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1ST SESSION

S. 910

To provide for paid sick leave to ensure that Americans can address their own health needs and the health needs of their families.

IN THE SENATE OF THE UNITED STATES

MARCH 15, 2007

Mr. KENNEDY (for himself, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mrs. MURRAY, Mrs. CLINTON, Mr. OBAMA, Mr. SANDERS, Mr. BROWN, Mr. DURBIN, Mr. INOUE, Mr. BIDEN, Mr. LEVIN, Mr. KERRY, Mr. ROCKEFELLER, Mr. LIEBERMAN, Mr. AKAKA, Mrs. BOXER, Mr. FEINGOLD, Mr. SCHUMER, Mr. LAUTENBERG, Mr. MENENDEZ, and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To provide for paid sick leave to ensure that Americans can address their own health needs and the health needs of their families.

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 “Healthy Families Act”.

5 **SEC. 2. FINDINGS.**

6 Congress makes the following findings:

1 (1) Working Americans need time to meet their
2 own health care needs and to care for family mem-
3 bers, including their children, spouse, parents, and
4 parents-in-law, and other children and adults for
5 whom they are caretakers.

6 (2) Health care needs include preventive health
7 care, diagnostic procedures, medical treatment, and
8 recovery in response to short- and long-term ill-
9 nesses and injuries.

10 (3) Providing employees time off to meet health
11 care needs ensures that they will be healthier in the
12 long run. Preventive care helps avoid illnesses and
13 injuries and routine medical care helps detect ill-
14 nesses early and shorten their duration.

15 (4) When parents are available to care for their
16 children who become sick, children recover faster,
17 more serious illnesses are prevented, and children's
18 overall mental and physical health improve. Parents
19 who cannot afford to miss work and must send chil-
20 dren with a contagious illness to child care or school
21 contribute to the high rate of infections in child care
22 centers and schools.

23 (5) Providing paid sick leave improves public
24 health by reducing infectious disease. Policies that
25 make it easier for sick adults and children to be iso-

1 lated at home reduce the spread of infectious dis-
2 ease.

3 (6) Routine medical care reduces medical costs
4 by detecting and treating illness and injury early,
5 decreasing the need for emergency care. These sav-
6 ings benefit public and private payers of health in-
7 surance, including private businesses.

8 (7) The provision of individual and family sick
9 leave by large and small businesses, both here in the
10 United States and elsewhere, demonstrates that pol-
11 icy solutions are both feasible and affordable in a
12 competitive economy. Measures that ensure that em-
13 ployees are in good health and do not need to worry
14 about unmet family health problems help businesses
15 by promoting productivity and reducing employee
16 turnover.

17 (8) The American Productivity Audit found
18 that presenteeism—the practice of employees coming
19 to work despite illness—costs \$180,000,000,000 an-
20 nually in lost productivity. Studies in the *Journal of*
21 *Occupational and Environmental Medicine*, the *Em-*
22 *ployee Benefit News*, and the *Harvard Business Re-*
23 *view* show that presenteeism is a larger productivity
24 drain than either absenteeism or short-term dis-
25 ability.

1 (9) The absence of paid sick leave has forced
2 Americans to make untenable choices between need-
3 ed income and jobs on the one hand and caring for
4 their own and their family’s health on the other.

5 (10) Nearly half of Americans lack paid leave
6 for self-care or to care for a family member. For
7 families in the lowest quartile of earners, 79 percent
8 lack paid sick leave. For families in the next 2 quar-
9 tiles, 46 and 38 percent, respectively, lack paid sick
10 leave. Even for families in the highest income quar-
11 tile, 28 percent lack paid sick leave. In addition, mil-
12 lions of workers cannot use paid sick leave to care
13 for ill family members.

14 (11) Due to the roles of men and women in so-
15 ciety, the primary responsibility for family care-
16 taking often falls on women, and such responsibility
17 affects the working lives of women more than it af-
18 fects the working lives of men.

19 (12) An increasing number of men are also tak-
20 ing on caretaking obligations, and men who request
21 leave time for caretaking purposes are often denied
22 accommodation or penalized because of stereotypes
23 that caretaking is only “women’s work”.

24 (13) Employers’ reliance on persistent stereo-
25 types about the “proper” roles of both men and

1 women in the workplace and in the home continues
2 a cycle of discrimination and fosters stereotypical
3 views about women’s commitment to work and their
4 value as employees.

5 (14) Employment standards that apply to only
6 one gender have serious potential for encouraging
7 employers to discriminate against employees and ap-
8 plicants for employment who are of that gender.

9 (15) It is in the national interest to ensure that
10 all Americans can care for their own health and the
11 health of their families while prospering at work.

12 **SEC. 3. PURPOSES.**

13 The purposes of this Act are—

14 (1) to ensure that all working Americans can
15 address their own health needs and the health needs
16 of their families by requiring employers to provide a
17 minimum level of paid sick leave including leave for
18 family care;

19 (2) to diminish public and private health care
20 costs by enabling workers to seek early and routine
21 medical care for themselves and their family mem-
22 bers;

23 (3) to accomplish the purposes described in
24 paragraphs (1) and (2) in a manner that is feasible
25 for employers; and

1 (4) consistent with the provision of the 14th
2 amendment to the Constitution relating to equal
3 protection of the laws, and pursuant to Congress'
4 power to enforce that provision under section 5 of
5 that amendment—

6 (A) to accomplish the purposes described
7 in paragraphs (1) and (2) in a manner that
8 minimizes the potential for employment dis-
9 crimination on the basis of sex by ensuring gen-
10 erally that leave is available for eligible medical
11 reasons on a gender-neutral basis; and

12 (B) to promote the goal of equal employ-
13 ment opportunity for women and men.

14 **SEC. 4. DEFINITIONS.**

15 In this Act:

16 (1) CHILD.—The term “child” means a biologi-
17 cal, foster, or adopted child, a stepchild, a legal
18 ward, or a child of a person standing in loco
19 parentis, who is—

20 (A) under 18 years of age; or

21 (B) 18 years of age or older and incapable
22 of self-care because of a mental or physical dis-
23 ability.

24 (2) EMPLOYEE.—The term “employee” means
25 an individual—

1 (A) who is—

2 (i)(I) an employee, as defined in sec-
3 tion 3(e) of the Fair Labor Standards Act
4 of 1938 (29 U.S.C. 203(e)), who is not
5 covered under clause (v), including such an
6 employee of the Library of Congress, ex-
7 cept that a reference in such section to an
8 employer shall be considered to be a ref-
9 erence to an employer described in clauses
10 (i)(I) and (ii) of paragraph (3)(A); or

11 (II) an employee of the Government
12 Accountability Office;

13 (ii) a State employee described in sec-
14 tion 304(a) of the Government Employee
15 Rights Act of 1991 (42 U.S.C. 2000e-
16 16c(a));

17 (iii) a covered employee, as defined in
18 section 101 of the Congressional Account-
19 ability Act of 1995 (2 U.S.C. 1301), other
20 than an applicant for employment;

21 (iv) a covered employee, as defined in
22 section 411(c) of title 3, United States
23 Code; or

1 (v) a Federal officer or employee cov-
2 ered under subchapter V of chapter 63 of
3 title 5, United States Code; and

4 (B) who works an average of at least 20
5 hours per week or, in the alternative, at least
6 1,000 hours per year.

7 (3) EMPLOYER.—

8 (A) IN GENERAL.—The term “employer”
9 means a person who is—

10 (i)(I) a covered employer, as defined
11 in subparagraph (B), who is not covered
12 under subclause (V);

13 (II) an entity employing a State em-
14 ployee described in section 304(a) of the
15 Government Employee Rights Act of 1991;

16 (III) an employing office, as defined
17 in section 101 of the Congressional Ac-
18 countability Act of 1995;

19 (IV) an employing office, as defined in
20 section 411(c) of title 3, United States
21 Code; or

22 (V) an employing agency covered
23 under subchapter V of chapter 63 of title
24 5, United States Code; and

1 (ii) is engaged in commerce (including
2 government), in the production of goods
3 for commerce, or in an enterprise engaged
4 in commerce (including government) or in
5 the production of goods for commerce.

6 (B) COVERED EMPLOYER.—

7 (i) IN GENERAL.—In subparagraph
8 (A)(i)(I), the term “covered employer”—

9 (I) means any person engaged in
10 commerce or in any industry or activ-
11 ity affecting commerce who employs
12 15 or more employees for each work-
13 ing day during each of 20 or more
14 calendar workweeks in the current or
15 preceding calendar year;

16 (II) includes—

17 (aa) any person who acts,
18 directly or indirectly, in the inter-
19 est of an employer to any of the
20 employees of such employer; and

21 (bb) any successor in inter-
22 est of an employer;

23 (III) includes any “public agen-
24 cy”, as defined in section 3(x) of the

1 Fair Labor Standards Act of 1938
2 (29 U.S.C. 203(x)); and

3 (IV) includes the Government
4 Accountability Office and the Library
5 of Congress.

6 (ii) PUBLIC AGENCY.—For purposes
7 of clause (i)(III), a public agency shall be
8 considered to be a person engaged in com-
9 merce or in an industry or activity affect-
10 ing commerce.

11 (iii) DEFINITIONS.—For purposes of
12 this subparagraph:

13 (I) COMMERCE.—The terms
14 “commerce” and “industry or activity
15 affecting commerce” mean any activ-
16 ity, business, or industry in commerce
17 or in which a labor dispute would
18 hinder or obstruct commerce or the
19 free flow of commerce, and include
20 “commerce” and any “industry affect-
21 ing commerce”, as defined in para-
22 graphs (1) and (3) of section 501 of
23 the Labor Management Relations Act,
24 1947 (29 U.S.C. 142 (1) and (3)).

1 (II) EMPLOYEE.—The term “em-
2 ployee” has the same meaning given
3 such term in section 3(e) of the Fair
4 Labor Standards Act of 1938 (29
5 U.S.C. 203(e)).

6 (III) PERSON.—The term “per-
7 son” has the same meaning given
8 such term in section 3(a) of the Fair
9 Labor Standards Act of 1938 (29
10 U.S.C. 203(a)).

11 (C) PREDECESSORS.—Any reference in
12 this paragraph to an employer shall include a
13 reference to any predecessor of such employer.

14 (4) EMPLOYMENT BENEFITS.—The term “em-
15 ployment benefits” means all benefits provided or
16 made available to employees by an employer, includ-
17 ing group life insurance, health insurance, disability
18 insurance, sick leave, annual leave, educational bene-
19 fits, and pensions, regardless of whether such bene-
20 fits are provided by a practice or written policy of
21 an employer or through an “employee benefit plan”,
22 as defined in section 3(3) of the Employee Retirement
23 Income Security Act of 1974 (29 U.S.C.
24 1002(3)).

1 (5) HEALTH CARE PROVIDER.—The term
2 “health care provider” means a provider who—

3 (A)(i) is a doctor of medicine or osteopathy
4 who is authorized to practice medicine or sur-
5 gery (as appropriate) by the State in which the
6 doctor practices; or

7 (ii) is any other person determined by the
8 Secretary to be capable of providing health care
9 services; and

10 (B) is not employed by an employer for
11 whom the provider issues certification under
12 this Act.

13 (6) PARENT.—The term “parent” means a bio-
14 logical, foster, or adoptive parent of an employee, a
15 stepparent of an employee, or a legal guardian or
16 other person who stood in loco parentis to an em-
17 ployee when the employee was a child.

18 (7) PRO RATA.—The term “pro rata”, with re-
19 spect to benefits offered to part-time employees,
20 means the proportion of each of the benefits offered
21 to full-time employees that are offered to part-time
22 employees that, for each benefit, is equal to the ratio
23 of part-time hours worked to full-time hours worked.

24 (8) SECRETARY.—The term “Secretary” means
25 the Secretary of Labor.

1 (9) SICK LEAVE.—The term “sick leave” means
2 an increment of compensated leave provided by an
3 employer to an employee as a benefit of employment
4 for use by the employee during an absence from em-
5 ployment for any of the reasons described in para-
6 graphs (1) through (3) of section 5(d).

7 (10) SPOUSE.—The term “spouse”, with re-
8 spect to an employee, has the meaning given such
9 term by the marriage laws of the State in which the
10 employee resides.

11 **SEC. 5. PROVISION OF PAID SICK LEAVE.**

12 (a) IN GENERAL.—An employer shall provide for
13 each employee employed by the employer not less than—

14 (1) 7 days of sick leave with pay and employ-
15 ment benefits annually for employees working 30 or
16 more hours per week; or

17 (2) a pro rata number of days or hours of sick
18 leave with pay and employment benefits annually for
19 employees working less than—

20 (A) 30 hours per week on a year-round
21 basis; or

22 (B) 1,500 hours throughout the year in-
23 volved.

24 (b) ACCRUAL.—

1 (1) PERIOD OF ACCRUAL.—Sick leave provided
2 for under this section shall accrue as determined ap-
3 propriate by the employer, but not on less than a
4 quarterly basis.

5 (2) ACCUMULATION.—Accrued sick leave pro-
6 vided for under this section shall carry over from
7 year to year, but this Act shall not be construed to
8 require an employer to permit an employee to accu-
9 mulate more than 7 days of the sick leave.

10 (3) USE.—The sick leave may be used as ac-
11 crued. The employer, at the discretion of the em-
12 ployer, may loan the sick leave to the employee in
13 advance of accrual by such employee.

14 (c) CALCULATION.—

15 (1) LESS THAN A FULL WORKDAY.—Unless the
16 employer and employee agree to designate otherwise,
17 for periods of sick leave that are less than a normal
18 workday, that leave shall be counted—

19 (A) on an hourly basis; or

20 (B) in the smallest increment that the em-
21 ployer's payroll system uses to account for ab-
22 sences or use of leave.

23 (2) VARIABLE SCHEDULE.—If the schedule of
24 an employee varies from week to week, a weekly av-
25 erage of the hours worked over the 12-week period

1 prior to the beginning of a sick leave period shall be
2 used to calculate the employee's normal workweek
3 for the purpose of determining the amount of sick
4 leave to which the employee is entitled.

5 (d) USES.—Sick leave accrued under this section may
6 be used by an employee for any of the following:

7 (1) An absence resulting from a physical or
8 mental illness, injury, or medical condition of the
9 employee.

10 (2) An absence resulting from obtaining profes-
11 sional medical diagnosis or care, or preventive med-
12 ical care, for the employee subject to the require-
13 ment of subsection (e).

14 (3) An absence for the purpose of caring for a
15 child, a parent, a spouse, or any other individual re-
16 lated by blood or affinity whose close association
17 with the employee is the equivalent of a family rela-
18 tionship, who—

19 (A) has any of the conditions or needs for
20 diagnosis or care described in paragraph (1) or
21 (2); and

22 (B) in the case of someone who is not a
23 child, is otherwise in need of care.

24 (e) SCHEDULING.—An employee shall make a reason-
25 able effort to schedule leave under paragraphs (2) and (3)

1 of subsection (d) in a manner that does not unduly disrupt
2 the operations of the employer.

3 (f) PROCEDURES.—

4 (1) IN GENERAL.—Paid sick leave shall be pro-
5 vided upon the oral or written request of an em-
6 ployee. Such request shall—

7 (A) include a reason for the absence in-
8 volved and the expected duration of the leave;

9 (B) in a case in which the need for leave
10 is foreseeable at least 7 days in advance of such
11 leave, be provided at least 7 days in advance of
12 such leave; and

13 (C) otherwise, be provided as soon as prac-
14 ticable after the employee is aware of the need
15 for such leave.

16 (2) CERTIFICATION.—

17 (A) PROVISION.—

18 (i) IN GENERAL.—Subject to subpara-
19 graph (C), an employer may require that a
20 request for leave be supported by a certifi-
21 cation issued by the health care profes-
22 sional of the eligible employee or of an in-
23 dividual described in subsection (d)(3), as
24 appropriate, if the leave period covers more
25 than 3 consecutive workdays.

1 (ii) TIMELINESS.—The employee shall
2 provide a copy of such certification to the
3 employer in a timely manner, not later
4 than 30 days after the first day of the
5 leave. The employer shall not delay the
6 commencement of the leave on the basis
7 that the employer has not yet received the
8 certification.

9 (B) SUFFICIENT CERTIFICATION.—

10 (i) IN GENERAL.—A certification pro-
11 vided under subparagraph (A) shall be suf-
12 ficient if it states—

13 (I) the date on which the leave
14 will be needed;

15 (II) the probable duration of the
16 leave;

17 (III) the appropriate medical
18 facts within the knowledge of the
19 health care provider regarding the
20 condition involved, subject to clause
21 (ii); and

22 (IV)(aa) for purposes of leave
23 under subsection (d)(1), a statement
24 that leave from work is medically nec-
25 essary;

1 (bb) for purposes of leave under
2 subsection (d)(2), the dates on which
3 testing for a medical diagnosis or care
4 is expected to be given and the dura-
5 tion of such testing or care; and

6 (cc) for purposes of leave under
7 subsection (d)(3), in the case of leave
8 to care for someone who is not a
9 child, a statement that care is needed
10 for an individual described in such
11 subsection, and an estimate of the
12 amount of time that such care is
13 needed for such individual.

14 (ii) LIMITATION.—In issuing a certifi-
15 cation under subparagraph (A), a health
16 care provider shall make reasonable efforts
17 to limit the medical facts described in
18 clause (i)(III) that are disclosed in the cer-
19 tification to the minimum necessary to es-
20 tablish a need for the employee to utilize
21 paid sick leave.

22 (C) REGULATIONS.—Regulations pre-
23 scribed under section 13 shall specify the man-
24 ner in which an employee who does not have

1 health insurance shall provide a certification for
2 purposes of this paragraph.

3 (D) CONFIDENTIALITY AND NONDISCLO-
4 SURE.—

5 (i) PROTECTED HEALTH INFORMA-
6 TION.—Nothing in this Act shall be con-
7 strued to require a health care provider to
8 disclose information in violation of section
9 1177 of the Social Security Act (42 U.S.C.
10 1320d–6) or the regulations promulgated
11 pursuant to section 264(c) of the Health
12 Insurance Portability and Accountability
13 Act (42 U.S.C. 1320d–2 note).

14 (ii) HEALTH INFORMATION
15 RECORDS.—If an employer possesses
16 health information about an employee or
17 an employee’s child, parent, spouse or
18 other individual described in subsection
19 (d)(3), such information shall—

20 (I) be maintained on a separate
21 form and in a separate file from other
22 personnel information;

23 (II) be treated as a confidential
24 medical record; and

1 (III) not be disclosed except to
2 the affected employee or with the per-
3 mission of the affected employee.

4 (g) CURRENT LEAVE POLICIES.—

5 (1) EQUIVALENCY REQUIREMENT.—An em-
6 ployer with a leave policy providing paid leave op-
7 tions shall not be required to modify such policy, if
8 such policy includes provisions for the provision, use,
9 and administration of paid sick leave that meet the
10 requirements of subsections (a) through (f).

11 (2) NO ELIMINATION, REDUCTION, OR REDES-
12 IGNATION OF EXISTING LEAVE.—An employer may
13 not eliminate, reduce, or redesignate any leave in ex-
14 istence on the date of enactment of this Act in order
15 to comply with the provisions of this Act.

16 **SEC. 6. POSTING REQUIREMENT.**

17 (a) IN GENERAL.—Each employer shall post and
18 keep posted a notice, to be prepared or approved in ac-
19 cordance with procedures specified in regulations pre-
20 scribed under section 13, setting forth excerpts from, or
21 summaries of, the pertinent provisions of this Act includ-
22 ing—

23 (1) information describing leave available to
24 employees under this Act;

1 (2) information pertaining to the filing of an
2 action under this Act;

3 (3) the details of the notice requirement for
4 foreseeable leave under section 5(f)(1)(B); and

5 (4) information that describes—

6 (A) the protections that an employee has
7 in exercising rights under this Act; and

8 (B) how the employee can contact the Sec-
9 retary (or other appropriate authority as de-
10 scribed in section 8) if any of the rights are vio-
11 lated.

12 (b) LOCATION.—The notice described under sub-
13 section (a) shall be posted—

14 (1) in conspicuous places on the premises of the
15 employer, where notices to employees (including ap-
16 plicants) are customarily posted; or

17 (2) in employee handbooks.

18 (c) VIOLATION; PENALTY.—Any employer who will-
19 fully violates the posting requirements of this section shall
20 be subject to a civil fine in an amount not to exceed \$100
21 for each separate offense.

22 **SEC. 7. PROHIBITED ACTS.**

23 (a) INTERFERENCE WITH RIGHTS.—

24 (1) EXERCISE OF RIGHTS.—It shall be unlawful
25 for any employer to interfere with, restrain, or deny

1 the exercise of, or the attempt to exercise, any right
2 provided under this Act, including—

3 (A) discharging or discriminating against
4 (including retaliating against) any individual,
5 including a job applicant, for exercising, or at-
6 tempting to exercise, any right provided under
7 this Act;

8 (B) using the taking of sick leave under
9 this Act as a negative factor in an employment
10 action, such as hiring, promotion, or a discipli-
11 nary action; or

12 (C) counting the sick leave under a no-
13 fault attendance policy.

14 (2) DISCRIMINATION.—It shall be unlawful for
15 any employer to discharge or in any other manner
16 discriminate against (including retaliating against)
17 any individual, including a job applicant, for oppos-
18 ing any practice made unlawful by this Act.

19 (b) INTERFERENCE WITH PROCEEDINGS OR INQUIR-
20 IES.—It shall be unlawful for any person to discharge or
21 in any other manner discriminate against (including retali-
22 ating against) any individual, including a job applicant,
23 because such individual—

1 (1) has filed an action, or has instituted or
2 caused to be instituted any proceeding, under or re-
3 lated to this Act;

4 (2) has given, or is about to give, any informa-
5 tion in connection with any inquiry or proceeding re-
6 lating to any right provided under this Act; or

7 (3) has testified, or is about to testify, in any
8 inquiry or proceeding relating to any right provided
9 under this Act.

10 (c) CONSTRUCTION.—Nothing in this section shall be
11 construed to state or imply that the scope of the activities
12 prohibited by section 105 of the Family and Medical Leave
13 Act of 1993 (29 U.S.C. 2615) is less than the scope of
14 the activities prohibited by this section.

15 **SEC. 8. ENFORCEMENT AUTHORITY.**

16 (a) IN GENERAL.—

17 (1) DEFINITION.—In this subsection:

18 (A) the term “employee” means an em-
19 ployee described in clause (i) or (ii) of section
20 4(2)(A); and

21 (B) the term “employer” means an em-
22 ployer described in subclause (I) or (II) of sec-
23 tion 4(3)(A)(i).

24 (2) INVESTIGATIVE AUTHORITY.—

1 (A) IN GENERAL.—To ensure compliance
2 with the provisions of this Act, or any regula-
3 tion or order issued under this Act, the Sec-
4 retary shall have, subject to subparagraph (C),
5 the investigative authority provided under sec-
6 tion 11(a) of the Fair Labor Standards Act of
7 1938 (29 U.S.C. 211(a)), with respect to em-
8 ployers, employees, and other individuals af-
9 fected.

10 (B) OBLIGATION TO KEEP AND PRESERVE
11 RECORDS.—An employer shall make, keep, and
12 preserve records pertaining to compliance with
13 this Act in accordance with section 11(c) of the
14 Fair Labor Standards Act of 1938 (29 U.S.C.
15 211(c)) and in accordance with regulations pre-
16 scribed by the Secretary.

17 (C) REQUIRED SUBMISSIONS GENERALLY
18 LIMITED TO AN ANNUAL BASIS.—The Secretary
19 shall not require, under the authority of this
20 paragraph, an employer to submit to the Sec-
21 retary any books or records more than once
22 during any 12-month period, unless the Sec-
23 retary has reasonable cause to believe there
24 may exist a violation of this Act or any regula-
25 tion or order issued pursuant to this Act, or is

1 investigating a charge pursuant to paragraph
2 (4).

3 (D) SUBPOENA AUTHORITY.—For the pur-
4 poses of any investigation provided for in this
5 paragraph, the Secretary shall have the sub-
6 poena authority provided for under section 9 of
7 the Fair Labor Standards Act of 1938 (29
8 U.S.C. 209).

9 (3) CIVIL ACTION BY EMPLOYEES OR INDIVID-
10 UALS.—

11 (A) RIGHT OF ACTION.—An action to re-
12 cover the damages or equitable relief prescribed
13 in subparagraph (B) may be maintained
14 against any employer in any Federal or State
15 court of competent jurisdiction by one or more
16 employees or individuals or their representative
17 for and on behalf of—

18 (i) the employees or individuals; or
19 (ii) the employees or individuals and
20 others similarly situated.

21 (B) LIABILITY.—Any employer who vio-
22 lates section 7 (including a violation relating to
23 rights provided under section 5) shall be liable
24 to any employee or individual affected—

25 (i) for damages equal to—

1 (I) the amount of—

2 (aa) any wages, salary, em-
3 ployment benefits, or other com-
4 pensation denied or lost by rea-
5 son of the violation; or

6 (bb) in a case in which
7 wages, salary, employment bene-
8 fits, or other compensation have
9 not been denied or lost, any ac-
10 tual monetary losses sustained as
11 a direct result of the violation up
12 to a sum equal to 7 days of
13 wages or salary for the employee
14 or individual;

15 (II) the interest on the amount
16 described in subclause (I) calculated
17 at the prevailing rate; and

18 (III) an additional amount as liq-
19 uidated damages; and

20 (ii) for such equitable relief as may be
21 appropriate, including employment, rein-
22 statement, and promotion.

23 (C) FEES AND COSTS.—The court in an
24 action under this paragraph shall, in addition to
25 any judgment awarded to the plaintiff, allow a

1 reasonable attorney's fee, reasonable expert wit-
2 ness fees, and other costs of the action to be
3 paid by the defendant.

4 (4) ACTION BY THE SECRETARY.—

5 (A) ADMINISTRATIVE ACTION.—The Sec-
6 retary shall receive, investigate, and attempt to
7 resolve complaints of violations of section 7 (in-
8 cluding a violation relating to rights provided
9 under section 5) in the same manner that the
10 Secretary receives, investigates, and attempts to
11 resolve complaints of violations of sections 6
12 and 7 of the Fair Labor Standards Act of 1938
13 (29 U.S.C. 206 and 207).

14 (B) CIVIL ACTION.—The Secretary may
15 bring an action in any court of competent juris-
16 diction to recover the damages described in
17 paragraph (3)(B)(i).

18 (C) SUMS RECOVERED.—Any sums recov-
19 ered by the Secretary pursuant to subparagraph
20 (B) shall be held in a special deposit account
21 and shall be paid, on order of the Secretary, di-
22 rectly to each employee or individual affected.
23 Any such sums not paid to an employee or indi-
24 vidual affected because of inability to do so
25 within a period of 3 years shall be deposited

1 into the Treasury of the United States as mis-
2 cellaneous receipts.

3 (5) LIMITATION.—

4 (A) IN GENERAL.—Except as provided in
5 subparagraph (B), an action may be brought
6 under paragraph (3), (4), or (6) not later than
7 2 years after the date of the last event consti-
8 tuting the alleged violation for which the action
9 is brought.

10 (B) WILLFUL VIOLATION.—In the case of
11 an action brought for a willful violation of sec-
12 tion 7 (including a willful violation relating to
13 rights provided under section 5), such action
14 may be brought within 3 years of the date of
15 the last event constituting the alleged violation
16 for which such action is brought.

17 (C) COMMENCEMENT.—In determining
18 when an action is commenced under paragraph
19 (3), (4), or (6) for the purposes of this para-
20 graph, it shall be considered to be commenced
21 on the date when the complaint is filed.

22 (6) ACTION FOR INJUNCTION BY SECRETARY.—

23 The district courts of the United States shall have
24 jurisdiction, for cause shown, in an action brought
25 by the Secretary—

1 (A) to restrain violations of section 7 (in-
2 cluding a violation relating to rights provided
3 under section 5), including the restraint of any
4 withholding of payment of wages, salary, em-
5 ployment benefits, or other compensation, plus
6 interest, found by the court to be due to em-
7 ployees or individuals eligible under this Act; or

8 (B) to award such other equitable relief as
9 may be appropriate, including employment, re-
10 instatement, and promotion.

11 (7) SOLICITOR OF LABOR.—The Solicitor of
12 Labor may appear for and represent the Secretary
13 on any litigation brought under paragraph (4) or
14 (6).

15 (8) GOVERNMENT ACCOUNTABILITY OFFICE
16 AND LIBRARY OF CONGRESS.—Notwithstanding any
17 other provision of this subsection, in the case of the
18 Government Accountability Office and the Library of
19 Congress, the authority of the Secretary of Labor
20 under this subsection shall be exercised respectively
21 by the Comptroller General of the United States and
22 the Librarian of Congress.

23 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-
24 COUNTABILITY ACT OF 1995.—The powers, remedies, and
25 procedures provided in the Congressional Accountability

1 Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as de-
2 fined in section 101 of that Act (2 U.S.C. 1301)), or any
3 person, alleging a violation of section 202(a)(1) of that
4 Act (2 U.S.C. 1312(a)(1)) shall be the powers, remedies,
5 and procedures this Act provides to that Board, or any
6 person, alleging an unlawful employment practice in viola-
7 tion of this Act against an employee described in section
8 4(2)(A)(iii).

9 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE
10 3, UNITED STATES CODE.—The powers, remedies, and
11 procedures provided in chapter 5 of title 3, United States
12 Code, to the President, the Merit Systems Protection
13 Board, or any person, alleging a violation of section
14 412(a)(1) of that title, shall be the powers, remedies, and
15 procedures this Act provides to the President, that Board,
16 or any person, respectively, alleging an unlawful employ-
17 ment practice in violation of this Act against an employee
18 described in section 4(2)(A)(iv).

19 (d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE
20 5, UNITED STATES CODE.—The powers, remedies, and
21 procedures provided in title 5, United States Code, to an
22 employing agency, provided in chapter 12 of that title to
23 the Merit Systems Protection Board, or provided in that
24 title to any person, alleging a violation of chapter 63 of
25 that title, shall be the powers, remedies, and procedures

1 this Act provides to that agency, that Board, or any per-
2 son, respectively, alleging an unlawful employment prac-
3 tice in violation of this Act against an employee described
4 in section 4(2)(A)(v).

5 **SEC. 9. COLLECTION OF DATA ON PAID SICK DAYS AND**
6 **FURTHER STUDY.**

7 (a) COMPILATION OF INFORMATION.—Effective 90
8 days after the date of enactment of this Act, the Commis-
9 sioner of Labor Statistics shall annually compile informa-
10 tion on the following:

11 (1) The number of employees who used paid
12 sick leave.

13 (2) The number of hours of the paid sick leave
14 used.

15 (3) The demographic characteristics of employ-
16 ees who were eligible for and who used the paid sick
17 leave.

18 (b) GAO STUDY.—

19 (1) IN GENERAL.—The Comptroller General of
20 the United States shall annually conduct a study to
21 determine the following:

22 (A)(i) The number of days employees used
23 paid sick leave and the reasons for the use.

1 (ii) The number of employees who used the
2 paid sick leave for leave periods covering more
3 than 3 consecutive workdays.

4 (B) Whether employees used the paid sick
5 leave to care for illnesses or conditions caused
6 by domestic violence against the employees or
7 their family members.

8 (C) The cost and benefits to employers of
9 implementing the paid sick leave policies.

10 (D) The cost to employees of providing
11 certification issued by a health care provider to
12 obtain the paid sick leave.

13 (E) The benefits of the paid sick leave to
14 employees and their family members, including
15 effects on employees' ability to care for their
16 family members or to provide for their own
17 health needs.

18 (F) Whether the paid sick leave affected
19 employees' ability to sustain an adequate in-
20 come while meeting health needs of the employ-
21 ees and their family members.

22 (G) Whether employers who administered
23 paid sick leave policies prior to the date of en-
24 actment of this Act were affected by the provi-
25 sions of this Act.

1 (H) Whether other types of leave were af-
2 fected by this Act.

3 (I) Whether paid sick leave affected reten-
4 tion and turnover and costs of presenteeism.

5 (J) Whether the paid sick leave increased
6 the use of less costly preventive medical care
7 and lowered the use of emergency room care.

8 (K) Whether the paid sick leave reduced
9 the number of children sent to school when the
10 children were sick.

11 (2) AGGREGATING DATA.—The data collected
12 under subparagraphs (A), (B), and (E) of paragraph
13 (1) shall be aggregated by gender, race, disability,
14 earnings level, age, marital status, and family type,
15 including parental status.

16 (3) REPORTS.—

17 (A) IN GENERAL.—Not later than 18
18 months after the date of enactment of this Act,
19 the Comptroller General of the United States
20 shall prepare and submit a report to the appro-
21 priate committees of Congress concerning the
22 results of the study conducted pursuant to
23 paragraph (1) and the data aggregated under
24 paragraph (2).

1 (B) FOLLOWUP REPORT.—Not later than 5
2 years after the date of enactment of this Act
3 the Comptroller General of the United States
4 shall prepare and submit a followup report to
5 the appropriate committees of Congress con-
6 cerning the results of the study conducted pur-
7 suant to paragraph (1) and the data aggregated
8 under paragraph (2).

9 **SEC. 10. EFFECT ON OTHER LAWS.**

10 (a) FEDERAL AND STATE ANTIDISCRIMINATION
11 LAWS.—Nothing in this Act shall be construed to modify
12 or affect any Federal or State law prohibiting discrimina-
13 tion on the basis of race, religion, color, national origin,
14 sex, age, or disability.

15 (b) STATE AND LOCAL LAWS.—Nothing in this Act
16 shall be construed to supersede any provision of any State
17 or local law that provides greater paid sick leave or other
18 leave rights than the rights established under this Act.

19 **SEC. 11. EFFECT ON EXISTING EMPLOYMENT BENEFITS.**

20 (a) MORE PROTECTIVE.—Nothing in this Act shall
21 be construed to diminish the obligation of an employer to
22 comply with any contract, collective bargaining agreement,
23 or any employment benefit program or plan that provides
24 greater paid sick leave rights to employees or individuals
25 than the rights established under this Act.

1 (b) LESS PROTECTIVE.—The rights established for
2 employees under this Act shall not be diminished by any
3 contract, collective bargaining agreement, or any employ-
4 ment benefit program or plan.

5 **SEC. 12. ENCOURAGEMENT OF MORE GENEROUS LEAVE**
6 **POLICIES.**

7 Nothing in this Act shall be construed to discourage
8 employers from adopting or retaining leave policies more
9 generous than policies that comply with the requirements
10 of this Act.

11 **SEC. 13. REGULATIONS.**

12 (a) IN GENERAL.—

13 (1) AUTHORITY.—Except as provided in para-
14 graph (2), not later than 120 days after the date of
15 enactment of this Act, the Secretary shall prescribe
16 such regulations as are necessary to carry out this
17 Act with respect to employees described in clause (i)
18 or (ii) of section 4(2)(A) and other individuals af-
19 fected by employers described in subclause (I) or
20 (II) of section 4(3)(A)(i).

21 (2) GOVERNMENT ACCOUNTABILITY OFFICE; LI-
22 BRARY OF CONGRESS.—The Comptroller General of
23 the United States and the Librarian of Congress
24 shall prescribe the regulations with respect to em-
25 ployees of the Government Accountability Office and

1 the Library of Congress, respectively and other indi-
2 viduals affected by the Comptroller General of the
3 United States and the Librarian of Congress, re-
4 spectively.

5 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-
6 COUNTABILITY ACT OF 1995.—

7 (1) AUTHORITY.—Not later than 120 days
8 after the date of enactment of this Act, the Board
9 of Directors of the Office of Compliance shall pre-
10 scribe (in accordance with section 304 of the Con-
11 gressional Accountability Act of 1995 (2 U.S.C.
12 1384)) such regulations as are necessary to carry
13 out this Act with respect to employees described in
14 section 4(2)(A)(iii) and other individuals affected by
15 employers described in section 4(3)(A)(i)(III).

16 (2) AGENCY REGULATIONS.—The regulations
17 prescribed under paragraph (1) shall be the same as
18 substantive regulations promulgated by the Sec-
19 retary to carry out this Act except insofar as the
20 Board may determine, for good cause shown and
21 stated together with the regulations prescribed
22 under paragraph (1), that a modification of such
23 regulations would be more effective for the imple-
24 mentation of the rights and protections involved
25 under this section.

1 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE
2 3, UNITED STATES CODE.—

3 (1) AUTHORITY.—Not later than 120 days
4 after the date of enactment of this Act, the Presi-
5 dent (or the designee of the President) shall pre-
6 scribe such regulations as are necessary to carry out
7 this Act with respect to employees described in sec-
8 tion 4(2)(A)(iv) and other individuals affected by
9 employers described in section 4(3)(A)(i)(IV).

10 (2) AGENCY REGULATIONS.—The regulations
11 prescribed under paragraph (1) shall be the same as
12 substantive regulations promulgated by the Sec-
13 retary to carry out this Act except insofar as the
14 President (or designee) may determine, for good
15 cause shown and stated together with the regula-
16 tions prescribed under paragraph (1), that a modi-
17 fication of such regulations would be more effective
18 for the implementation of the rights and protections
19 involved under this section.

20 (d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE
21 5, UNITED STATES CODE.—

22 (1) AUTHORITY.—Not later than 120 days
23 after the date of enactment of this Act, the Director
24 of the Office of Personnel Management shall pre-
25 scribe such regulations as are necessary to carry out

1 this Act with respect to employees described in sec-
2 tion 4(2)(A)(v) and other individuals affected by em-
3 ployers described in section 4(3)(A)(i)(V).

4 (2) AGENCY REGULATIONS.—The regulations
5 prescribed under paragraph (1) shall be the same as
6 substantive regulations promulgated by the Sec-
7 retary to carry out this Act except insofar as the Di-
8 rector may determine, for good cause shown and
9 stated together with the regulations prescribed
10 under paragraph (1), that a modification of such
11 regulations would be more effective for the imple-
12 mentation of the rights and protections involved
13 under this section.

14 **SEC. 14. EFFECTIVE DATES.**

15 (a) IN GENERAL.—This Act shall take effect 1 year
16 after the date of issuance of regulations under section
17 13(a)(1).

18 (b) COLLECTIVE BARGAINING AGREEMENTS.—In the
19 case of a collective bargaining agreement in effect on the
20 effective date prescribed by subsection (a), this Act shall
21 take effect on the earlier of—

22 (1) the date of the termination of such agree-
23 ment; or

1 (2) the date that occurs 18 months after the
2 date of issuance of regulations under section
3 13(a)(1).

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