to exceed 3) for
13 which the individual will receive a monthly payment
14 under such parental leave benefit (in this section re-
15 ferred to as ‘benefit months’).

16 “(2) ELECTION OF BENEFIT MONTHS.—Not
17 later than 14 days before the start of any month in
18 the benefit period of an individual entitled to a pa-
19 rental leave benefit, the individual may elect to treat
20 such month as a benefit month. The number of
21 months in such benefit period treated as benefit
22 months shall equal the number selected in the indi-
23 vidual’s benefit application, and the Commissioner
24 may designate any month as a benefit month in any
25 case in which an individual does not elect to treat

1 a sufficient number of months as benefit months be-
2 fore the end of the benefit period.

3 “(3) AMOUNT OF MONTHLY PAYMENT.—The
4 amount of a monthly payment made in any benefit
5 month within a benefit period to an individual enti-
6 tled to a parental leave benefit shall be an amount
7 equal to—

8 “(A) the amount of the parental leave ben-
9 efit determined for the individual under sub-
10 section (b); divided by

11 “(B) the number of benefit months se-
12 lected by the individual pursuant to paragraph
13 (1) with respect to such benefit.

14 “(4) DEFINITION OF BENEFIT PERIOD.—For
15 purposes of this section, the term ‘benefit period’
16 means, with respect to an individual entitled to a pa-
17 rental leave benefit with respect to a qualified child,
18 the 1-year period beginning with the month after the
19 month in which the birth or adoption of the qualified
20 child occurs.

21 “(d) BENEFIT APPLICATION.—

22 “(1) IN GENERAL.—The Commissioner shall
23 ensure that the application for a parental leave ben-
24 efit—

1 “(A) includes a notice, clearly written in
2 language that is easily understandable to the
3 reader, explaining that—

4 “(i) failure to submit such proof or
5 documentation as the Commissioner may
6 require to demonstrate that the applicant
7 is the parent of the qualified child shall be
8 subject to criminal and civil penalties;

9 “(ii) the full cost to the Trust Funds
10 of any amount received by an individual as
11 a parental leave benefit must be repaid
12 through reductions to old-age insurance
13 benefits payable to the individual in subse-
14 quent months, or by other means; and

15 “(iii) entitlement to a parental leave
16 benefit has no effect on the determination
17 of an individual’s entitlement to leave
18 under the Family and Medical Leave Act
19 of 1993; and

20 “(B) requires an attestation by the indi-
21 vidual submitting the application that—

22 “(i) the individual expects to be the
23 parent of a qualified child throughout the
24 benefit period with respect to such applica-
25 tion;

1 “(ii) the individual intends to use the
2 benefit to finance spending more time with
3 the qualified child at home and away from
4 employment during the benefit period; and

5 “(iii) the individual consents to the
6 terms and conditions specified in the notice
7 described in subparagraph (A).

8 “(2) OPTION TO FILE SIMULTANEOUS APPLICA-
9 TIONS.—The Commissioner of Social Security may
10 establish an option under which an individual may
11 file an application for a parental leave benefit under
12 this section with respect to a qualified child at the
13 same time the individual submits an application for
14 a Social Security account number for such qualified
15 child.

16 “(3) ONLINE AVAILABILITY.—The Commis-
17 sioner of Social Security shall, as soon as practicable
18 after the date of enactment of this section, permit
19 an individual to apply for a parental leave benefit
20 through an Internet website or other electronic
21 media.

22 “(e) FRAUD PREVENTION.—

23 “(1) IN GENERAL.—The Commissioner of So-
24 cial Security shall establish procedures to ensure the
25 prevention of fraud with respect to applications for

1 parental leave benefits under this section, including
2 procedures for the submission of such proof or docu-
3 mentation as the Commissioner may require to
4 verify the information contained in such an applica-
5 tion.

6 “(2) ENFORCEMENT.—In any case in which an
7 individual willfully, knowingly, and with intent to de-
8 ceive the Commissioner of Social Security fails to
9 comply with the procedures established under para-
10 graph (1), the Commissioner may impose on such in-
11 dividual, in addition to any other penalties that may
12 be prescribed by law—

13 “(A) a civil monetary penalty of not more
14 than \$7,500 for each such failure; and

15 “(B) an assessment, in lieu of any dam-
16 ages sustained by the United States because of
17 such failure, of not more than twice the amount
18 of the cost to the Federal Old-Age and Sur-
19 vivors Insurance Trust Fund of any parental
20 leave benefit paid to the individual.

21 “(f) BENEFIT REPAYMENT.—

22 “(1) IN GENERAL.—An individual who is paid
23 a parental leave benefit under this section shall
24 repay the full cost of such benefit to the Federal
25 Old-Age and Survivors Insurance Trust Fund (as

1 such amount is determined by the Commissioner) in
2 accordance with this subsection.

3 “(2) OLD-AGE INSURANCE BENEFIT OFFSET.—

4 “(A) IN GENERAL.—Except as provided in
5 paragraph (3), in the case of any individual de-
6 scribed in paragraph (1) who becomes entitled
7 to an old-age insurance benefit, deductions shall
8 be made from each monthly payment of such
9 benefit (not to exceed the first 60 such monthly
10 payments) in such amounts, subject to subpara-
11 graph (B), as the Commissioner of Social Secu-
12 rity shall determine necessary to fully recover
13 the cost to the Federal Old-Age and Survivors
14 Insurance Trust Fund of any parental leave
15 benefit paid to the individual as of the month
16 in which the individual becomes entitled to an
17 old-age insurance benefit.

18 “(B) NOTIFICATION.—Not later than the
19 beginning of each calendar year, the Commis-
20 sioner of Social Security shall notify each indi-
21 vidual whose old-age insurance benefits are sub-
22 ject to a deduction under subparagraph (A)
23 during such calendar year of the amount of the
24 deduction that will be applied to each monthly

1 payment of such benefits during the calendar
2 year.

3 “(3) ALTERNATIVE INCREASE OF RETIREMENT
4 AGE.—

5 “(A) IN GENERAL.—In the case of any in-
6 dividual described in paragraph (1) who be-
7 comes entitled to an old-age insurance benefit,
8 such individual may elect, at the time of appli-
9 cation for such benefit, to be subject to a retire-
10 ment age increase in accordance with this para-
11 graph. Such election shall be irrevocable, and
12 an individual who makes such an election shall
13 not be subject to a deduction under paragraph
14 (2) for any month.

15 “(B) RETIREMENT AGE INCREASE.—Not-
16 withstanding section 216(l)(1), with respect to
17 an individual who makes an election under sub-
18 paragraph (A), the retirement age of such indi-
19 vidual shall be deemed to be—

20 “(i) the retirement age determined
21 with respect to the individual under such
22 section; plus

23 “(ii) the additional number of months
24 the Commissioner of Social Security shall
25 determine necessary to result in the full re-

1 covery of the cost to the Federal Old-Age
2 and Survivors Insurance Trust Fund of
3 any parental leave benefit paid to the indi-
4 vidual and not yet repaid pursuant to
5 paragraph (2) as of the month in which
6 the individual becomes entitled to an old-
7 age insurance benefit.

8 “(4) OTHER RECOVERY METHODS.—In any
9 case in which the Commissioner of Social Security
10 determines that the cost to the Federal Old-Age and
11 Survivors Insurance Trust Fund of a parental leave
12 benefit paid to an individual cannot be fully recov-
13 ered pursuant to paragraph (2) or (3)—

14 “(A) such benefit shall be deemed, upon
15 the making of such determination, to be a pay-
16 ment of more than the correct amount for pur-
17 poses of section 204; and

18 “(B) the Commissioner may recover such
19 amounts by means of any method available to
20 the Commissioner under such section.

21 “(5) PROJECTION OF REPAYMENT AMOUNT.—
22 As soon as practicable after the date of enactment
23 of this section, the Commissioner shall establish a
24 system to make available through an Internet
25 website or other electronic media to each individual

1 who is paid a parental leave benefit under this sec-
2 tion, beginning with the first month beginning after
3 the individual's benefit period the projected amount
4 of the deduction to be made from each of the first
5 60 monthly payments of old-age insurance benefits
6 under paragraph (2), or if the individual so elects,
7 the additional number of months by which the indi-
8 vidual's retirement age would be increased under
9 paragraph (3), in order to fully repay the cost to the
10 Federal Old-Age and Survivors Insurance Trust
11 Fund of any parental leave benefit paid to the indi-
12 vidual, and a description of the assumptions used by
13 the Commissioner in making such projection.

14 “(g) RELATIONSHIP WITH STATE LAW; EMPLOYER
15 BENEFITS.—

16 “(1) IN GENERAL.—This section does not pre-
17 empt or supersede any provision of State or local
18 law that authorizes a State or political subdivision to
19 provide paid parental or family medical leave bene-
20 fits similar to the benefits provided under this sec-
21 tion.

22 “(2) GREATER BENEFITS ALLOWED.—Nothing
23 in this Act shall be construed to diminish the obliga-
24 tion of an employer to comply with any contract, col-
25 lective bargaining agreement, or employment benefit

1 program or plan that provides greater benefits for
2 leave or other leave rights to individuals than the
3 benefits for leave or leave rights established under
4 this Act.

5 “(h) SUNSET.—No application for parental leave ben-
6 efits under this section may be filed in any calendar year
7 if the OASDI trust fund ratio (as defined in section
8 215(i)) for such calendar year or for the year following
9 such calendar year is projected, based on the intermediate
10 projections in the most recent (as of January 1 of such
11 calendar year) annual report issued under section
12 201(c)(2), to be less than 20 percent.

13 “(i) DEFINITIONS.—For purposes of this section—

14 “(1) the term ‘qualified child’ means, with re-
15 spect to an individual for a benefit period, a biologi-
16 cal child or legally adopted child of the individual (as
17 determined by the Commissioner of Social Security)
18 who—

19 “(A) will not attain 18 years of age before
20 the end of such benefit period; and

21 “(B) will be residing with, and under the
22 care of, the individual during the benefit period
23 as determined by the Commissioner.”.

1 **SEC. 3. CONFORMING AMENDMENTS.**

2 (a) **NONPAYMENT PROVISIONS.**—Section 202 of the
3 Social Security Act (42 U.S.C. 402) is amended—

4 (1) in subsection (n)(1)(A), by striking “under
5 this section or section 223” and inserting “under
6 this section, section 219, or section 223”;

7 (2) in subsection (t), in paragraphs (1) and
8 (10), by striking “under this section or under sec-
9 tion 223” each place it appears and inserting “under
10 this section, under section 219, or under section
11 223”;

12 (3) in subsection (u)(1), by striking “under this
13 section or section 223” and inserting “under this
14 section, section 219, or section 223”; and

15 (4) in subsection (x)—

16 (A) in paragraph (1)(A), by striking
17 “under this section or under section 223” and
18 inserting “under this section, under section
19 219, or under section 223”; and

20 (B) in paragraph (2), by striking “under
21 this section or section 223” and inserting
22 “under this section, section 219, or section
23 223”.

24 (b) **DELAYED RETIREMENT CREDITS.**—Section
25 202(w) of the Social Security Act (42 U.S.C. 402(w)) is
26 amended by inserting after “age 70” each place it appears

1 the following: “(or, in the case of an individual whose re-
2 tirement age is increased under section 219(f)(3), age 70
3 plus the number of months by which the individual’s re-
4 tirement age is so increased)”.

5 (c) VOLUNTARY SUSPENSION OF BENEFITS.—Sec-
6 tion 202(z)(1)(A)(ii) of the Social Security Act (42 U.S.C.
7 402(z)(1)(A)(ii)) is amended by striking “the age of 70”
8 and inserting “age 70 (or, in the case of an individual
9 whose retirement age is increased under section 219(f)(3),
10 age 70 plus the number of months by which the individ-
11 ual’s retirement age is so increased)”.

12 (d) NUMBER OF BENEFIT COMPUTATION YEARS.—
13 Section 215(b)(2)(A) of such Act (42 U.S.C.
14 415(b)(2)(A)) is amended—

15 (1) in clause (i), by striking “, and” and insert-
16 ing a semicolon;

17 (2) in clause (ii), by striking the period and in-
18 serting “; and”; and

19 (3) by inserting after clause (ii) the following:

20 “(iii) in the case of an individual who is entitled
21 to a parental leave benefit under section 219, by the
22 number of years equal to one-fifth of such individ-
23 ual’s elapsed years (disregarding any resulting frac-
24 tional part of a year), but not by more than 5
25 years.”.

1 **SEC. 4. EFFECTIVE DATE.**

2 The amendments made by this Act shall apply with
3 respect to applications for parental leave benefits filed
4 after 2021.

○