

116TH CONGRESS  
2D SESSION

# H. R. 6220

To amend the Family and Medical Leave Act of 1993 to provide for leave with respect to a public health emergency, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 2020

Mr. SCOTT of Virginia (for himself, Ms. ADAMS, Mr. TAKANO, and Mrs. LEE of Nevada) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committees on Oversight and Reform, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Family and Medical Leave Act of 1993 to provide for leave with respect to a public health emergency, 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 “Emergency Family and  
5 Medical Leave Expansion Act”.

1 **SEC. 2. AMENDMENTS TO THE FAMILY AND MEDICAL**  
2 **LEAVE ACT OF 1993.**

3 (a) **PUBLIC HEALTH EMERGENCY LEAVE.**—Section  
4 102(a)(1) of the Family and Medical Leave Act of 1993  
5 (29 U.S.C. 2612(a)(1)) is amended by adding at the end  
6 the following:

7 “(F) During the 2-year period beginning  
8 on the date of the enactment of the Emergency  
9 Family and Medical Leave Expansion Act, be-  
10 cause of a qualifying need related to a public  
11 health emergency in accordance with section  
12 110.”.

13 (b) **REQUIREMENTS.**—Title I of the Family and Med-  
14 ical Leave Act of 1993 (29 U.S.C. 2611 et seq.) is amend-  
15 ed by adding at the end the following:

16 **“SEC. 110. PUBLIC HEALTH EMERGENCY LEAVE.**

17 “(a) **DEFINITIONS.**—The following shall apply with  
18 respect to leave under section 102(a)(1)(F):

19 “(1) **APPLICATION OF CERTAIN TERMS.**—The  
20 definitions in section 101 shall apply, except as fol-  
21 lows:

22 “(A) **ELIGIBLE EMPLOYEE.**—In lieu of the  
23 definition in section 101(4)(A), the term ‘eligi-  
24 ble employee’ means an employee who has been  
25 employed for at least 30 days by the employer

1 with respect to whom leave is requested under  
2 section 102(a)(1)(F).

3 “(B) EMPLOYER THRESHOLD.—Section  
4 101(4)(A)(i) shall be applied by substituting ‘1  
5 or more employees’ for ‘50 or more employees  
6 for each working day during each of 20 or more  
7 calendar workweeks in the current or preceding  
8 calendar year’.

9 “(C) PARENT.—In lieu of the definition in  
10 section 101(7), the term ‘parent’, with respect  
11 to an employee, means any of the following:

12 “(i) A biological, foster, or adoptive  
13 parent of the employee.

14 “(ii) A stepparent of the employee.

15 “(iii) A parent-in-law of the employee.

16 “(iv) A parent of a domestic partner  
17 of the employee.

18 “(v) A legal guardian or other person  
19 who stood in loco parentis to an employee  
20 when the employee was a child.

21 “(2) ADDITIONAL DEFINITIONS.—In addition to  
22 the definitions described in paragraph (1), the fol-  
23 lowing definitions shall apply with respect to leave  
24 under section 102(a)(1)(F):

1           “(A) QUALIFYING NEED RELATED TO A  
2 PUBLIC HEALTH EMERGENCY.—The term  
3 ‘qualifying need related to a public health emer-  
4 gency’, with respect to leave, means the em-  
5 ployee has a need for leave for one of the fol-  
6 lowing:

7           “(i) To comply with a recommenda-  
8 tion or order by a public official having ju-  
9 risdiction or a health care provider on the  
10 basis that—

11           “(I) the physical presence of the  
12 employee on the job would jeopardize  
13 the health of others because of—

14           “(aa) the exposure of the  
15 employee to coronavirus; or

16           “(bb) exhibition of symp-  
17 toms of coronavirus by the em-  
18 ployee; and

19           “(II) the employee is unable to  
20 both perform the functions of the po-  
21 sition of such employee and comply  
22 with such recommendation or order.

23           “(ii) To care for a family member of  
24 an eligible employee with respect to whom  
25 a public official having jurisdiction or a

1 health care provider makes a determina-  
2 tion that the presence of the family mem-  
3 ber in the community would jeopardize the  
4 health of other individuals in the commu-  
5 nity because of—

6 “(I) the exposure of such family  
7 member to coronavirus; or

8 “(II) exhibition of symptoms of  
9 coronavirus by such family member.

10 “(iii) To care for the son or daughter  
11 of such employee if the school or place of  
12 care has been closed, or the child care pro-  
13 vider of such son or daughter is unavail-  
14 able, due to a public health emergency.

15 “(B) PUBLIC HEALTH EMERGENCY.—The  
16 term ‘public health emergency’ means an emer-  
17 gency with respect to coronavirus declared by a  
18 Federal, State, or local authority.

19 “(C) CHILD CARE PROVIDER.—The term  
20 ‘child care provider’ means a provider who re-  
21 ceives compensation for providing child care  
22 services on a regular basis, including an ‘eligible  
23 child care provider’ (as defined in section 658P  
24 of the Child Care and Development Block  
25 Grant Act of 1990 (42 U.S.C. 9858n)).

1           “(D) CORONAVIRUS.—The term ‘coronavi-  
2 rus’ has the meaning given the term in section  
3 506 of the Coronavirus Preparedness and Re-  
4 sponse Supplemental Appropriations Act, 2020.

5           “(E) SCHOOL.—The term ‘school’ means  
6 an ‘elementary school’ or ‘secondary school’ as  
7 such terms are defined in section 8101 of the  
8 Elementary and Secondary Education Act of  
9 1965 (20 U.S.C. 7801).

10           “(F) FAMILY.—The term ‘family member’,  
11 with respect to an employee, means any of the  
12 following:

13                   “(i) A parent of the employee.

14                   “(ii) A spouse of the employee.

15                   “(iii) A sibling of the employee.

16                   “(iv) Next of kin of the employee or  
17 a person for whom the employee is next of  
18 kin.

19                   “(v) A son or daughter of the em-  
20 ployee.

21                   “(vi) A grandparent or grandchild of  
22 the employee.

23           “(b) LEAVE TAKEN INTERMITTENTLY OR ON A RE-  
24 DUCED WORK SCHEDULE.—

1           “(1) IN GENERAL.—Subject to paragraph (2),  
2           leave taken under section 102(a)(1)(F) may not be  
3           taken intermittently or on a reduced work schedule.

4           “(2) CARE FOR SON OR DAUGHTER.—Para-  
5           graph (1) shall not apply with respect to leave taken  
6           for the purpose described in subsection (a)(2)(A)(iii)  
7           if the son or daughter of the employee with respect  
8           to whom the subsection applies has not been exposed  
9           to coronavirus.

10          “(c) RELATIONSHIP TO PAID LEAVE.—

11           “(1) IN GENERAL.—An employee may elect to  
12           substitute any of the accrued vacation leave, per-  
13           sonal leave, or medical or sick leave for leave under  
14           section 102(a)(1)(F) in accordance with section  
15           102(d)(2)(B).

16           “(2) EMPLOYER REQUIREMENT.—An employer  
17           may not require an employee to substitute any leave  
18           as described in paragraph (1) for leave under section  
19           102(a)(1)(F).

20          “(d) NOTICE.—In any case where the necessity for  
21           leave under section 102(a)(1)(F) for the purpose described  
22           in subsection (a)(2)(A)(iii) is foreseeable, an employee  
23           shall provide the employer with such notice of leave as is  
24           practicable.

25          “(e) CERTIFICATION.—

1           “(1) IN GENERAL.—An employer may require  
2           that a request for leave under section 102(a)(1)(F)  
3           be supported by documentation described in para-  
4           graph (2). An employer may not require such docu-  
5           mentation until not later than 3 weeks after the date  
6           on which the employee takes such leave.

7           “(2) SUFFICIENT CERTIFICATION.—The fol-  
8           lowing documentation shall be sufficient certifi-  
9           cation:

10           “(A) With respect to leave taken for the  
11           purposes described in clause (i) or (ii) of sub-  
12           section (a)(2)(A)—

13           “(i) a recommendation or order from  
14           a public official having jurisdiction or a  
15           health care provider that the relevant indi-  
16           vidual has symptoms of coronavirus or  
17           should be quarantined; or

18           “(ii) documentation or evidence that  
19           the relevant individual has been exposed to  
20           coronavirus.

21           “(B) With respect to leave taken for the  
22           purposes described in clause (iii) of subsection  
23           (a)(2)(A), notice from the school, place of care,  
24           or child care provider of the son or daughter of  
25           the employee of closure or unavailability.

1 “(f) RESTORATION TO POSITION.—

2 “(1) IN GENERAL.—Section 104(a)(1) shall not  
3 apply with respect to an employee of an employer  
4 who employs fewer than 25 employees if the condi-  
5 tions described in paragraph (2) are met.

6 “(2) CONDITIONS.—The conditions described in  
7 this paragraph are the following:

8 “(A) The employee takes leave under sec-  
9 tion 102(a)(1)(F).

10 “(B) The position held by the employee  
11 when the leave commenced does not exist due to  
12 economic conditions or other changes in oper-  
13 ating conditions of the employer—

14 “(i) that affect employment; and

15 “(ii) are caused by a public health  
16 emergency during the period of leave.

17 “(C) The employer makes reasonable ef-  
18 forts to restore the employee to a position  
19 equivalent to the position the employee held  
20 when the leave commenced, with equivalent em-  
21 ployment benefits, pay, and other terms and  
22 conditions of employment.

23 “(D) If the reasonable efforts of the em-  
24 ployer under subparagraph (C) fail, the em-  
25 ployer makes reasonable efforts during the pe-

1           riod described in paragraph (3) to contact the  
2           employee if an equivalent position described in  
3           subparagraph (C) becomes available.

4           “(3) CONTACT PERIOD.—The period described  
5           under this paragraph is the 1-year period beginning  
6           on the earlier of—

7                     “(A) the date on which the qualifying need  
8                     related to a public health emergency concludes;  
9                     or

10                    “(B) the date that is 12 weeks after the  
11                    date on which the employee’s leave under sec-  
12                    tion 102(a)(1)(F) commences.”.

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