

112TH CONGRESS  
1ST SESSION

# S. 1358

To amend the Family and Medical Leave Act of 1993 to provide leave because of the death of a son or daughter.

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IN THE SENATE OF THE UNITED STATES

JULY 13, 2011

Mr. TESTER introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Family and Medical Leave Act of 1993 to provide leave because of the death of a son or daughter.

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 “Parental Bereavement  
5       Act of 2011”.

6       **SEC. 2. FAMILY LEAVE BECAUSE OF THE DEATH OF A SON**  
7       **OR DAUGHTER.**

8       (a) FAMILY LEAVE.—

9               (1) ENTITLEMENT TO LEAVE.—Section  
10       102(a)(1) of the Family and Medical Leave Act of

1 1993 (29 U.S.C. 2612(a)(1)) is amended by adding  
2 at the end the following new subparagraph:

3 “(F) Because of the death of a son or  
4 daughter.”.

5 (2) REQUIREMENTS RELATING TO LEAVE.—

6 (A) SCHEDULE.—Section 102(b)(1) of  
7 such Act (29 U.S.C. 2612(b)(1)) is amended by  
8 inserting after the third sentence the following  
9 new sentence: “Leave under subsection  
10 (a)(1)(F) shall not be taken by an employee  
11 intermittently or on a reduced leave schedule  
12 unless the employee and the employer of the  
13 employee agree otherwise.”.

14 (B) SUBSTITUTION OF PAID LEAVE.—Sec-  
15 tion 102(d)(2)(B) of such Act (29 U.S.C.  
16 2612(d)(2)(B)) is amended, in the first sen-  
17 tence, by striking “(C) or (D)” and inserting  
18 “(C), (D), or (F)”.

19 (C) NOTICE.—Section 102(e) of such Act  
20 (29 U.S.C. 2612(e)) is amended by adding at  
21 the end the following new paragraph:

22 “(4) NOTICE FOR LEAVE DUE TO DEATH OF A  
23 SON OR DAUGHTER.—In any case in which the ne-  
24 cessity for leave under subsection (a)(1)(F) is fore-

1 seeable, the employee shall provide such notice to the  
2 employer as is reasonable and practicable.”.

3 (D) SPOUSES EMPLOYED BY SAME EM-  
4 PLOYER.—Section 102(f)(1)(A) of such Act (29  
5 U.S.C. 2612(f)(1)(A)) is amended by striking  
6 “subparagraph (A) or (B)” and inserting “sub-  
7 paragraph (A), (B), or (F)”.

8 (E) CERTIFICATION REQUIREMENTS.—  
9 Section 103 of such Act (29 U.S.C. 2613) is  
10 amended by adding at the end the following:

11 “(g) CERTIFICATION RELATED TO THE DEATH OF  
12 A SON OR DAUGHTER.—An employer may require that a  
13 request for leave under section 102(a)(1)(F) be supported  
14 by a certification issued at such time and in such manner  
15 as the Secretary may by regulation prescribe. If the Sec-  
16 retary issues a regulation requiring such certification, the  
17 employee shall provide, in a timely manner, a copy of such  
18 certification to the employer.”.

19 (F) FAILURE TO RETURN FROM LEAVE.—  
20 Section 104(c) of such Act (29 U.S.C. 2614(c))  
21 is amended—

22 (i) in paragraph (2)(B)(i), by insert-  
23 ing before the semicolon the following: “,  
24 or a death that entitles the employee to  
25 leave under section 102(a)(1)(F)”;

1 (ii) in paragraph (3)(A)—

2 (I) in the matter preceding clause  
3 (i), by inserting “, or the death,” be-  
4 fore “described”;

5 (II) in clause (ii), by striking  
6 “or” at the end;

7 (III) by redesignating clause (iii)  
8 as clause (iv); and

9 (IV) by inserting after clause (ii)  
10 the following:

11 “(iii) a certification that meets such  
12 requirements as the Secretary may by reg-  
13 ulation prescribe, in the case of an em-  
14 ployee unable to return to work because of  
15 a death specified in section 102(a)(1)(F);  
16 or”.

17 (G) EMPLOYEES OF LOCAL EDUCATIONAL  
18 AGENCIES.—Section 108 of such Act (29  
19 U.S.C. 2618) is amended—

20 (i) in subsection (c)—

21 (I) in paragraph (1)—

22 (aa) in the matter preceding  
23 subparagraph (A), by inserting  
24 after “medical treatment” the  
25 following: “, or under section

1 102(a)(1)(F) that is foresee-  
2 able,”; and

3 (bb) in subparagraph (A),  
4 by inserting after “to exceed” the  
5 following: “(except in the case of  
6 leave under section  
7 102(a)(1)(F))”; and

8 (II) in paragraph (2), by striking  
9 “section 102(e)(2)” and inserting  
10 “paragraphs (2) and (4) of section  
11 102(e), as applicable”; and

12 (ii) in subsection (d), in paragraph (2)  
13 and (3), by striking “or (C)” each place it  
14 appears and inserting “(C), or (F)”.

15 (b) FAMILY LEAVE FOR CIVIL SERVICE EMPLOY-  
16 EES.—

17 (1) ENTITLEMENT TO LEAVE.—Section  
18 6382(a)(1) of title 5, United States Code, is amend-  
19 ed by adding at the end the following:

20 “(F) Because of the death of a son or daugh-  
21 ter.”.

22 (2) REQUIREMENTS RELATING TO LEAVE.—

23 (A) SCHEDULE.—Section 6382(b)(1) of  
24 such title is amended by inserting after the  
25 third sentence the following new sentence:

1           “Leave under subsection (a)(1)(F) shall not be  
2           taken by an employee intermittently or on a re-  
3           duced leave schedule unless the employee and  
4           the employing agency of the employee agree  
5           otherwise.”.

6                   (B) SUBSTITUTION OF PAID LEAVE.—Sec-  
7           tion 6382(d) of such title is amended, in the  
8           first sentence, by striking “or (E)” and insert-  
9           ing “(E), or (F)”.

10                   (C) NOTICE.—Section 6382(e) of such title  
11           is amended by adding at the end the following  
12           new paragraph:

13           “(4) In any case in which the necessity for leave  
14           under subsection (a)(1)(F) is foreseeable, the employee  
15           shall provide such notice to the employing agency as is  
16           reasonable and practicable.”.

17                   (D) CERTIFICATION REQUIREMENTS.—  
18           Section 6383 of such title is amended by adding  
19           at the end the following:

20           “(g) An employing agency may require that a request  
21           for leave under section 6382(a)(1)(F) be supported by a  
22           certification issued at such time and in such manner as  
23           the Office of Personnel Management may by regulation  
24           prescribe. If the Office issues a regulation requiring such

1 certification, the employee shall provide, in a timely man-  
2 ner, a copy of such certification to the employer.”.

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