

117TH CONGRESS
1ST SESSION

S. 3253

To amend the Family and Medical Leave Act of 1993 to provide leave for the spontaneous loss of an unborn child, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 18, 2021

Mr. COTTON introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Family and Medical Leave Act of 1993 to provide leave for the spontaneous loss of an unborn 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 “Helping with Equal
5 Access to Leave and Investing in Needs for Grieving
6 Mothers and Fathers Act” or the “HEALING Mothers
7 and Fathers Act”.

1 **SEC. 2. LEAVE FOR SPONTANEOUS LOSS OF AN UNBORN**
2 **CHILD.**

3 (a) DEFINITION OF SPONTANEOUS LOSS OF AN UN-
4 BORN CHILD.—Section 101 of the Family and Medical
5 Leave Act of 1993 (29 U.S.C. 2611) is amended—

6 (1) by redesignating paragraphs (13) through
7 (19) as paragraphs (14) through (20), respectively;

8 (2) by inserting after paragraph (12) the fol-
9 lowing:

10 “(13) SPONTANEOUS LOSS OF AN UNBORN
11 CHILD.—The term ‘spontaneous loss of an unborn
12 child’ means the loss of a child in the womb that
13 does not result from a purposeful act and is un-
14 planned.”; and

15 (3) in paragraph (19)(B), as redesignated, by
16 striking “paragraph (15)(B)” and inserting “para-
17 graph (16)(B)”.

18 (b) ENTITLEMENT TO LEAVE.—Section 102(a)(1) of
19 such Act (29 U.S.C. 2612(a)(1)) is amended by adding
20 at the end the following:

21 “(G) Because of the spontaneous loss of an
22 unborn child of the employee or spouse of the
23 employee.”.

24 (c) SCHEDULE.—Section 102(b)(1) of such Act (29
25 U.S.C. 2612(b)(1)) is amended by inserting after the third
26 sentence the following: “Subject to subsection (e)(4) and

1 section 103(g), leave under subsection (a)(1)(G) may be
2 taken intermittently or on a reduced leave schedule when
3 medically necessary.”.

4 (d) SUBSTITUTION OF PAID LEAVE.—Section
5 102(d)(2)(B) of such Act (29 U.S.C. 2612(d)(2)(B)) is
6 amended in the first sentence by striking “(C) or (D)”
7 and inserting “(C), (D), or (G)”.

8 (e) NOTICE.—Section 102(e) of such Act (29 U.S.C.
9 2612(e)) is amended by adding at the end the following
10 new paragraph:

11 “(4) NOTICE FOR LEAVE DUE TO SPONTA-
12 NEOUS LOSS OF AN UNBORN CHILD.—For leave
13 under subsection (a)(1)(G), the employee shall pro-
14 vide such notice to the employer as is reasonable and
15 practicable.”.

16 (f) CERTIFICATION.—Section 103 of such Act (29
17 U.S.C. 2613) is amended—

18 (1) in subsection (c)(1)—

19 (A) by inserting “or subsection (g)(1) for
20 leave under section 102(a)(1)(G)” after “sec-
21 tion 102(a)(1)”;

22 (B) by striking “under subsection (b) for
23 such leave” and inserting “under subsection (b)
24 for leave under subparagraph (C) or (D) of sec-

1 tion 102(a)(1) or subsection (g)(2) for leave
2 under section 102(a)(1)(G), respectively”;

3 (2) in subsection (d)—

4 (A) in paragraph (1)—

5 (i) by inserting “or subsection (g)(1)”
6 after “under subsection (a)”;

7 (ii) by inserting “or subsection (g)(2),
8 respectively” after “under subsection (b)”;
9 and

10 (B) in paragraph (2), by inserting “or sub-
11 section (g)(2)” after “under subsection (b)”;
12 and

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

14 “(g) CERTIFICATION FOR LEAVE DUE TO SPONTA-
15 NEOUS LOSS OF AN UNBORN CHILD.—

16 “(1) IN GENERAL.—An employer may require
17 that a request for leave under section 102(a)(1)(G)
18 be supported by a certification issued by the health
19 care provider of the eligible employee or of the
20 spouse of the eligible employee, as appropriate. The
21 employee shall provide, in a timely manner, a copy
22 of such certification to the employer.

23 “(2) SUFFICIENT CERTIFICATION.—Certifi-
24 cation provided under paragraph (1) shall be suffi-
25 cient if it includes the information described in para-

1 graphs (1), (2), (3), and (5) of subsection (b), with
2 respect to spontaneous loss of an unborn child or
3 bodily side effects of that loss, as appropriate.”.

4 **SEC. 3. LEAVE FOR SPONTANEOUS LOSS OF AN UNBORN**
5 **CHILD, FOR CIVIL SERVICE EMPLOYEES.**

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

8 (1) by redesignating paragraphs (7) through
9 (12) as paragraphs (8) through (13), respectively;

10 (2) by inserting after paragraph (6) the fol-
11 lowing:

12 “(7) the term ‘spontaneous loss of an unborn
13 child’ means the loss of a child in the womb that
14 does not result from a purposeful act and is un-
15 planned;”; and

16 (3) in paragraph (12)(B), as redesignated, by
17 striking “paragraph (8)(B)” and inserting “para-
18 graph (9)(B)”.

19 (b) ENTITLEMENT TO LEAVE.—Section 6382(a)(1)
20 of title 5, United States Code, is amended by adding at
21 the end the following:

22 “(F) Because of the spontaneous loss of an un-
23 born child of the employee or spouse of the em-
24 ployee.”.

1 (c) SCHEDULE.—Section 6382(b)(1) of title 5,
2 United States Code, is amended by inserting after the
3 third sentence the following: “Subject to subsection (e)(4),
4 and section 103(g), leave under subsection (a)(1)(G) may
5 be taken intermittently or on a reduced leave schedule
6 when medically necessary.”.

7 (d) SUBSTITUTION OF PAID LEAVE.—Section
8 6382(d)(1) of title 5, United States Code, is amended in
9 the first sentence by striking “or (E)” and inserting “(E),
10 or (F)”.

11 (e) NOTICE.—Section 6382(e) of title 5, United
12 States Code, is amended by adding at the end the fol-
13 lowing:

14 “(4) For leave under subsection (a)(1)(F), the em-
15 ployee shall provide such notice to the employing agency
16 as is reasonable and practicable.”.

17 (f) CERTIFICATION.—Section 6383 of title 5, United
18 States Code, is amended—

19 (1) in subsection (c)(1)—

20 (A) by inserting “or subsection (g)(1) for
21 leave under section 6382(a)(1)(F)” after “sec-
22 tion 6382(a)(1)”; and

23 (B) by striking “under subsection (b) for
24 such leave” and inserting “under subsection (b)
25 for leave under subparagraph (C) or (D) of sec-

1 tion 6382(a)(1) or subsection (g)(2) for leave
2 under section 6382(a)(1)(F), respectively”;

3 (2) in subsection (d)—

4 (A) in paragraph (1)—

5 (i) by inserting “or subsection (g)(1)”
6 after “under subsection (a)”;

7 (ii) by inserting “or subsection (g)(2),
8 respectively” after “under subsection (b)”;
9 and

10 (B) in paragraph (2), by inserting “or sub-
11 section (g)(2)” after “under subsection (b)”;
12 and

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

14 “(g)(1) An employing agency may require that a re-
15 quest for leave under section 6382(a)(1)(F) be supported
16 by a certification issued by the health care provider of the
17 employee or of the spouse of the employee, as appropriate.
18 The employee shall provide, in a timely manner, a copy
19 of such certification to the employing agency.

20 “(2) Certification provided under paragraph (1) shall
21 be sufficient if it includes the information described in
22 paragraphs (1), (2), (3), and (5) of subsection (b), with
23 respect to spontaneous loss of an unborn child or bodily
24 side effects of that loss, as appropriate.”.

1 **SEC. 4. REFUNDABLE PERSONAL CREDIT FOR INDIVIDUALS**
2 **WHO HAVE SUFFERED A STILLBIRTH.**

3 (a) IN GENERAL.—Subpart C of part IV of sub-
4 chapter A of chapter 1 of the Internal Revenue Code of
5 1986 is amended by inserting after section 36B the fol-
6 lowing new section:

7 **“SEC. 36C. STILLBIRTHS.**

8 “(a) ALLOWANCE OF CREDIT.—In the case of an eli-
9 gible individual, there shall be allowed as a credit against
10 the tax imposed by this subtitle for the taxable year an
11 amount equal to \$3,600.

12 “(b) ELIGIBLE INDIVIDUAL.—For purposes of this
13 section, the term ‘eligible individual’ means any indi-
14 vidual—

15 “(1) who suffered during the taxable year the
16 stillbirth of a child who would have been a qualifying
17 child of the taxpayer (within the meaning of section
18 152) for the taxable year if such child had been born
19 live; and

20 “(2) for whom a certificate of birth resulting in
21 stillbirth has been issued under applicable State law.

22 “(c) STILLBIRTH.—For purposes of this section, the
23 term ‘stillbirth’ means the delivery of a child where there
24 was a spontaneous death of the child, not induced by any
25 purposeful act, before the complete delivery from the
26 child’s mother.

1 “(d) IDENTIFICATION REQUIREMENT.—

2 “(1) IN GENERAL.—No credit shall be allowed
3 under this section to a taxpayer unless the taxpayer
4 includes the social security number of such taxpayer
5 on the return of tax for the taxable year. In the case
6 of a joint return, the requirements of this subsection
7 shall be treated as met as long as 1 spouse includes
8 a social security number on the return of tax for the
9 taxable year.

10 “(2) SOCIAL SECURITY NUMBER.—For pur-
11 poses of this subsection, the term ‘social security
12 number’ means a social security number issued to an
13 individual by the Social Security Administration, but
14 only if the social security number is issued—

15 “(A) to a citizen of the United States or
16 pursuant to subclause (I) (or that portion of
17 subclause (III) that relates to subclause (I)) of
18 section 205(c)(2)(B)(i) of the Social Security
19 Act, and

20 “(B) before the due date for such return.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 for subpart C of part IV of subchapter A of chapter 1
23 of such Code is amended by inserting after the item relat-
24 ing to section 36B the following new item:

“Sec. 36C. Stillbirths.”.

25 (c) CONFORMING AMENDMENTS.—

1 (1) Section 6211(b)(4)(A) of such Code is
2 amended by inserting “36C,” after “36B,”.

3 (2) Paragraph (2) of section 1324(b) of title
4 31, United States Code, is amended by inserting “,
5 36C” after “36B”.

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years beginning after
8 the date of the enactment of this Act.

9 **SEC. 5. PROHIBITION OF FUNDING FAMILY PLANNING PRO-**
10 **VIDERS THAT OFFER ABORTION SERVICES.**

11 Title X of the Public Health Service Act (42 U.S.C.
12 300 et seq.) is amended by adding at the end the fol-
13 lowing:

14 **“SEC. 1009. ADDITIONAL PROHIBITION REGARDING ABOR-**
15 **TION.**

16 “The Secretary shall not provide any assistance
17 under this title to an entity unless the entity certifies that,
18 during the period of such assistance, the entity will not—

19 “(1) perform an abortion, or provide funding to
20 any other entity that performs abortions; or

21 “(2) refer patients to an abortion provider.”.

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