

116TH CONGRESS
2D SESSION

S. 3415

To allow Americans to earn paid sick time so that they can address their own health needs and the health needs of their families.

IN THE SENATE OF THE UNITED STATES

MARCH 5, 2020

Mrs. MURRAY (for herself, Mr. SCHUMER, Mr. DURBIN, Mr. HEINRICH, Mr. VAN HOLLEN, and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To allow Americans to earn paid sick time so that they 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 “Paid Sick Days for
5 Public Health Emergencies and Personal and Family Care
6 Act”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

1 (1) CHILD.—The term “child” means a biological,
2 cal, foster, or adopted child, a stepchild, a child of
3 a domestic partner, a legal ward, or a child of a person
4 standing in loco parentis.

5 (2) DOMESTIC PARTNER.—

6 (A) IN GENERAL.—The term “domestic
7 partner”, with respect to an individual, means
8 another individual with whom the individual is
9 in a committed relationship.

10 (B) COMMITTED RELATIONSHIP DEFINED.—The term “committed relationship”
11 means a relationship between 2 individuals,
12 each at least 18 years of age, in which each individual
13 is the other individual’s sole domestic
14 partner and both individuals share responsibility
15 for a significant measure of each other’s
16 common welfare. The term includes any such
17 relationship between 2 individuals, including individuals
18 of the same sex, that is granted legal
19 recognition by a State or political subdivision of
20 a State as a marriage or analogous relationship,
21 including a civil union or domestic partnership.

22 (3) DOMESTIC VIOLENCE.—The term “domestic
23 violence” has the meaning given the term in section
24 40002(a) of the Violence Against Women Act of
25

1 1994 (34 U.S.C. 12291(a)), except that the ref-
2 erence in such section to the term “jurisdiction re-
3 ceiving grant monies” shall be deemed to mean the
4 jurisdiction in which the victim lives or the jurisdic-
5 tion in which the employer involved is located. Such
6 term also includes dating violence, as that term is
7 defined in such section.

8 (4) EMPLOYEE.—The term “employee” means
9 an individual who is—

10 (A)(i) an employee, as defined in section
11 3(e) of the Fair Labor Standards Act of 1938
12 (29 U.S.C. 203(e)), who is not covered under
13 subparagraph (E), including such an employee
14 of the Library of Congress, except that a ref-
15 erence in such section to an employer shall be
16 considered to be a reference to an employer de-
17 scribed in clauses (i)(I) and (ii) of paragraph
18 (5)(A); or

19 (ii) an employee of the Government Ac-
20 countability Office;

21 (B) a State employee described in section
22 304(a) of the Government Employee Rights Act
23 of 1991 (42 U.S.C. 2000e–16c(a));

24 (C) a covered employee, as defined in sec-
25 tion 101 of the Congressional Accountability

1 Act of 1995 (2 U.S.C. 1301), other than an ap-
2 plicant for employment;

3 (D) a covered employee, as defined in sec-
4 tion 411(c) of title 3, United States Code; or

5 (E) a Federal officer or employee covered
6 under subchapter V of chapter 63 of title 5,
7 United States Code.

8 (5) EMPLOYER.—

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

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

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

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

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

23 (V) an employing agency covered
24 under subchapter V of chapter 63 of title
25 5, United States Code; and

1 (ii) engaged in commerce (including
2 government), or an industry or activity af-
3 fecting commerce (including government),
4 as defined in subparagraph (B)(iii).

5 (B) COVERED EMPLOYER.—

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

8 (I) means any person engaged in
9 commerce or in any industry or activ-
10 ity affecting commerce who employs 1
11 or more employees;

12 (II) includes—

13 (aa) any person who acts,
14 directly or indirectly, in the inter-
15 est of an employer to any of the
16 employees of such employer; and

17 (bb) any successor in inter-
18 est of an employer;

19 (III) includes any “public agen-
20 cy”, as defined in section 3(x) of the
21 Fair Labor Standards Act of 1938
22 (29 U.S.C. 203(x)); and

23 (IV) includes the Government
24 Accountability Office and the Library
25 of Congress.

1 (ii) PUBLIC AGENCY.—For purposes
2 of clause (i)(IV), a public agency shall be
3 considered to be a person engaged in com-
4 merce or in an industry or activity affect-
5 ing commerce.

6 (iii) DEFINITIONS.—For purposes of
7 this subparagraph:

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

20 (II) EMPLOYEE.—The term “em-
21 ployee” has the same meaning given
22 such term in section 3(e) of the Fair
23 Labor Standards Act of 1938 (29
24 U.S.C. 203(e)).

1 (III) PERSON.—The term “per-
 2 son” has the same meaning given
 3 such term in section 3(a) of the Fair
 4 Labor Standards Act of 1938 (29
 5 U.S.C. 203(a)).

6 (C) PREDECESSORS.—Any reference in
 7 this paragraph to an employer shall include a
 8 reference to any predecessor of such employer.

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

20 (7) HEALTH CARE PROVIDER.—The term
 21 “health care provider” means a provider who—

22 (A)(i) is a doctor of medicine or osteopathy
 23 who is authorized to practice medicine or sur-
 24 gery (as appropriate) by the State in which the
 25 doctor practices; or

1 (ii) is any other person determined by the
2 Secretary to be capable of providing health care
3 services; and

4 (B) is not employed by an employer for
5 whom the provider issues certification under
6 this Act.

7 (8) PAID SICK TIME.—The term “paid sick
8 time” means an increment of compensated leave
9 that—

10 (A) can be—

11 (i) earned by an employee for use dur-
12 ing an absence from employment for a rea-
13 son described in any paragraph of section
14 3(b); or

15 (ii) provided by an employer during a
16 public health emergency for use during an
17 absence from employment for a reason de-
18 scribed in any paragraph of section 3(b);
19 and

20 (B) is compensated at a rate that is not
21 less than the greatest of—

22 (i) the employee’s regular rate of pay;

23 (ii) the minimum wage rate provided
24 for in section 6(a)(1) of the Fair Labor

1 Standards Act of 1938 (29 U.S.C.
2 206(a)(1)); or

3 (iii) the minimum wage rate provided
4 for in the applicable State or local law for
5 the State or locality in which the employee
6 is employed.

7 (9) PARENT.—The term “parent” means a bio-
8 logical, foster, or adoptive parent of an employee, a
9 stepparent of an employee, parent-in-law, parent of
10 a domestic partner, or a legal guardian or other per-
11 son who stood in loco parentis to an employee when
12 the employee was a child.

13 (10) PUBLIC HEALTH EMERGENCY.—The term
14 “public health emergency” means a public health
15 emergency declared by the Secretary of Health and
16 Human Services for a jurisdiction, or by a State
17 public health official with authority to declare such
18 an emergency for the State or jurisdiction within the
19 State.

20 (11) SECRETARY.—The term “Secretary”
21 means the Secretary of Labor.

22 (12) SEXUAL ASSAULT.—The term “sexual as-
23 sault” has the meaning given the term in section
24 40002(a) of the Violence Against Women Act of
25 1994 (34 U.S.C. 12291(a)).

1 (13) SPOUSE.—The term “spouse”, with re-
2 spect to an employee, has the meaning given such
3 term by the marriage laws of the State in which the
4 marriage was celebrated.

5 (14) STALKING.—The term “stalking” has the
6 meaning given the term in section 40002(a) of the
7 Violence Against Women Act of 1994 (34 U.S.C.
8 12291(a)).

9 (15) STATE.—The term “State” has the mean-
10 ing given the term in section 3 of the Fair Labor
11 Standards Act of 1938 (29 U.S.C. 203).

12 (16) VICTIM SERVICES ORGANIZATION.—The
13 term “victim services organization” means a non-
14 profit, nongovernmental organization that provides
15 assistance to victims of domestic violence, sexual as-
16 sault, or stalking or advocates for such victims, in-
17 cluding a rape crisis center, an organization carrying
18 out a domestic violence, sexual assault, or stalking
19 prevention or treatment program, an organization
20 operating a shelter or providing counseling services,
21 or a legal services organization or other organization
22 providing assistance through the legal process.

23 **SEC. 3. PAID SICK TIME.**

24 (a) EARNING OF PAID SICK TIME.—

1 (1) IN GENERAL.—Subject to subsection (c), an
2 employer shall provide each employee employed by
3 the employer not less than 1 hour of earned paid
4 sick time for every 30 hours worked, to be used as
5 described in subsection (b). An employer shall not be
6 required to permit an employee to earn, under this
7 subsection, more than 56 hours of paid sick time in
8 a year, unless the employer chooses to set a higher
9 limit.

10 (2) EXEMPT EMPLOYEES.—

11 (A) IN GENERAL.—Except as provided in
12 paragraph (3), for purposes of this subsection,
13 an employee who is exempt from overtime re-
14 quirements under section 13(a)(1) of the Fair
15 Labor Standards Act of 1938 (29 U.S.C.
16 213(a)(1)) shall be assumed to work 40 hours
17 in each workweek.

18 (B) SHORTER NORMAL WORKWEEK.—If
19 the normal workweek of such an employee is
20 less than 40 hours, the employee shall earn
21 paid sick time under this subsection based upon
22 that normal workweek.

23 (3) DATES FOR BEGINNING TO EARN PAID SICK
24 TIME AND USE.—

1 (A) IN GENERAL.—Employees shall begin
2 to earn paid sick time under this subsection at
3 the commencement of their employment. An
4 employee shall be entitled to use the earned
5 paid sick time beginning on the 60th calendar
6 day following commencement of the employee’s
7 employment. After that 60th calendar day, the
8 employee may use the paid sick time as the
9 time is earned. An employer may, at the discre-
10 tion of the employer, loan paid sick time to an
11 employee for use by such employee in advance
12 of the employee earning such sick time as pro-
13 vided in this subsection and may permit use be-
14 fore the 60th day of employment.

15 (B) PUBLIC HEALTH EMERGENCY.—Sub-
16 paragraph (A) shall not apply with respect to
17 additional paid sick time provided under sub-
18 section (c). In the event of a public health
19 emergency, an employee may immediately use
20 the additional or accrued paid sick time de-
21 scribed in subsection (c), regardless of how long
22 the employee has been employed by an em-
23 ployer.

24 (4) CARRYOVER.—

1 (A) IN GENERAL.—Except as provided in
2 subparagraph (B), paid sick time earned under
3 this subsection shall carry over from 1 year to
4 the next.

5 (B) CONSTRUCTION.—This subsection
6 shall not be construed to require an employer to
7 permit an employee to earn more than 56 hours
8 of earned paid sick time at a given time.

9 (5) EMPLOYERS WITH EXISTING POLICIES.—
10 Any employer with a paid leave policy who makes
11 available an amount of paid leave that is sufficient
12 to meet the requirements of this subsection and that
13 may be used for the same purposes and under the
14 same conditions as the purposes and conditions out-
15 lined in subsection (b) shall not be required to per-
16 mit an employee to earn more paid sick time under
17 this subsection.

18 (6) CONSTRUCTION.—Nothing in this section
19 shall be construed as requiring financial or other re-
20 imbursement to an employee from an employer upon
21 the employee's termination, resignation, retirement,
22 or other separation from employment for earned
23 paid sick time that has not been used.

24 (7) REINSTATEMENT.—If an employee is sepa-
25 rated from employment with an employer and is re-

1 hired, within 12 months after that separation, by the
2 same employer, the employer shall reinstate the em-
3 ployee's previously earned paid sick time under this
4 subsection. The employee shall be entitled to use the
5 earned paid sick time and earn more paid sick time
6 at the recommencement of employment with the em-
7 ployer.

8 (8) PROHIBITION.—An employer may not re-
9 quire, as a condition of providing paid sick time
10 under this Act, that the employee involved search for
11 or find a replacement employee to cover the hours
12 during which the employee is using paid sick time.

13 (b) USES.—Paid sick time under this section may be
14 used by an employee for any of the following:

15 (1) An absence resulting from a physical or
16 mental illness, injury, or medical condition of the
17 employee.

18 (2) An absence resulting from obtaining profes-
19 sional medical diagnosis or care, or preventive med-
20 ical care, for the employee.

21 (3) An absence resulting from the closure of an
22 employee's place of employment by order of a Fed-
23 eral or State public official with jurisdiction, or at
24 the employer's discretion, due to a public health
25 emergency.

1 (4) An absence because a Federal or State pub-
2 lic official with jurisdiction or a health care provider
3 has determined that the employee’s presence in the
4 community may jeopardize the health of others be-
5 cause of the employee’s exposure to a communicable
6 disease during a public health emergency, regardless
7 of whether the employee has actually contracted the
8 communicable disease.

9 (5) An absence for the purpose of caring for a
10 child, a parent, a spouse, a domestic partner, or any
11 other individual related by blood or affinity whose
12 close association with the employee is the equivalent
13 of a family relationship—

14 (A) who is a child, if the child’s school or
15 place of care has been closed by order of a Fed-
16 eral or State public official with jurisdiction or
17 at the discretion of the school or place of care
18 due to a public health emergency, including if
19 a school or entity operating the place of care is
20 physically closed but is providing education or
21 care to the child remotely; or

22 (B) because a Federal or State public offi-
23 cial with jurisdiction or a health care provider
24 has determined that the presence in the com-
25 munity of the person receiving care may jeop-

1 ardize the health of others because of the per-
2 son's exposure to a communicable disease dur-
3 ing a public health emergency, regardless of
4 whether the person has actually contracted the
5 communicable disease.

6 (6) An absence for the purpose of caring for a
7 child, a parent, a spouse, a domestic partner, or any
8 other individual related by blood or affinity whose
9 close association with the employee is the equivalent
10 of a family relationship—

11 (A) who has any of the conditions or needs
12 for diagnosis or care described in paragraph (1)
13 or (2);

14 (B) who is a child, if the employee is re-
15 quired to attend a school meeting or a meeting
16 at a place where the child is receiving care ne-
17 cessitated by the child's health condition or dis-
18 ability; or

19 (C) who is otherwise in need of care.

20 (7) An absence resulting from domestic vio-
21 lence, sexual assault, or stalking, if the time is to—

22 (A) seek medical attention for the em-
23 ployee or the employee's child, parent, spouse,
24 domestic partner, or an individual related to the
25 employee as described in paragraph (6), to re-

1 cover from physical or psychological injury or
2 disability caused by domestic violence, sexual
3 assault, or stalking;

4 (B) obtain or assist a related person de-
5 scribed in paragraph (6) in obtaining services
6 from a victim services organization;

7 (C) obtain or assist a related person de-
8 scribed in paragraph (6) in obtaining psycho-
9 logical or other counseling;

10 (D) seek relocation; or

11 (E) take legal action, including preparing
12 for or participating in any civil or criminal legal
13 proceeding related to or resulting from domestic
14 violence, sexual assault, or stalking.

15 (c) ADDITIONAL PAID SICK TIME FOR PUBLIC
16 HEALTH EMERGENCY.—

17 (1) ADDITIONAL PAID SICK TIME.—On the date
18 of a declaration of a public health emergency, an
19 employer in the jurisdiction involved shall provide
20 each employee of the employer in that jurisdiction
21 with additional paid sick time, in addition to any
22 amount of paid sick time accrued by the employee
23 under subsection (a) (including paid leave referred
24 to in subsection (a)(4)).

1 (2) AMOUNT OF PAID SICK TIME.—In receiving
2 additional paid sick time under paragraph (1), the
3 employee shall receive—

4 (A) for a full-time salaried employee, a
5 specified amount of paid sick time that is suffi-
6 cient to provide the employee with 14 contin-
7 uous days away from work without a reduction
8 in pay; and

9 (B) for a part-time or hourly employee, a
10 specified amount of paid sick time equal to the
11 number of hours that the employee was sched-
12 uled to work or, if not so scheduled, regularly
13 works in a 14-day period.

14 (3) USE OF LEAVE.—The additional sick time
15 and accrued sick time described in this subsection
16 shall be available for immediate use by the employee
17 for the purposes described in any paragraph of sub-
18 section (b) beginning on the date a public health
19 emergency is declared, regardless of how long the
20 employee has been employed by an employer.

21 (4) SEQUENCING.—During the public health
22 emergency, an employee may first use the additional
23 sick time for those purposes. The employee may then
24 use the accrued sick time during the public health
25 emergency, or retain the accrued sick time for use

1 after the public health emergency. An employer may
2 not require an employee to use the accrued sick
3 time, or any other paid leave provided by the em-
4 ployer to the employee, before using the additional
5 sick time.

6 (5) PERIODS.—An employee may take the addi-
7 tional sick time on the schedule that meets the em-
8 ployee’s needs, consistent with subsection (b), in-
9 cluding taking the additional sick time intermittently
10 or on a reduced leave schedule, and an employer
11 may not require an employee to take the additional
12 sick time in a single period or on any other schedule
13 specified by the employer.

14 (d) SCHEDULING.—An employee shall make a rea-
15 sonable effort to schedule a period of accrued paid sick
16 time under subsection (a) in a manner that does not un-
17 duly disrupt the operations of the employer.

18 (e) PROCEDURES.—

19 (1) IN GENERAL.—Paid sick time shall be pro-
20 vided upon the oral or written request of an em-
21 ployee. Such request shall—

22 (A) include the expected duration of the
23 period of such time;

24 (B) in a case in which the need for such
25 period of time is foreseeable at least 7 days in

1 advance of such period, be provided at least 7
2 days in advance of such period; and

3 (C) otherwise, be provided as soon as prac-
4 ticable after the employee is aware of the need
5 for such period.

6 (2) CERTIFICATION IN GENERAL.—

7 (A) PROVISION.—

8 (i) IN GENERAL.—Subject to subpara-
9 graphs (C) and (D), an employer may re-
10 quire that a request for paid sick time
11 under this section for a purpose described
12 in paragraph (1), (2), or (6) of subsection
13 (b) be supported by a certification issued
14 by the health care provider of the eligible
15 employee or of an individual described in
16 subsection (b)(6), as appropriate, if the pe-
17 riod of such time covers more than 3 con-
18 secutive workdays.

19 (ii) TIMELINESS.—The employee shall
20 provide a copy of such certification to the
21 employer in a timely manner, not later
22 than 30 days after the first day of the pe-
23 riod of time. The employer shall not delay
24 the commencement of the period of time on

1 the basis that the employer has not yet re-
2 ceived the certification.

3 (B) SUFFICIENT CERTIFICATION.—

4 (i) IN GENERAL.—A certification pro-
5 vided under subparagraph (A) shall be suf-
6 ficient if it states—

7 (I) the date on which the period
8 of time will be needed;

9 (II) the probable duration of the
10 period of time;

11 (III) the appropriate medical
12 facts within the knowledge of the
13 health care provider regarding the
14 condition involved, subject to clause
15 (ii); and

16 (IV)(aa) for purposes of paid sick
17 time under subsection (b)(1), a state-
18 ment that absence from work is medi-
19 cally necessary;

20 (bb) for purposes of such time
21 under subsection (b)(2), the dates on
22 which testing for a medical diagnosis
23 or care is expected to be given and the
24 duration of such testing or care; and

1 (cc) for purposes of such time
2 under subsection (b)(6), in the case of
3 time to care for someone who is not a
4 child, a statement that care is needed
5 for an individual described in such
6 subsection, and an estimate of the
7 amount of time that such care is
8 needed for such individual.

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

17 (C) PUBLIC HEALTH EMERGENCIES.—No
18 certification or other documentation may be re-
19 quired under this Act by an employer during
20 any public health emergency.

21 (D) REGULATIONS.—Regulations pre-
22 scribed under section 12 shall specify the man-
23 ner in which an employee who does not have
24 health insurance shall provide a certification for
25 purposes of this paragraph.

1 (E) CONFIDENTIALITY AND NONDISCLO-
2 SURE.—

3 (i) PROTECTED HEALTH INFORMA-
4 TION.—Nothing in this Act shall be con-
5 strued to require a health care provider to
6 disclose information in violation of section
7 1177 of the Social Security Act (42 U.S.C.
8 1320d–6) or the regulations promulgated
9 pursuant to section 264(c) of the Health
10 Insurance Portability and Accountability
11 Act of 1996 (42 U.S.C. 1320d–2 note).

12 (ii) HEALTH INFORMATION
13 RECORDS.—If an employer possesses
14 health information about an employee or
15 an employee’s child, parent, spouse, domes-
16 tic partner, or an individual related to the
17 employee as described in subsection (b)(6),
18 such information shall—

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

22 (II) be treated as a confidential
23 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 (3) CERTIFICATION IN THE CASE OF DOMESTIC
5 VIOLENCE, SEXUAL ASSAULT, OR STALKING.—

6 (A) IN GENERAL.—An employer may re-
7 quire that a request for paid sick time under
8 this section for a purpose described in sub-
9 section (b)(7) be supported by any one of the
10 following forms of documentation, but the em-
11 ployer may not specify the particular form of
12 documentation to be provided:

13 (i) A police report indicating that the
14 employee, or a member of the employee's
15 family described in subsection (b)(7), was
16 a victim of domestic violence, sexual as-
17 sault, or stalking.

18 (ii) A court order protecting or sepa-
19 rating the employee or a member of the
20 employee's family described in subsection
21 (b)(7) from the perpetrator of an act of
22 domestic violence, sexual assault, or stalk-
23 ing, or other evidence from the court or
24 prosecuting attorney that the employee or
25 a member of the employee's family de-

1 scribed in subsection (b)(7) has appeared
2 in court or is scheduled to appear in court
3 in a proceeding related to domestic vio-
4 lence, sexual assault, or stalking.

5 (iii) Other documentation signed by
6 an employee or volunteer working for a vic-
7 tim services organization, an attorney, a
8 police officer, a medical professional, a so-
9 cial worker, an antiviolence counselor, or a
10 member of the clergy, affirming that the
11 employee or a member of the employee's
12 family described in subsection (b)(7) is a
13 victim of domestic violence, sexual assault,
14 or stalking.

15 (B) REQUIREMENTS.—The requirements
16 of paragraph (2) shall apply to certifications
17 under this paragraph, except that—

18 (i) subclauses (III) and (IV) of sub-
19 paragraph (B)(i) and subparagraph (B)(ii)
20 of such paragraph shall not apply;

21 (ii) the certification shall state the
22 reason that the leave is required with the
23 facts to be disclosed limited to the min-
24 imum necessary to establish a need for the
25 employee to be absent from work, and the

1 employee shall not be required to explain
2 the details of the domestic violence, sexual
3 assault, or stalking involved; and

4 (iii) with respect to confidentiality
5 under subparagraph (E) of such para-
6 graph, any information provided to the em-
7 ployer under this paragraph shall be con-
8 fidential, except to the extent that any dis-
9 closure of such information is—

10 (I) requested or consented to in

11 writing by the employee; or

12 (II) otherwise required by appli-

13 cable Federal or State law.

14 **SEC. 4. NOTICE REQUIREMENT.**

15 (a) IN GENERAL.—Each employer shall notify each
16 employee and include in any employee handbook the infor-
17 mation described in paragraphs (1) through (4). Each em-
18 ployer shall post and keep posted a notice, to be prepared
19 or approved in accordance with procedures specified in
20 regulations prescribed under section 12, setting forth ex-
21 cerpts from, or summaries of, the pertinent provisions of
22 this Act including—

23 (1) information describing paid sick time avail-

24 able to 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 a
4 foreseeable period of time under section 5(e)(1)(B);
5 and

6 (4) information that describes—

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

9 (B) how the employee can contact the Sec-
10 retary (or other appropriate authority as de-
11 scribed in section 6) if any of the rights are vio-
12 lated.

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

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

18 (2) in employee handbooks.

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

23 **SEC. 5. PROHIBITED ACTS.**

24 (a) INTERFERENCE WITH RIGHTS.—

1 (1) EXERCISE OF RIGHTS.—It shall be unlawful
2 for any employer to interfere with, restrain, or deny
3 the exercise of, or the attempt to exercise, any right
4 provided under this Act, including—

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

10 (B) using the taking of paid sick time
11 under this Act as a negative factor in an em-
12 ployment action, such as hiring, promotion, re-
13 ducing hours or number of shifts, or a discipli-
14 nary action; or

15 (C) counting the paid sick time under a
16 no-fault attendance policy or any other absence
17 control policy.

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

23 (b) INTERFERENCE WITH PROCEEDINGS OR INQUIR-
24 IES.—It shall be unlawful for any person to discharge or
25 in any other manner discriminate against (including retali-

1 ating against) any individual, including a job applicant,
2 because such individual—

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

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

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

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

17 **SEC. 6. ENFORCEMENT AUTHORITY.**

18 (a) IN GENERAL.—

19 (1) DEFINITION.—In this subsection—

20 (A) the term “employee” means an em-
21 ployee described in subparagraph (A) or (B) of
22 section 2(4); and

23 (B) the term “employer” means an em-
24 ployer described in subclause (I) or (II) of sec-
25 tion 2(5)(A)(i).

1 (2) INVESTIGATIVE AUTHORITY.—

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

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

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

1 tion or order issued pursuant to this Act, or is
2 investigating a charge pursuant to paragraph
3 (4).

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

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

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

19 (i) the employees or individuals; or

20 (ii) the employees or individuals and
21 others similarly situated.

22 (B) LIABILITY.—Any employer who vio-
23 lates section 5 (including a violation relating to
24 rights provided under section 3) shall be liable
25 to any employee or individual affected—

- 1 (i) for damages equal to—
- 2 (I) the amount of—
- 3 (aa) any wages, salary, em-
- 4 ployment benefits, or other com-
- 5 pensation denied or lost by rea-
- 6 son of the violation; or
- 7 (bb) in a case in which
- 8 wages, salary, employment bene-
- 9 fits, or other compensation have
- 10 not been denied or lost, any ac-
- 11 tual monetary losses sustained as
- 12 a direct result of the violation up
- 13 to a sum equal to 56 hours of
- 14 wages or salary for the employee
- 15 or individual, or the specified pe-
- 16 riod described in section 3(c)(3),
- 17 or a combination of those hours
- 18 and that period, as the case may
- 19 be;
- 20 (II) the interest on the amount
- 21 described in subclause (I) calculated
- 22 at the prevailing rate; and
- 23 (III) an additional amount as liq-
- 24 uidated damages; and

1 (ii) for such equitable relief as may be
2 appropriate, including employment, rein-
3 statement, and promotion.

4 (C) FEES AND COSTS.—The court in an
5 action under this paragraph shall, in addition to
6 any judgment awarded to the plaintiff, allow a
7 reasonable attorney’s fee, reasonable expert wit-
8 ness fees, and other costs of the action to be
9 paid by the defendant.

10 (4) ACTION BY THE SECRETARY.—

11 (A) ADMINISTRATIVE ACTION.—The Sec-
12 retary shall receive, investigate, and attempt to
13 resolve complaints of violations of section 5 (in-
14 cluding a violation relating to rights provided
15 under section 3) in the same manner that the
16 Secretary receives, investigates, and attempts to
17 resolve complaints of violations of sections 6
18 and 7 of the Fair Labor Standards Act of 1938
19 (29 U.S.C. 206 and 207).

20 (B) CIVIL ACTION.—The Secretary may
21 bring an action in any court of competent juris-
22 diction to recover the damages described in
23 paragraph (3)(B)(i).

24 (C) SUMS RECOVERED.—Any sums recov-
25 ered by the Secretary pursuant to subparagraph

1 (B) shall be held in a special deposit account
2 and shall be paid, on order of the Secretary, di-
3 rectly to each employee or individual affected.
4 Any such sums not paid to an employee or indi-
5 vidual affected because of inability to do so
6 within a period of 3 years shall be deposited
7 into the Treasury of the United States as mis-
8 cellaneous receipts.

9 (5) LIMITATION.—

10 (A) IN GENERAL.—Except as provided in
11 subparagraph (B), an action may be brought
12 under paragraph (3), (4), or (6) not later than
13 2 years after the date of the last event consti-
14 tuting the alleged violation for which the action
15 is brought.

16 (B) WILLFUL VIOLATION.—In the case of
17 an action brought for a willful violation of sec-
18 tion 5 (including a willful violation relating to
19 rights provided under section 3), such action
20 may be brought within 3 years of the date of
21 the last event constituting the alleged violation
22 for which such action is brought.

23 (C) COMMENCEMENT.—In determining
24 when an action is commenced under paragraph
25 (3), (4), or (6) for the purposes of this para-

1 graph, it shall be considered to be commenced
2 on the date when the complaint is filed.

3 (6) ACTION FOR INJUNCTION BY SECRETARY.—

4 The district courts of the United States shall have
5 jurisdiction, for cause shown, in an action brought
6 by the Secretary—

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

14 (B) to award such other equitable relief as
15 may be appropriate, including employment, re-
16 instatement, and promotion.

17 (7) SOLICITOR OF LABOR.—The Solicitor of
18 Labor may appear for and represent the Secretary
19 on any litigation brought under paragraph (4) or
20 (6).

21 (8) GOVERNMENT ACCOUNTABILITY OFFICE
22 AND LIBRARY OF CONGRESS.—Notwithstanding any
23 other provision of this subsection, in the case of the
24 Government Accountability Office and the Library of
25 Congress, the authority of the Secretary of Labor

1 under this subsection shall be exercised respectively
2 by the Comptroller General of the United States and
3 the Librarian of Congress.

4 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-
5 COUNTABILITY ACT OF 1995.—The powers, remedies, and
6 procedures provided in the Congressional Accountability
7 Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as de-
8 fined in section 101 of that Act (2 U.S.C. 1301)), or any
9 person, alleging a violation of subsection (a)(1) of section
10 202 of that Act (2 U.S.C. 1312) shall be the powers, rem-
11 edies, and procedures this Act provides to that Board, or
12 any person, alleging an unlawful employment practice in
13 violation of this Act against an employee described in sec-
14 tion 2(4)(C).

15 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE
16 3, UNITED STATES CODE.—The powers, remedies, and
17 procedures provided in chapter 5 of title 3, United States
18 Code, to the President, the Merit Systems Protection
19 Board, or any person, alleging a violation of section
20 412(a)(1) of that title, shall be the powers, remedies, and
21 procedures this Act provides to the President, that Board,
22 or any person, respectively, alleging an unlawful employ-
23 ment practice in violation of this Act against an employee
24 described in section 2(4)(D).

1 (d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE
2 5, UNITED STATES CODE.—The powers, remedies, and
3 procedures provided in title 5, United States Code, to an
4 employing agency, provided in chapter 12 of that title to
5 the Merit Systems Protection Board, or provided in that
6 title to any person, alleging a violation of chapter 63 of
7 that title shall be the powers, remedies, and procedures
8 this Act provides to that agency, that Board, or any per-
9 son, respectively, alleging an unlawful employment prac-
10 tice in violation of this Act against an employee described
11 in section 2(4)(E).

12 (e) REMEDIES FOR STATE EMPLOYEES.—

13 (1) WAIVER OF SOVEREIGN IMMUNITY.—A
14 State's receipt or use of Federal financial assistance
15 for any program or activity of a State shall con-
16 stitute a waiver of sovereign immunity, under the
17 11th Amendment to the Constitution or otherwise,
18 to a suit brought by an employee of that program
19 or activity under this Act for equitable, legal, or
20 other relief authorized under this Act.

21 (2) OFFICIAL CAPACITY.—An official of a State
22 may be sued in the official capacity of the official by
23 any employee who has complied with the procedures
24 under subsection (a)(3), for injunctive relief that is
25 authorized under this Act. In such a suit the court

1 may award to the prevailing party those costs au-
 2 thorized by section 722 of the Revised Statutes (42
 3 U.S.C. 1988).

4 (3) APPLICABILITY.—With respect to a par-
 5 ticular program or activity, paragraph (1) applies to
 6 conduct occurring on or after the day, after the date
 7 of enactment of this Act, on which a State first re-
 8 ceives or uses Federal financial assistance for that
 9 program or activity.

10 (4) DEFINITION OF PROGRAM OR ACTIVITY.—In
 11 this subsection, the term “program or activity” has
 12 the meaning given the term in section 606 of the
 13 Civil Rights Act of 1964 (42 U.S.C. 2000d–4a).

14 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS FOR EDU-**
 15 **CATION AND OUTREACH.**

16 There is authorized to be appropriated to the Sec-
 17 retary of Labor such sums as may be necessary in order
 18 that the Secretary may conduct a public awareness cam-
 19 paign to educate and inform the public of the require-
 20 ments for paid sick time required by this Act.

21 **SEC. 8. COLLECTION OF DATA ON PAID SICK TIME AND**
 22 **FURTHER STUDY.**

23 (a) COMPILATION OF INFORMATION.—The Commis-
 24 sioner of Labor Statistics shall annually compile informa-
 25 tion on the following:

1 (1) The amount of paid sick time available to
2 employees by occupation and type of employment es-
3 tablishment.

4 (2) An estimate of the average sick time used
5 by employees according to occupation and the type
6 of employment establishment.

7 (b) GAO STUDY.—Not later than 5 years after the
8 date of enactment of this Act, the Comptroller General
9 of the United States shall conduct a study to evaluate the
10 implementation of this Act. Such study shall include an
11 estimation of employees' access to paid sick time, employ-
12 ees' awareness of their rights under this Act, and employ-
13 ers' experiences complying with this Act. Such study shall
14 take into account access, awareness and experiences of
15 employees by race, ethnicity, gender, and occupation.

16 (c) REPORT.—Upon completion of the study required
17 by subsection (b), the Comptroller General of the United
18 States shall prepare and submit a report to the appro-
19 priate committees of Congress concerning the results of
20 the study and the information compiled pursuant to sub-
21 section (a).

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

23 (a) FEDERAL AND STATE ANTIDISCRIMINATION
24 LAWS.—Nothing in this Act shall be construed to modify
25 or affect any Federal or State law prohibiting discrimina-

1 tion on the basis of race, religion, color, national origin,
2 sex, age, disability, sexual orientation, gender identity,
3 marital status, familial status, or any other protected sta-
4 tus.

5 (b) STATE AND LOCAL LAWS.—Nothing in this Act
6 shall be construed to supersede (including preempting)
7 any provision of any State or local law that provides great-
8 er paid sick time or leave rights (including greater
9 amounts of paid sick time or leave, or greater coverage
10 of those eligible for paid sick time or leave) than the rights
11 established under this Act.

12 **SEC. 10. EFFECT ON EXISTING EMPLOYMENT BENEFITS.**

13 (a) MORE PROTECTIVE.—Nothing in this Act shall
14 be construed to diminish the obligation of an employer to
15 comply with any contract, collective bargaining agreement,
16 or any employment benefit program or plan that provides
17 greater paid sick leave or other leave rights to employees
18 or individuals than the rights established under this Act.

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

1 **SEC. 11. ENCOURAGEMENT OF MORE GENEROUS LEAVE**
2 **POLICIES.**

3 Nothing in this Act shall be construed to discourage
4 employers from adopting or retaining leave policies more
5 generous than policies that comply with the requirements
6 of this Act.

7 **SEC. 12. REGULATIONS.**

8 (a) IN GENERAL.—

9 (1) AUTHORITY.—Except as provided in para-
10 graph (2) and subject to subsection (e), not later
11 than 180 days after the date of enactment of this
12 Act, the Secretary shall prescribe such regulations
13 as are necessary to carry out this Act with respect
14 to employees described in subparagraph (A) or (B)
15 of section 2(4) and other individuals affected by em-
16 ployers described in subclause (I) or (II) of section
17 2(5)(A)(i).

18 (2) GOVERNMENT ACCOUNTABILITY OFFICE; LI-
19 BRARY OF CONGRESS.—Subject to subsection (e),
20 the Comptroller General of the United States and
21 the Librarian of Congress shall prescribe the regula-
22 tions with respect to employees of the Government
23 Accountability Office and the Library of Congress,
24 respectively, and other individuals affected by the
25 Comptroller General of the United States and the
26 Librarian of Congress, respectively.

1 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-
2 COUNTABILITY ACT OF 1995.—

3 (1) AUTHORITY.—Subject to subsection (e), not
4 later than 90 days after the Secretary prescribes
5 regulations under subsection (a), the Board of Di-
6 rectors of the Office of Compliance shall prescribe
7 (in accordance with section 304 of the Congressional
8 Accountability Act of 1995 (2 U.S.C. 1384)) such
9 regulations as are necessary to carry out this Act
10 with respect to employees described in section
11 2(4)(C) and other individuals affected by employers
12 described in section 2(5)(A)(i)(III).

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

23 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE
24 3, UNITED STATES CODE.—

1 (1) AUTHORITY.—Subject to subsection (e), not
2 later than 90 days after the Secretary prescribes
3 regulations under subsection (a), the President (or
4 the designee of the President) shall prescribe such
5 regulations as are necessary to carry out this Act
6 with respect to employees described in section
7 2(4)(D) and other individuals affected by employers
8 described in section 2(5)(A)(i)(IV).

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

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

21 (1) AUTHORITY.—Subject to subsection (e), not
22 later than 90 days after the Secretary prescribes
23 regulations under subsection (a), the Director of the
24 Office of Personnel Management shall prescribe such
25 regulations as are necessary to carry out this Act

1 with respect to employees described in section
2 2(4)(E) and other individuals affected by employers
3 described in section 2(5)(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 (e) IMMEDIATE COMPLIANCE.—The rights and re-
15 sponsibilities specified in this Act shall take effect on the
16 date of enactment of this Act and employers and other
17 persons subject to those responsibilities shall comply im-
18 mediately, without regard whether regulations have been
19 prescribed under this section.

20 **SEC. 13. EFFECTIVE DATES.**

21 (a) IN GENERAL.—This Act takes effect on the date
22 of enactment of this Act.

23 (b) PREVIOUS DECLARATIONS.—If a public health
24 emergency was declared before and remains in effect on
25 the date of enactment of this Act, for purposes of this

1 Act (and in particular section 3(c) of this Act) the public
2 health emergency shall be considered to have been de-
3 clared on the date of enactment of this Act.

○