

105TH CONGRESS
1ST SESSION

H. R. 1573

To provide equal leave benefits for parents who adopt a child or provide foster care for a child.

IN THE HOUSE OF REPRESENTATIVES

MAY 8, 1997

Mr. OBERSTAR (for himself, Mr. HYDE, Mr. CONYERS, Mr. BURTON of Indiana, Mr. DELLUMS, Mr. FROST, Mr. KLUG, Mr. RAHALL, Mr. CLEMENT, Mr. FRANK of Massachusetts, Mr. ACKERMAN, Mrs. MALONEY of New York, Ms. LOFGREN, Mr. PETERSON of Minnesota, Mr. SANDERS, Mr. McDERMOTT, Mr. GEJDENSON, Ms. STABENOW, Mr. GUTIERREZ, and Ms. NORTON) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To provide equal leave benefits for parents who adopt a child or provide foster care for a child.

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 “Leave Equity for
5 Adoptive Families Act of 1997”.

6 **SEC. 2. LEAVE REQUIREMENT.**

7 (a) IN GENERAL.—An employee who needs leave be-
8 cause of the placement of a son or daughter with the em-

1 ployee for adoption or foster care shall be entitled to any
2 leave benefit provided by the employee's employer to an
3 employee who needs leave—

4 (1) to care for the employee's newborn biologi-
5 cal child, or

6 (2) to recover from the employee's own illness,
7 injury, or disability.

8 (b) EXPIRATION OF ENTITLEMENT.—Leave because
9 of the placement of a son or daughter with the employee
10 for adoption or foster care under subsection (a) shall com-
11 mence no later than 12 months after the placement of a
12 child with the employee for adoption or foster care.

13 **SEC. 3. CIVIL ACTION.**

14 (a) IN GENERAL.—Subject to the limitations con-
15 tained in this section, any person may bring a civil action
16 against an employer to enforce the provisions of section
17 2 in any appropriate court of the United States or in any
18 State court of competent jurisdiction.

19 (b) TIMING OF COMMENCEMENT OF CIVIL ACTION.—
20 No civil action may be commenced under subsection (a)
21 later than 1 year after the date of the last event that con-
22 stitutes the alleged violation of section 2.

23 (c) VENUE.—An action brought under subsection (a)
24 in a district court of the United States may be brought

1 in any appropriate judicial district under section 1391 of
2 title 28, United States Code.

3 (d) RELIEF.—In any civil action brought under sub-
4 section (a), the court may—

5 (1) grant as relief against any respondent that
6 violates section 2—

7 (A) any permanent or temporary injunc-
8 tion, temporary restraining order, or other equi-
9 table relief as the court determines appropriate,

10 (B) damages in an amount equal to any
11 wages, salary, employment benefits, or other
12 compensation denied or lost to the employee
13 bringing the action by reason of the violation of
14 section 2 or in a case in which wages, salary,
15 employment benefits, or other compensation
16 have not been denied or lost to the employee,
17 any actual monetary losses sustained by the
18 employee as a direct result of such violation, in-
19 cluding the cost of providing care, up to an
20 amount equal to 12 weeks of wages or salary
21 for the employee, and

22 (C) interest at the prevailing rate on the
23 total monetary damages calculated under sub-
24 paragraph (B), and

1 (2) award to a prevailing party (other than the
2 United States) in the action a reasonable attorney’s
3 fee and expert witness fee.

4 **SEC. 4. CONSTRUCTION.**

5 Nothing in this Act shall be construed to require an
6 employer to provide any leave benefit that the employer
7 would not otherwise have provided to an employee to care
8 for a newborn biological child or to recover from the em-
9 ployee’s illness, injury, or disability.

10 **SEC. 5. DEFINITIONS.**

11 As used in this Act:

12 (1) EMPLOYEE.—The term “employee” means
13 any individual employed by an employer.

14 (2) EMPLOYER.—The term “employer” means
15 any person engaged in commerce or in any industry
16 or activity affecting commerce. The terms “com-
17 merce” and “industry affecting commerce” mean
18 any activity, business, or industry in commerce or in
19 which a labor dispute would hinder or obstruct com-
20 merce or the free flow of commerce and includes
21 such terms as defined in section 120 of the Labor
22 Management Relations Act, 1947.

23 (3) EMPLOYMENT BENEFITS.—The term “em-
24 ployment benefits” means all benefits provided or
25 made available to employees by an employer, includ-

1 ing health insurance, sick leave, annual leave, paren-
2 tal leave, and disability leave regardless of whether
3 such benefits are provided by a policy or practice of
4 an employer or through an “employee welfare bene-
5 fit plan”, as defined in section 3(3) of the Employee
6 Retirement Income Security Act of 1974 (29 U.S.C.
7 1002(1)).

8 (4) LEAVE BENEFIT.—The term “leave benefit”
9 means—

10 (A) any sick or parental leave provided by
11 an employer,

12 (B) any right to reemployment with the
13 employer after the leave described in subpara-
14 graph (A); and

15 (C) any right to the receipt of pay or em-
16 ployment benefits, or the accrual of seniority,
17 during the leave described in subparagraph (A).

18 (5) PARENT.—The term “parent” means the
19 biological parent, adoptive parent, prospective adop-
20 tive parent, foster parent, legal guardian, or step-
21 parent, of a child.

22 (6) PARENTAL LEAVE.—The term “parental
23 leave” means any leave to enable a parent to care
24 for a newborn biological child.

1 (7) PLACEMENT.—The term “placement”
2 means the introduction of a child into a family or
3 the process to bring about the introduction of a child
4 into a family.

5 (8) SICK LEAVE.—The term “sick leave” means
6 any leave provided by an employer to enable an em-
7 ployee to recover from an illness, injury, or disabil-
8 ity.

9 (9) SON OR DAUGHTER.—The term “son or
10 daughter” means a biological or adopted child, a fos-
11 ter child, a stepchild, a legal ward, or a child placed
12 for adoption.

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