

109TH CONGRESS
1ST SESSION

H. R. 1902

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 HOUSE OF REPRESENTATIVES

APRIL 27, 2005

Ms. DELAURO (for herself, Mr. RANGEL, Mr. GEORGE MILLER of California, Mr. OWENS, Ms. MCCOLLUM of Minnesota, Mr. BERMAN, Mr. PALLONE, Ms. JACKSON-LEE of Texas, Mr. NADLER, Mr. GENE GREEN of Texas, Mr. GUTIERREZ, Ms. SCHAKOWSKY, Ms. WASSERMAN SCHULTZ, Mr. FRANK of Massachusetts, Mr. WAXMAN, Ms. LEE, Mr. ENGEL, Mr. HINCHEY, Mr. KILDEE, Mr. LANTOS, Mrs. MALONEY, Mr. MCGOVERN, Ms. NORTON, Mr. MEEHAN, Mr. JEFFERSON, Mr. OBERSTAR, Mrs. MCCARTHY, Ms. MILLENDER-MCDONALD, Mr. JACKSON of Illinois, Mr. SERRANO, Mr. BRADY of Pennsylvania, Mr. LEWIS of Georgia, Mr. McNULTY, Mr. TOWNS, Mr. GRIJALVA, Mr. ANDREWS, Mr. BLUMENAUER, Mr. CLAY, Mr. OLVER, Ms. WOOLSEY, Mr. DAVIS of Illinois, Ms. KILPATRICK of Michigan, Ms. ROYBAL-ALLARD, Mr. EVANS, and Mr. HOLT) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Government 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

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Healthy Families Act”.

3 **SEC. 2. FINDINGS.**

4 Congress makes the following findings:

5 (1) Working Americans need to take time off
6 from their jobs for their own health care needs or
7 to perform essential caretaking responsibilities for a
8 wide range of family members, including, among
9 others, their children, spouse, parents, and parents-
10 in-law, and other children and adults for whom they
11 are caretakers.

12 (2) Health care needs include preventive health
13 care, diagnostic procedures, medical treatment, and
14 recovery in response to short- and long-term ill-
15 nesses and injuries.

16 (3) Providing employees time off to tend to
17 their own health care needs ensures that they will be
18 healthier in the long run. Preventive care helps avoid
19 illnesses and injuries and routine medical care helps
20 detect illnesses early and shorten the duration of ill-
21 nesses.

22 (4) When parents are available to care for their
23 children who become sick, children recover faster,
24 more serious illnesses are prevented, and children’s
25 overall mental and physical health are improved.
26 Parents who cannot afford to miss work and must

1 send children with a contagious illness to child care
2 or school contribute to the high rate of infections in
3 child care centers and schools.

4 (5) Providing paid sick leave improves public
5 health by reducing infectious disease. Policies that
6 make it easier for sick adults and children to be iso-
7 lated at home reduce the spread of infectious dis-
8 ease.

9 (6) Routine medical care results in savings by
10 decreasing medical costs by detecting and treating
11 illness and injury early, decreasing the need for
12 emergency care. These savings benefit public and
13 private payers of health insurance, including private
14 businesses.

15 (7) The provision of individual and family sick
16 leave by large and small businesses, both in the
17 United States and elsewhere, demonstrates that pol-
18 icy solutions are both feasible and affordable in a
19 competitive economy. Measures that ensure that em-
20 ployees are both in good health themselves and do
21 not need to worry about unmet family health prob-
22 lems help businesses by promoting productivity and
23 reducing employee turnover.

24 (8) The American Productivity Audit found
25 that presenteeism—the practice of employees coming

1 to work despite illness—costs \$180,000,000,000 an-
2 nually in lost productivity. Studies in the Journal of
3 Occupational and Environmental Medicine, the Em-
4 ployee Benefit News, and the Harvard Business Re-
5 view show that presenteeism is a larger productivity
6 drain than either absenteeism or short-term dis-
7 ability.

8 (9) The absence of sick leave has forced Ameri-
9 cans to make untenable choices between needed in-
10 come and jobs on the one hand and caring for their
11 own and their family’s health on the other.

12 (10) The majority of middle-income Americans
13 lack paid leave for self-care or to care for a family
14 member. Low-income Americans are significantly
15 worse off. Of the poorest families (the lowest quar-
16 tile), 76 percent lack regular sick leave. For families
17 in the next 2 quartiles, 63 percent and 54 percent,
18 respectively, lack regular sick leave. Even in the
19 highest income quartile, 40 percent of families lack
20 regular sick leave. Less than half of workers who
21 have paid sick leave can use it to care for ill chil-
22 dren.

23 (11) It is in the national interest to ensure that
24 Americans from all demographic groups can care for

1 their own health and the health of their families
2 while prospering at work.

3 (12) Due to the nature of the roles of men and
4 women in society, the primary responsibility for fam-
5 ily caretaking often falls on women, and such re-
6 sponsibility affects the working lives of women more
7 than it affects the working lives of men.

8 (13) Although women are still primarily respon-
9 sible for family caretaking, an increasing number of
10 men are taking on caretaking obligations, and men
11 who request leave time for caretaking purposes are
12 often denied accommodation or penalized because of
13 stereotypes that caretaking is only “women’s work”.

14 (14) Employers’ reliance on persistent stereo-
15 types about the “proper” roles of both men and
16 women in the workplace and in the home—

17 (A) creates a cycle of discrimination that
18 forces women to continue to assume the role of
19 primary family caregiver; and

20 (B) fosters stereotypical views among em-
21 ployers about women’s commitment to work and
22 their value as employees.

23 (15) Employment standards that apply to only
24 one gender have serious potential for encouraging

1 employers to discriminate against employees and ap-
2 plicants for employment who are of that gender.

3 **SEC. 3. PURPOSES.**

4 The purposes of this Act are—

5 (1) to ensure that all working Americans can
6 address their own health needs and the health needs
7 of their families by requiring employers to provide a
8 minimum level of paid sick leave including leave for
9 family care;

10 (2) to diminish public and private health care
11 costs by enabling workers to seek early and routine
12 medical care for themselves and their family mem-
13 bers;

14 (3) to accomplish the purposes described in
15 paragraphs (1) and (2) in a manner that is feasible
16 for employers; and

17 (4) consistent with the provision of the 14th
18 amendment to the Constitution relating to equal
19 protection of the laws, and pursuant to Congress'
20 power to enforce that provision under section 5 of
21 that amendment—

22 (A) to accomplish the purposes described
23 in paragraphs (1) and (2) in a manner that
24 minimizes the potential for employment dis-
25 crimination on the basis of sex by ensuring gen-

1 erally that leave is available for eligible medical
2 reasons on a gender-neutral basis; and

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

5 **SEC. 4. DEFINITIONS.**

6 In this Act:

7 (1) CHILD.—The term “child” means a biologi-
8 cal, foster, or adopted child, a stepchild, a legal
9 ward, or a child of a person standing in loco
10 parentis, who is—

11 (A) under 18 years of age; or

12 (B) 18 years of age or older and incapable
13 of self-care because of a mental or physical dis-
14 ability.

15 (2) EMPLOYEE.—The term “employee” means
16 an individual—

17 (A) who is—

18 (i)(I) an employee (including an appli-
19 cant), as defined in section 3(e) of the Fair
20 Labor Standards Act of 1938 (29 U.S.C.
21 203(e)), who is not covered under clause
22 (v), including such an employee of the Li-
23 brary of Congress, except that a reference
24 in such section to an employer shall be
25 considered to be a reference to an employer

1 described in clauses (i)(I) and (ii) of para-
2 graph (3)(A); or

3 (II) an employee (including an appli-
4 cant) of the Government Accountability
5 Office;

6 (ii) a State employee (including an ap-
7 plicant) described in section 304(a) of the
8 Government Employee Rights Act of 1991
9 (42 U.S.C. 2000e–16e(a));

10 (iii) a covered employee (including an
11 applicant), as defined in section 101 of the
12 Congressional Accountability Act of 1995
13 (2 U.S.C. 1301);

14 (iv) a covered employee (including an
15 applicant), as defined in section 411(c) of
16 title 3, United States Code; or

17 (v) a Federal officer or employee (in-
18 cluding an applicant) covered under sub-
19 chapter V of chapter 63 of title 5, United
20 States Code; and

21 (B) who works an average of at least 20
22 hours per week or, in the alternative, at least
23 1,000 hours per year.

24 (3) EMPLOYER.—

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

3 (i)(I) a covered employer, as defined
4 in subparagraph (B), who is not covered
5 under subclause (V);

6 (II) an entity employing a State em-
7 ployee described in section 304(a) of the
8 Government Employee Rights Act of 1991
9 (42 U.S.C. 2000e–16e(a));

10 (III) an employing office, as defined
11 in section 101 of the Congressional Ac-
12 countability Act of 1995 (2 U.S.C. 1301);

13 (IV) an employing office, as defined in
14 section 411(c) of title 3, United States
15 Code; or

16 (V) an employing agency covered
17 under subchapter V of chapter 63 of title
18 5, United States Code; and

19 (ii) is engaged in commerce (including
20 government), in the production of goods
21 for commerce, or in an enterprise engaged
22 in commerce (including government) or in
23 the production of goods for commerce.

24 (B) COVERED EMPLOYER.—

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

3 (I) means any person engaged in
4 commerce or in any industry or activ-
5 ity affecting commerce who employs
6 15 or more employees for each work-
7 ing day during each of 20 or more
8 calendar workweeks in the current or
9 preceding calendar year;

10 (II) includes—

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

15 (bb) any successor in inter-
16 est of an employer;

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

21 (IV) includes the Government
22 Accountability Office and the Library
23 of Congress.

24 (ii) PUBLIC AGENCY.—For purposes
25 of clause (i)(III), a public agency shall be

1 considered to be a person engaged in com-
2 merce or in an industry or activity affect-
3 ing commerce.

4 (iii) DEFINITIONS.—For purposes of
5 this subparagraph:

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

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

23 (III) PERSON.—The term “per-
24 son” has the same meaning given
25 such term in section 3(a) of the Fair

1 Labor Standards Act of 1938 (29
2 U.S.C. 203(a)).

3 (C) PREDECESSORS.—Any reference in
4 this paragraph to an employer shall include a
5 reference to any predecessor of such employer.

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

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

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

23 (ii) is any other person determined by the
24 Secretary to be capable of providing health care
25 services; and

1 (B) is not employed by an employer for
2 whom the provider issues certification under
3 this Act.

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

9 (7) PRO RATA.—The term “pro rata”, with re-
10 spect to benefits offered to part-time employees,
11 means the proportion of each of the benefits offered
12 to full-time employees that are offered to part-time
13 employees that, for each benefit, is equal to the ratio
14 of part-time hours worked to full-time hours worked.

15 (8) SECRETARY.—The term “Secretary” means
16 the Secretary of Labor.

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

23 (10) SPOUSE.—The term “spouse”, with re-
24 spect to an employee, has the meaning given such

1 term by the marriage laws of the State in which the
2 employee resides.

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

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

6 (1) 7 days of sick leave with pay annually for
7 employees working 30 or more hours per week; or

8 (2) a pro rata number of days or hours of sick
9 leave with pay annually for employees working less
10 than—

11 (A) 30 hours per week on a year-round
12 basis; or

13 (B) 1,500 hours throughout the year in-
14 volved.

15 (b) ACCRUAL.—

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

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

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

5 (c) CALCULATION.—

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

10 (A) on an hourly basis; or

11 (B) in the smallest increment that the em-
12 ployer’s payroll system uses to account for ab-
13 sences or use of leave.

14 (2) VARIABLE SCHEDULE.—If the schedule of
15 an employee varies from week to week, a weekly av-
16 erage of the hours worked over the 12-week period
17 prior to the beginning of a sick leave period shall be
18 used to calculate the employee’s normal workweek
19 for the purpose of determining the amount of sick
20 leave to which the employee is entitled.

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

23 (1) An absence resulting from a physical or
24 mental illness, injury, or medical condition of the
25 employee.

1 (2) Subject to the requirement of subsection
2 (e), an absence resulting from obtaining professional
3 medical diagnosis or care, or preventive medical
4 care, for the employee.

5 (3) An absence for the purpose of caring for a
6 child, a parent, a spouse, or any other individual re-
7 lated by blood or affinity whose close association
8 with the employee is the equivalent of a family rela-
9 tionship, who—

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

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

15 (e) SCHEDULING.—An employee shall make a reason-
16 able effort to schedule leave under paragraphs (2) and (3)
17 of subsection (d) in a manner that does not unduly disrupt
18 the operations of the employer.

19 (f) PROCEDURES.—

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

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

1 (B) in a case in which the need for leave
2 is foreseeable at least 7 days in advance of such
3 leave, be provided at least 7 days in advance of
4 such leave; and

5 (C) otherwise, be provided as soon as prac-
6 ticable after the employee is aware of the need
7 for such leave.

8 (2) CERTIFICATION.—

9 (A) PROVISION.—

10 (i) IN GENERAL.—Subject to subpara-
11 graph (C), an employer may require that a
12 request for leave be supported by a certifi-
13 cation issued by the health care profes-
14 sional of the eligible employee or of an in-
15 dividual described in subsection (d)(3), as
16 appropriate, if the leave period covers more
17 than 3 consecutive workdays.

18 (ii) TIMELINESS.—The employee shall
19 provide a copy of such certification to the
20 employer in a timely manner, not later
21 than 30 days after the first day of the
22 leave. The employer shall not delay the
23 commencement of the leave on the basis
24 that the employer has not yet received the
25 certification.

1 (B) SUFFICIENT CERTIFICATION.—

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

5 (I) the date on which the leave
6 will be needed;

7 (II) the probable duration of the
8 leave;

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

14 (IV)(aa) for purposes of leave
15 under subsection (d)(1), a statement
16 that leave from work is medically nec-
17 essary;

18 (bb) for purposes of leave under
19 subsection (d)(2), the dates on which
20 testing for a medical diagnosis or care
21 is expected to be given and the dura-
22 tion of such testing or care; and

23 (cc) for purposes of leave under
24 subsection (d)(3), in the case of leave
25 to care for someone who is not a

1 child, a statement that care is needed
2 for an individual described in such
3 subsection, and an estimate of the
4 amount of time that such care is
5 needed for such individual.

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

14 (C) REGULATIONS.—Regulations pre-
15 scribed under section 13 shall specify the man-
16 ner in which an employee who does not have
17 health insurance shall provide a certification for
18 purposes of this paragraph.

19 (D) CONFIDENTIALITY AND NONDISCLO-
20 SURE.—

21 (i) PROTECTED HEALTH INFORMA-
22 TION.—Nothing in this Act shall be con-
23 strued to require a health care provider to
24 disclose information in violation of section
25 1177 of the Social Security Act (42 U.S.C.

1 1320d–6) or the regulations promulgated
2 pursuant to section 264(c) of the Health
3 Insurance Portability and Accountability
4 Act (42 U.S.C. 1320d–2 note).

5 (ii) HEALTH INFORMATION
6 RECORDS.—If an employer possesses
7 health information about an employee or
8 an employee’s child, parent, spouse or
9 other individual described in subsection
10 (d)(3), such information shall—

11 (I) be maintained on a separate
12 form and in a separate file from other
13 personnel information;

14 (II) be treated as a confidential
15 medical record; and

16 (III) not be disclosed except to
17 the affected employee or with the per-
18 mission of the affected employee.

19 (g) CURRENT LEAVE POLICIES.—

20 (1) EQUIVALENCY REQUIREMENT.—An em-
21 ployer with a leave policy providing paid leave op-
22 tions shall not be required to modify such policy, if
23 such policy offers an employee the option, at the em-
24 ployee’s discretion, to take paid sick leave that is at
25 least equivalent to the sick leave described in para-

1 graphs (1) and (2) of subsection (a) and subsection
2 (d), or if the policy offers paid leave (in amounts
3 equivalent to the amounts described in such para-
4 graphs) for purposes that include the reasons de-
5 scribed in subsection (d).

6 (2) NO ELIMINATION OR REDUCTION OF
7 LEAVE.—An employer may not eliminate or reduce
8 leave in existence on the date of enactment of this
9 Act, regardless of the type of such leave, in order to
10 comply with the provisions of this Act.

11 **SEC. 6. POSTING REQUIREMENT.**

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

18 (1) information describing leave available to
19 employees under this Act;

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

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

24 (4) information that describes—

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

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

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

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

12 (2) in employee handbooks.

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

17 **SEC. 7. PROHIBITED ACTS.**

18 (a) INTERFERENCE WITH RIGHTS.—

19 (1) EXERCISE OF RIGHTS.—It shall be unlawful
20 for any employer to interfere with, restrain, or deny
21 the exercise of, or the attempt to exercise, any right
22 provided under this Act.

23 (2) DISCRIMINATION.—It shall be unlawful for
24 any employer to discharge or in any other manner
25 discriminate against (including retaliating against)

1 any individual for opposing any practice made un-
2 lawful by this Act, including—

3 (A) discharging or discriminating against
4 (including retaliating against) any individual for
5 exercising, or attempting to exercise, any right
6 provided under this Act;

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

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

13 (b) INTERFERENCE WITH PROCEEDINGS OR INQUIR-
14 IES.—It shall be unlawful for any person to discharge or
15 in any other manner discriminate against (including retali-
16 ating against) any individual because such individual—

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

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

23 (3) has testified, or is about to testify, in any
24 inquiry or proceeding relating to any right provided
25 under this Act.

1 (c) CONSTRUCTION.—Nothing in this section shall be
2 construed to state or imply that the scope of the activities
3 prohibited by section 105 of the Family and Medical Leave
4 Act of 1993 (29 U.S.C. 2615) is less than the scope of
5 the activities prohibited by this section.

6 **SEC. 8. ENFORCEMENT AUTHORITY.**

7 (a) IN GENERAL.—

8 (1) DEFINITION.—In this subsection:

9 (A) the term “employee” means an em-
10 ployee described in clause (i) or (ii) of section
11 4(2)(A); and

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

15 (2) INVESTIGATIVE AUTHORITY.—

16 (A) IN GENERAL.—To ensure compliance
17 with the provisions of this Act, or any regula-
18 tion or order issued under this Act, the Sec-
19 retary shall have, subject to subparagraph (C),
20 the investigative authority provided under sec-
21 tion 11(a) of the Fair Labor Standards Act of
22 1938 (29 U.S.C. 211(a)), with respect to em-
23 ployees and employers.

24 (B) OBLIGATION TO KEEP AND PRESERVE
25 RECORDS.—An employer shall make, keep, and

1 preserve records pertaining to compliance with
2 this Act in accordance with section 11(c) of the
3 Fair Labor Standards Act of 1938 (29 U.S.C.
4 211(c)) and in accordance with regulations pre-
5 scribed by the Secretary.

6 (C) REQUIRED SUBMISSIONS GENERALLY
7 LIMITED TO AN ANNUAL BASIS.—The Secretary
8 shall not require, under the authority of this
9 paragraph, an employer to submit to the Sec-
10 retary any books or records more than once
11 during any 12-month period, unless the Sec-
12 retary has reasonable cause to believe there
13 may exist a violation of this Act or any regula-
14 tion or order issued pursuant to this Act, or is
15 investigating a charge pursuant to paragraph
16 (4).

17 (D) SUBPOENA AUTHORITY.—For the pur-
18 poses of any investigation provided for in this
19 paragraph, the Secretary shall have the sub-
20 poena authority provided for under section 9 of
21 the Fair Labor Standards Act of 1938 (29
22 U.S.C. 209).

23 (3) CIVIL ACTION BY EMPLOYEES.—

24 (A) RIGHT OF ACTION.—An action to re-
25 cover the damages or equitable relief prescribed

1 in subparagraph (B) may be maintained
2 against any employer in any Federal or State
3 court of competent jurisdiction by one or more
4 employees or their representative for and on be-
5 half of—

6 (i) the employees; or

7 (ii) the employees and other employ-
8 ees similarly situated.

9 (B) LIABILITY.—Any employer who vio-
10 lates section 7 (including a violation relating to
11 rights provided under section 5) shall be liable
12 to any employee affected—

13 (i) for damages equal to—

14 (I) the amount of—

15 (aa) any wages, salary, em-
16 ployment benefits, or other com-
17 pensation denied or lost to such
18 employee by reason of the viola-
19 tion; or

20 (bb) in a case in which
21 wages, salary, employment bene-
22 fits, or other compensation have
23 not been denied or lost to the
24 employee, any actual monetary
25 losses sustained by the employee

1 as a direct result of the violation
2 up to a sum equal to 7 days of
3 wages or salary for the employee;

4 (II) the interest on the amount
5 described in subclause (I) calculated
6 at the prevailing rate; and

7 (III) an additional amount as liq-
8 uidated damages; and

9 (ii) for such equitable relief as may be
10 appropriate, including employment, rein-
11 statement, and promotion.

12 (C) FEES AND COSTS.—The court in an
13 action under this paragraph shall, in addition to
14 any judgment awarded to the plaintiff, allow a
15 reasonable attorney’s fee, reasonable expert wit-
16 ness fees, and other costs of the action to be
17 paid by the defendant.

18 (4) ACTION BY THE SECRETARY.—

19 (A) ADMINISTRATIVE ACTION.—The Sec-
20 retary shall receive, investigate, and attempt to
21 resolve complaints of violations of section 7 (in-
22 cluding a violation relating to rights provided
23 under section 5) in the same manner that the
24 Secretary receives, investigates, and attempts to
25 resolve complaints of violations of sections 6

1 and 7 of the Fair Labor Standards Act of 1938
2 (29 U.S.C. 206 and 207).

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

7 (C) SUMS RECOVERED.—Any sums recov-
8 ered by the Secretary pursuant to subparagraph
9 (B) shall be held in a special deposit account
10 and shall be paid, on order of the Secretary, di-
11 rectly to each employee affected. Any such sums
12 not paid to an employee because of inability to
13 do so within a period of 3 years shall be depos-
14 ited into the Treasury of the United States as
15 miscellaneous receipts.

16 (5) LIMITATION.—

17 (A) IN GENERAL.—Except as provided in
18 subparagraph (B), an action may be brought
19 under paragraph (3), (4), or (6) not later than
20 2 years after the date of the last event consti-
21 tuting the alleged violation for which the action
22 is brought.

23 (B) WILLFUL VIOLATION.—In the case of
24 an action brought for a willful violation of sec-
25 tion 7 (including a willful violation relating to

1 rights provided under section 5), such action
2 may be brought within 3 years of the date of
3 the last event constituting the alleged violation
4 for which such action is brought.

5 (C) COMMENCEMENT.—In determining
6 when an action is commenced under paragraph
7 (3), (4), or (6) for the purposes of this para-
8 graph, it shall be considered to be commenced
9 on the date when the complaint is filed.

10 (6) ACTION FOR INJUNCTION BY SECRETARY.—
11 The district courts of the United States shall have
12 jurisdiction, for cause shown, in an action brought
13 by the Secretary—

14 (A) to restrain violations of section 7 (in-
15 cluding a violation relating to rights provided
16 under section 5), including the restraint of any
17 withholding of payment of wages, salary, em-
18 ployment benefits, or other compensation, plus
19 interest, found by the court to be due to em-
20 ployees eligible under this Act; or

21 (B) to award such other equitable relief as
22 may be appropriate, including employment, re-
23 instatement, and promotion.

24 (7) SOLICITOR OF LABOR.—The Solicitor of
25 Labor may appear for and represent the Secretary

1 on any litigation brought under paragraph (4) or
2 (6).

3 (8) GOVERNMENT ACCOUNTABILITY OFFICE
4 AND LIBRARY OF CONGRESS.—Notwithstanding any
5 other provision of this subsection, in the case of the
6 Government Accountability Office and the Library of
7 Congress, the authority of the Secretary of Labor
8 under this subsection shall be exercised respectively
9 by the Comptroller General of the United States and
10 the Librarian of Congress.

11 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-
12 COUNTABILITY ACT OF 1995.—The powers, remedies, and
13 procedures provided in the Congressional Accountability
14 Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as de-
15 fined in section 101 of that Act (2 U.S.C. 1301)), or any
16 person, alleging a violation of section 202(a)(1) of that
17 Act (42 U.S.C. 1312(a)(1)) shall be the powers, remedies,
18 and procedures this Act provides to that Board, or any
19 person, alleging an unlawful employment practice in viola-
20 tion of this Act against an employee described in section
21 4(2)(A)(iii).

22 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE
23 3, UNITED STATES CODE.—The powers, remedies, and
24 procedures provided in chapter 5 of title 3, United States
25 Code, to the President, the Merit Systems Protection

1 Board, or any person, alleging a violation of section
2 412(a)(1) of that title, shall be the powers, remedies, and
3 procedures this Act provides to the President, that Board,
4 or any person, respectively, alleging an unlawful employ-
5 ment practice in violation of this Act against an employee
6 described in section 4(2)(A)(iv).

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

18 **SEC. 9. GAO STUDY.**

19 (a) IN GENERAL.—The Comptroller General of the
20 United States shall conduct a study to determine the fol-
21 lowing:

22 (1) The number of days employees used paid
23 sick leave including—

24 (A) the number of employees who used
25 paid sick leave annually;

1 (B) both the number of consecutive days,
2 and total days, employees used paid sick leave
3 for their illnesses, or illnesses of—

4 (i) a child;

5 (ii) a spouse;

6 (iii) a parent; or

7 (iv) any other individual; and

8 (C) the number of employees who used
9 paid sick leave for leave periods covering more
10 than 3 consecutive workdays.

11 (2) Whether employees used paid sick leave to
12 care for illnesses or conditions caused by domestic
13 violence against the employees or their family mem-
14 bers.

15 (3) The cost to employers of implementing paid
16 sick leave policies.

17 (4) The benefits to employers of implementing
18 the policies, including improvements in retention and
19 absentee rates and productivity.

20 (5) The cost to employees of providing certifi-
21 cation issued by a health care provider to obtain
22 paid sick leave.

23 (6) The benefits of paid sick leave to employees
24 and their family members.

1 (7) Whether the provision of paid sick leave has
2 affected the ability of employees to care for their
3 family members.

4 (8) Whether and in what way the provision of
5 paid sick leave affected the ability of employees to
6 provide for their health needs.

7 (9) Whether the provision of paid sick leave af-
8 fected the ability of employees to sustain an ade-
9 quate income while meeting health needs of the em-
10 ployees and their family members.

11 (10) Whether employers who administered paid
12 sick leave policies prior to the date of enactment of
13 this Act were affected by the provisions of this Act.

14 (11) Whether other types of leave were affected
15 by this Act including whether this Act affected—

16 (A) paid vacation leave;

17 (B) paid family or medical leave; or

18 (C) personal leave.

19 (12) Whether paid sick leave affected retention
20 and turnover.

21 (13) Whether paid sick leave increased the use
22 of less costly preventive medical care and lowered
23 the use of emergency room care.

1 (14) Whether paid sick leave reduced the num-
2 ber of children sent to school when the children were
3 sick.

4 (15) Whether paid sick leave reduced the costs
5 of presenteeism for employers.

6 (b) AGGREGATING DATA.—The data collected under
7 paragraphs (1), (2), and (7) of subsection (a) shall be ag-
8 gregated by gender, race, disability, earnings level, age,
9 marital status, and family type, including parental status.

10 (c) REPORTS.—

11 (1) IN GENERAL.—Not later than 18 months
12 after the date of enactment of this Act, the Comp-
13 troller General of the United States shall prepare
14 and submit a report to the appropriate committees
15 of Congress concerning the results of the study con-
16 ducted pursuant to subsection (a) and the data ag-
17 gregated under subsection (b).

18 (2) FOLLOWUP REPORT.—Not later than 5
19 years after the date of enactment of this Act the
20 Comptroller General of the United States shall pre-
21 pare and submit a followup report to the appropriate
22 committees of Congress concerning the results of the
23 study conducted pursuant to subsection (a) and the
24 data aggregated under subsection (b).

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

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

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

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

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

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

22 **SEC. 12. ENCOURAGEMENT OF MORE GENEROUS LEAVE**
23 **POLICIES.**

24 Nothing in this Act shall be construed to discourage
25 employers from adopting or retaining leave policies more

1 generous than policies that comply with the requirements
2 of this Act.

3 **SEC. 13. REGULATIONS.**

4 (a) IN GENERAL.—

5 (1) AUTHORITY.—Except as provided in para-
6 graph (2), not later than 120 days after the date of
7 enactment of this Act, the Secretary shall prescribe
8 such regulations as are necessary to carry out this
9 Act with respect to employees described in clause (i)
10 or (ii) of section 4(2)(A).

11 (2) GOVERNMENT ACCOUNTABILITY OFFICE; LI-
12 BRARY OF CONGRESS.—The Comptroller General of
13 the United States and the Librarian of Congress
14 shall prescribe the regulations with respect to em-
15 ployees of the Government Accountability Office and
16 the Library of Congress, respectively.

17 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-
18 COUNTABILITY ACT OF 1995.—

19 (1) AUTHORITY.—Not later than 120 days
20 after the date of enactment of this Act, the Board
21 of Directors of the Office of Compliance shall pre-
22 scribe (in accordance with section 304 of the Con-
23 gressional Accountability Act of 1995 (2 U.S.C.
24 1384)) such regulations as are necessary to carry

1 out this Act with respect to employees described in
2 section 4(2)(A)(iii).

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

13 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE
14 3, UNITED STATES CODE.—

15 (1) AUTHORITY.—Not later than 120 days
16 after the date of enactment of this Act, the Presi-
17 dent (or the designee of the President) shall pre-
18 scribe such regulations as are necessary to carry out
19 this Act with respect to employees described in sec-
20 tion 4(2)(A)(iv).

21 (2) AGENCY REGULATIONS.—The regulations
22 prescribed under paragraph (1) shall be the same as
23 substantive regulations promulgated by the Sec-
24 retary to carry out this Act except insofar as the
25 President (or designee) may determine, for good

1 cause shown and stated together with the regula-
2 tions prescribed under paragraph (1), that a modi-
3 fication of such regulations would be more effective
4 for the implementation of the rights and protections
5 involved under this section.

6 (d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE
7 5, UNITED STATES CODE.—

8 (1) AUTHORITY.—Not later than 120 days
9 after the date of enactment of this Act, the Director
10 of the Office of Personnel Management shall pre-
11 scribe such regulations as are necessary to carry out
12 this Act with respect to employees described in sec-
13 tion 4(2)(A)(v).

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

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

2 (a) IN GENERAL.—This Act shall take effect 1 year
3 after the date of issuance of regulations under section
4 13(a)(1).

5 (b) COLLECTIVE BARGAINING AGREEMENTS.—In the
6 case of a collective bargaining agreement in effect on the
7 effective date prescribed by subsection (a), this Act shall
8 take effect on the earlier of—

9 (1) the date of the termination of such agree-
10 ment; or

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

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