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 SENATE OF THE UNITED STATES

SEPTEMBER 20, 2021

Mr. RUBIO (for himself and Mr. ROMNEY) introduced the following bill; which was read twice and referred to the Committee on Finance

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.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “New Parents Act of 2021”.

SEC. 2. PARENTAL LEAVE BENEFITS.

(a) IN GENERAL.—Title II of the Social Security Act is amended by inserting after section 218 the following:
“SEC. 219. PARENTAL LEAVE BENEFITS.

“(a) IN GENERAL.—Every individual—

“(1) who has—

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

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

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

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

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

“(1) the number of benefit months (not to exceed 3) selected by the individual in the individual’s application for a parental leave benefit, multiplied by

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

“(A) the individual had attained age 62 in the first month of the individual’s benefit period; and
“(B) the individual had become entitled to an old-age insurance benefit under section 202 beginning with such month.

For the purposes of the preceding sentence, the elapsed years referred to in section 215(b)(2)(B)(iii) shall not include the year in which the individual’s benefit period begins, or any year thereafter.

“(c) Payment of Benefit.—

“(1) Selection of Number of Benefit Months.—In filing an application for a parental leave benefit under this section, an individual shall select the number of months (not to exceed 3) for which the individual will receive a monthly payment under such parental leave benefit (in this section referred to as ‘benefit months’).

“(2) Election of Benefit Months.—Not later than 14 days before the start of any month in the benefit period of an individual entitled to a parental leave benefit, the individual may elect to treat such month as a benefit month. The number of months in such benefit period treated as benefit months shall equal the number selected in the individual’s benefit application, and the Commissioner may designate any month as a benefit month in any case in which an individual does not elect to treat
a sufficient number of months as benefit months before the end of the benefit period.

“(3) AMOUNT OF MONTHLY PAYMENT.—The amount of a monthly payment made in any benefit month within a benefit period to an individual entitled to a parental leave benefit shall be an amount equal to—

“(A) the amount of the parental leave benefit determined for the individual under subsection (b); divided by

“(B) the number of benefit months selected by the individual pursuant to paragraph (1) with respect to such benefit.

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

“(d) BENEFIT APPLICATION.—

“(1) IN GENERAL.—The Commissioner shall ensure that the application for a parental leave benefit—
“(A) includes a notice, clearly written in language that is easily understandable to the reader, explaining that—

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

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

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

“(B) requires an attestation by the individual submitting the application that—

“(i) the individual expects to be the parent of a qualified child throughout the benefit period with respect to such application;
“(ii) the individual intends to use the benefit to finance spending more time with the qualified child at home and away from employment during the benefit period; and
“(iii) the individual consents to the terms and conditions specified in the notice described in subparagraph (A).
“(2) OPTION TO FILE SIMULTANEOUS APPLICATIONS.—The Commissioner of Social Security may establish an option under which an individual may file an application for a parental leave benefit under this section with respect to a qualified child at the same time the individual submits an application for a social security account number for such qualified child.
“(3) ONLINE AVAILABILITY.—The Commissioner of Social Security shall, as soon as practicable after the date of enactment of this section, permit an individual to apply for a parental leave benefit through an internet website or other electronic media.
“(e) FRAUD PREVENTION.—
“(1) IN GENERAL.—The Commissioner of Social Security shall establish procedures to ensure the prevention of fraud with respect to applications for
parental leave benefits under this section, including procedures for the submission of such proof or documen-
tation as the Commissioner may require to verify the information contained in such an applica-
tion.

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

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

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

“(f) BENEFIT REPAYMENT.—

“(1) IN GENERAL.—An individual who is paid a parental leave benefit under this section shall repay the full cost of such benefit to the Federal Old-Age and Survivors Insurance Trust Fund (as
such amount is determined by the Commissioner) in
accordance with this subsection.

“(2) Old-age insurance benefit offset.—

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

“(B) Notification.—Not later than the
beginning of each calendar year, the Commiss-
ioner of Social Security shall notify each indi-
vidual whose old-age insurance benefits are sub-
ject to a deduction under subparagraph (A)
during such calendar year of the amount of the
deduction that will be applied to each monthly
payment of such benefits during the calendar year.

“(3) ALTERNATIVE INCREASE OF RETIREMENT AGE.—

“(A) IN GENERAL.—In the case of any individual described in paragraph (1) who becomes entitled to an old-age insurance benefit, such individual may elect, at the time of application for such benefit, to be subject to a retirement age increase in accordance with this paragraph. Such election shall be irrevocable, and an individual who makes such an election shall not be subject to a deduction under paragraph (2) for any month.

“(B) RETIREMENT AGE INCREASE.—Notwithstanding section 216(l)(1), with respect to an individual who makes an election under subparagraph (A), the retirement age of such individual shall be deemed to be—

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

“(ii) the additional number of months the Commissioner of Social Security shall determine necessary to result in the full re-
covery of the cost to the Federal Old-Age and Survivors Insurance Trust Fund of any parental leave benefit paid to the individual as of the month in which the individual becomes entitled to an old-age insurance benefit.

“(C) INCREASE TO EARLIEST ENTITLEMENT AGE.—In the case of an individual who makes an election under subparagraph (A), notwithstanding subsection (a) of section 202, no old-age insurance benefit shall be paid to such individual for any month before the first month throughout which the individual has attained age 62 plus the additional number of months determined for the individual under subparagraph (B)(ii).

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

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

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

“(5) PROJECTION OF REPAYMENT AMOUNT.—
As soon as practicable after the date of enactment of this section, the Commissioner shall establish a system to make available through an internet website or other electronic media to each individual who is paid a parental leave benefit under this section, beginning with the first month beginning after the individual’s benefit period the projected amount of the deduction to be made from each of the first 60 monthly payments of old-age insurance benefits under paragraph (2), or if the individual so elects, the additional number of months by which the individual’s retirement age would be increased under paragraph (3), in order to fully repay the cost to the Federal Old-Age and Survivors Insurance Trust Fund of any parental leave benefit paid to the individual, and a description of the assumptions used by the Commissioner in making such projection.

“(g) RELATIONSHIP WITH STATE LAW; EMPLOYER BENEFITS.—
“(1) IN GENERAL.—This section does not pre-empt or supersede any provision of State or local law that authorizes a State or political subdivision to provide paid parental or family medical leave benefits similar to the benefits provided under this section.

“(2) GREATER BENEFITS ALLOWED.—Nothing in this Act shall be construed to diminish the obligation of an employer to comply with any contract, collective bargaining agreement, or employment benefit program or plan that provides greater benefits for leave or other leave rights to individuals than the benefits for leave or leave rights established under this Act.

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

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

“(1) the term ‘qualified child’ means, with respect to an individual for a benefit period, a biolog-
cal child or legally adopted child of the individual (as
determined by the Commissioner of Social Security)
who—

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

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

(b) Conforming Amendments.—

(1) Nonpayment Provisions.—Section 202 of
the Social Security Act (42 U.S.C. 402) is amend-
ed—

(A) in subsection (n)(1)(A), by striking
“under this section or section 223” and insert-
ing “under this section, section 219, or section
223”;

(B) in subsection (t), in paragraphs (1)
and (10), by striking “under this section or
under section 223” each place it appears and
inserting “under this section, under section
219, or under section 223”;

(C) in subsection (u)(1), by striking
“under this section or section 223” and insert-
ing “under this section, section 219, or section
223”; and
(D) in subsection (x)—

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

   (ii) in paragraph (2), by striking “under this section or section 223” and inserting “under this section, section 219, or section 223”.

(2) DELAYED RETIREMENT CREDITS.—Section 202(w) of the Social Security Act (42 U.S.C. 402(w)) is amended by inserting after “age 70” each place it appears the following: “(or, in the case of an individual whose retirement age is increased under section 219(f)(3), age 70 plus the number of months by which the individual’s retirement age is so increased)”.

(3) VOLUNTARY SUSPENSION OF BENEFITS.—Section 202(z)(1)(A)(ii) of the Social Security Act (42 U.S.C. 402(z)(1)(A)(ii)) is amended by striking “the age of 70” and inserting “age 70 (or, in the case of an individual whose retirement age is increased under section 219(f)(3), age 70 plus the number of months by which the individual’s retirement age is so increased)”.
(4) Number of Benefit Computation Years.—Section 215(b)(2)(A) of such Act (42 U.S.C. 415(b)(2)(A)) is amended—

(A) in clause (i), by striking “, and” and inserting a semicolon;

(B) in clause (ii), by striking the period and inserting “; and”; and

(C) by inserting after clause (ii) the following:

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

(e) Effective Date.—The amendments made by this section shall apply with respect to applications for parental leave benefits filed after 2022.