To make technical corrections relating to parental leave for Federal employees.

IN THE SENATE OF THE UNITED STATES

December 18, 2019

Mr. Schumer (for himself, Mr. Peters, Mrs. Murray, Mr. Reed, Mr. Schatz, and Ms. Cantwell) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To make technical corrections relating to parental leave for Federal employees.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Employee Pa-
rental Leave Technical Correction Act”.

SEC. 2. FAMILY AND MEDICAL LEAVE AMENDMENTS.

(a) In General.—

(1) Paid parental leave for employees of

district of Columbia courts and district of

columbia public defender service.—
(A) District of Columbia courts.—

Section 11–1726, District of Columbia Official Code, is amended by adding at the end the following new subsection:

“(d) In carrying out the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) with respect to non-judicial employees of the District of Columbia courts, the Joint Committee on Judicial Administration shall, notwithstanding any provision of such Act, establish a paid parental leave program for the leave described in subparagraphs (A) and (B) of section 102(a)(1) of such Act (29 U.S.C. 2612(a)(1)) (relating to leave provided in connection with the birth of a child or the placement of a child for adoption or foster care). In developing the terms and conditions for this program, the Joint Committee may be guided by the terms and conditions applicable to the provision of paid parental leave for employees of the Federal Government under chapter 63 of title 5, United States Code, and any corresponding regulations.”.

(B) District of Columbia Public Defender Service.—Section 305 of the District of Columbia Court Reform and Criminal Procedure Act of 1970 (sec. 2–1605, D.C. Official Code) is amended by adding at the end the following new subsection:
“(d) In carrying out the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) with respect to employees of the Service, the Director shall, notwithstanding any provision of such Act, establish a paid parental leave program for the leave described in subparagraphs (A) and (B) of section 102(a)(1) of such Act (29 U.S.C. 2612(a)(1)) (relating to leave provided in connection with the birth of a child or the placement of a child for adoption or foster care). In developing the terms and conditions for this program, the Director may be guided by the terms and conditions applicable to the provision of paid parental leave for employees of the Federal Government under chapter 63 of title 5, United States Code, and any corresponding regulations.”.

(2) CLARIFICATION OF USE OF OTHER LEAVE IN ADDITION TO 12 WEEKS AS FAMILY AND MEDICAL LEAVE.—

(A) TITLE 5.—Section 6382(a) of title 5, United States Code, as amended by section 7602 of the National Defense Authorization Act for Fiscal Year 2020, is amended—

(i) in paragraph (1), in the matter preceding subparagraph (A), by inserting “(or, in the case of leave that includes leave under subparagraph (A) or (B) of
this paragraph, 12 administrative work-
weeks of leave plus any additional period 
of leave used under subsection 
(d)(2)(B)(ii))” after “12 administrative 
workweeks of leave”; and 

(ii) in paragraph (4), by inserting 
“(or 26 administrative workweeks of leave 
plus any additional period of leave used 
under subsection (d)(2)(B)(ii))” after “26 
administrative workweeks of leave”.

(B) CONGRESSIONAL EMPLOYEES.—Sec-
tion 202(a)(1) of the Congressional Account-
ability Act of 1995 (2 U.S.C. 1312(a)(1)), as 
amended by section 7603 of the National De-
fense Authorization Act for Fiscal Year 2020, 
is amended—

(i) in the second sentence, by insert-
ing “and in the case of leave that includes 
leave for such an event, the period of leave 
to which a covered employee is entitled 
under section 102(a)(1) of such Act shall 
be 12 administrative workweeks of leave 
plus any additional period of leave used 
under subsection (d)(2)(B) of this section” 
before the period; and
(ii) by striking the third sentence and inserting the following: “For purposes of applying section 102(a)(4) of such Act, in the case of leave that includes leave under subparagraph (A) or (B) of section 102(a)(1) of such Act, a covered employee is entitled, under paragraphs (1) and (3) of section 102(a) of such Act, to a combined total of 26 workweeks of leave plus any additional period of leave used under subsection (d)(2)(B) of this section.”.

(C) OTHER EMPLOYEES COVERED UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993.—Section 102(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611(a)) is amended by adding at the end the following:

“(6) SPECIAL RULES ON PERIOD OF LEAVE.—With respect to an employee of the Government Accountability Office and an employee of the Library of Congress—

“(A) in the case of leave that includes leave under subparagraph (A) or (B) of paragraph (1), the employee shall be entitled to 12 administrative workweeks of leave plus any additional period of leave used under subsection
(d)(3)(B)(ii) of this section or section 202(d)(2)(B) of the Congressional Accountability Act of 1995 (2 U.S.C. 1312(d)(2)(B)), as the case may be; and

“(B) for purposes of paragraph (4), the employee is entitled, under paragraphs (1) and (3), to a combined total of 26 workweeks of leave plus, if applicable, any additional period of leave used under subsection (d)(3)(B)(ii) of this section or section 202(d)(2)(B) of the Congressional Accountability Act of 1995 (2 U.S.C. 1312(d)(2)(B)), as the case may be.”.

(3) APPLICABILITY.—The amendments made by this section shall not be effective with respect to any birth or placement occurring before October 1, 2020.

(b) PAID PARENTAL LEAVE FOR PRESIDENTIAL EMPLOYEES.—

(1) AMENDMENTS TO CHAPTER 5 OF TITLE 3, UNITED STATES CODE.—Section 412 of title 3, United States Code, is amended—

(A) in subsection (a)(1), by adding at the end the following: “In applying section 102 of such Act with respect to leave for an event described in subsection (a)(1)(A) or (B) of such
section to covered employees, subsection (c) of this section shall apply and in the case of leave that includes leave for such an event, the period of leave to which a covered employee is entitled under section 102(a)(1) of such Act shall be 12 administrative workweeks of leave plus any additional period of leave used under subsection (c)(2)(B) of this section. For purposes of applying section 102(a)(4) of such Act, in the case of leave that includes leave under subparagraph (A) or (B) of section 102(a)(1) of such Act, a covered employee is entitled, under paragraphs (1) and (3) of section 102(a) of such Act, to a combined total of 26 workweeks of leave plus any additional period of leave used under subsection (c)(2)(B) of this section.”;

(B) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(C) by inserting after subsection (b) the following:

“(c) SPECIAL RULE FOR PAID PARENTAL LEAVE.—

“(1) SUBSTITUTION OF PAID LEAVE.—A covered employee may elect to substitute for any leave without pay under subparagraph (A) or (B) of section 102(a)(1) of the Family and Medical Leave Act
of 1993 (29 U.S.C. 2612(a)(1)) any paid leave which is available to such employee for that purpose.

“(2) AMOUNT OF PAID LEAVE.—The paid leave that is available to a covered employee for purposes of paragraph (1) is—

“(A) the number of weeks of paid parental leave in connection with the birth or placement involved that corresponds to the number of administrative workweeks of paid parental leave available to employees under section 6382(d)(2)(B)(i) of title 5, United States Code; and

“(B) during the 12-month period referred to in section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1)) and in addition to the administrative workweeks described in subparagraph (A), any additional paid vacation, personal, family, medical, or sick leave provided by the employing office to such employee.

“(3) LIMITATION.—Nothing in this section or section 102(d)(2)(A) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(d)(2)(A)) shall be considered to require or permit an employing office to require that an employee first use all or any
portion of the leave described in paragraph (2)(B) before being allowed to use the paid parental leave described in paragraph (2)(A).

“(4) ADDITIONAL RULES.—Paid parental leave under paragraph (2)(A)—

“(A) shall be payable from any appropriation or fund available for salaries or expenses for positions within the employing office;

“(B) if not used by the covered employee before the end of the 12-month period (as referred to in section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1))) to which it relates, shall not accumulate for any subsequent use; and

“(C) shall apply without regard to the limitations in subparagraph (E), (F), or (G) of section 6382(d)(2) of title 5, United States Code, or section 104(c)(2) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2614(c)(2)).”;

and

(D) in subsection (e)(1), as so redesignated, by striking “subsection (c)” and inserting “subsection (d)”.

(2) APPLICABILITY.—The amendments made by this subsection shall not be effective with respect
to any birth or placement occurring before October 1, 2020.

(c) FAA AND TSA.—

(1) Application of Federal FML.—

(A) In general.—Section 40122(g)(2) of title 49, United States Code, is amended—

(i) in subparagraph (I)(iii), by striking “and” at the end;

(ii) in subparagraph (J), by striking the period at the end and inserting “; and”;

(iii) by adding at the end the following:

“(K) subchapter V of chapter 63, relating to family and medical leave.”.

(B) Applicability.—The amendments made by subparagraph (A) shall not be effective with respect to any event for which leave may be taken under subchapter V of chapter 63 of title 5, United States Code, occurring before October 1, 2020.

(2) Corrections for TSA Screeners.—Section 7606 of the National Defense Authorization Act for Fiscal Year 2020 is amended—
(A) by striking “Section 111(d)(2)” and inserting the following:

“(a) IN GENERAL.—Section 111(d)(2)”; and

(B) by adding at the end the following:

“(b) EFFECTIVE DATE; APPLICATION.—

“(1) IN GENERAL.—The amendment made by subsection (a) shall not be effective with respect to any event for which leave may be taken under subchapter V of chapter 63 of title 5, United States Code, occurring before October 1, 2020.

“(2) APPLICATION TO SERVICE REQUIREMENT FOR ELIGIBILITY.—For purposes of applying the period of service requirement under subparagraph (B) of section 6381(1) to an individual appointed under section 111(d)(1) of the Aviation and Transportation Security Act (49 U.S.C. 44935 note), the amendment made by subsection (a) of this section shall apply with respect to any period of service by the individual under such an appointment, including service before the effective date of such amendment.”.

(d) TITLE 38 EMPLOYEES.—

(1) IN GENERAL.—Section 7425 of title 38, United States Code, is amended—
(A) in subsection (b), by striking “Notwithstanding” and inserting “Except as provided in subsection (c), and notwithstanding”; and

(B) by adding at the end the following:

“(c) Notwithstanding any other provision of this subchapter, the Administration shall provide to individuals appointed to any position described in section 7421(b) who are employed by the Administration family and medical leave in the same manner, to the maximum extent practicable, as family and medical leave is provided under subchapter V of chapter 63 of title 5 to employees, as defined in section 6381(1) of such title.”.

(2) Applicability.—The amendments made by paragraph (1) shall not be effective with respect to any event for which leave may be taken under subchapter V of chapter 63 of title 5, United States Code, occurring before October 1, 2020.

(e) Article I judges.—

(1) Bankruptcy judges.—Section 153(d) of title 28, United States Code, is amended—

(A) by striking “A bankruptcy judge” and inserting “(1) Except as provided in paragraph (2), a bankruptcy judge”; and

(B) by adding at the end the following:
“(2) The provisions of subchapter V of chapter 63 of title 5 shall apply to a bankruptcy judge as if the bankruptcy judge were an employee (within the meaning of subparagraph (A) of section 6381(1) of such title).”.

(2) MAGISTRATE JUDGES.—Section 631(k) of title 28, United States Code, is amended—

(A) by striking “A United States magistrate judge” and inserting “(1) Except as provided in paragraph (2), a United States magistrate judge”; and

(B) by adding at the end the following:

“(2) The provisions of subchapter V of chapter 63 of title 5 shall apply to a United States magistrate judge as if the United States magistrate judge were an employee (within the meaning of subparagraph (A) of section 6381(1) of such title).”.

(f) TECHNICAL CORRECTIONS.—

(1) Section 7605 of the National Defense Authorization Act for Fiscal Year 2020 is amended by striking “on active duty” each place it appears and inserting “on covered active duty”.

(2) Subparagraph (E) of section 6382(d)(2) of title 5, United States Code, as added by section 7602 of the National Defense Authorization Act for Fiscal Year 2020, is amended by striking “the re-
requirement to complete” and all that follows and insert “the service requirement under subparagraph (B) of section 6381(1).”.

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect as if enacted immediately after the enactment of the National Defense Authorization Act for Fiscal Year 2020.