

109TH CONGRESS  
1ST SESSION

# S. 282

To amend the Family and Medical Leave Act of 1993 to expand the scope of the Act, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 3, 2005

Mr. DODD (for himself, Mr. KENNEDY, Ms. MIKULSKI, Mrs. MURRAY, Mrs. CLINTON, Mr. DURBIN, Mr. LAUTENBERG, Mr. LEAHY, Mr. AKAKA, Mrs. BOXER, and Mr. CORZINE) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Family and Medical Leave Act of 1993 to expand the scope of the Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Family and Medical Leave Expansion Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of  
7 this Act is as follows:

Sec. 1. Short title; table of contents.  
Sec. 2. Findings.

TITLE I—FAMILY INCOME TO RESPOND TO SIGNIFICANT  
TRANSITIONS

- Sec. 101. Short title.
- Sec. 102. Purposes.
- Sec. 103. Definitions.
- Sec. 104. Demonstration projects.
- Sec. 105. Notification.
- Sec. 106. Evaluations and reports.
- Sec. 107. Authorization of appropriations.
- Sec. 108. Technical and conforming amendments.

TITLE II—FAMILY FRIENDLY WORKPLACES

- Sec. 201. Short title.
- Sec. 202. Coverage of employees.

TITLE III—EMPLOYMENT PROTECTION FOR BATTERED WOMEN

- Sec. 301. Entitlement to leave for addressing domestic violence for non-Federal employees.
- Sec. 302. Entitlement to leave for addressing domestic violence for Federal employees.
- Sec. 303. Existing leave usable for domestic violence.

TITLE IV—FEDERAL EMPLOYEES PAID PARENTAL LEAVE

- Sec. 401. Short title.
- Sec. 402. Demonstration project.
- Sec. 403. Technical and conforming amendments.
- Sec. 404. Effective date.

TITLE V—TIME FOR SCHOOLS

- Sec. 501. Short title.
- Sec. 502. General requirements for leave.
- Sec. 503. School involvement leave for civil service employees.
- Sec. 504. Effective date.

**1 SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) Since the enactment of the Family and  
4 Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.),  
5 more than 50,000,000 Americans have taken leave  
6 for family or medical reasons.

7 (2) Of those taking leave under the Family and  
8 Medical Leave Act of 1993, 52 percent took the  
9 leave for their own serious health conditions, and 26

1 percent took the leave to care for a new child or for  
2 maternity disability reasons.

3 (3) While the leave provided by the Family and  
4 Medical Leave Act of 1993 has proven to be a crit-  
5 ical resource for millions of Americans, too many  
6 people are left behind because the Act provides only  
7 unpaid leave.

8 (4) According to a 2000 Department of Labor  
9 survey—

10 (A) 3,500,000 Americans needed family  
11 and medical leave but could not afford to take  
12 time off without pay;

13 (B) nearly four-fifths (78 percent) of those  
14 surveyed who needed the leave but did not take  
15 it said they could not afford unpaid leave;

16 (C) 9 percent of those taking family and  
17 medical leave and receiving less than full pay  
18 during their longest period of the leave had to  
19 go on public assistance to cover their lost  
20 wages; and

21 (D) 73 percent of those taking family and  
22 medical leave had incomes above \$30,000.

23 (5) Decades ago, only a tiny fraction of mothers  
24 with infants under age 1 were in the workforce. In

1 2004, about 55 percent of mothers with infants  
2 under age 1 were in the workforce.

3 (6) Worldwide, 128 countries of the 172 re-  
4 sponding to an International Social Security Asso-  
5 ciation survey in 1999 provided at least some paid  
6 and job protected maternity leave, and, on average,  
7 provided 16 weeks of basic paid maternity leave. In  
8 some countries, paid maternity leave is mandatory  
9 and in others it is voluntary.

10 (7) A European Union directive mandating 14  
11 weeks of paid maternity leave was adopted as a  
12 health and safety measure in 1992.

13 (8) Among the 29 Organization for Economic  
14 Cooperation and Development (OECD) countries,  
15 the most advanced industrialized countries, the aver-  
16 age period of childbirth-related leave (including ma-  
17 ternity, paternity, and parental leaves) is 44 weeks  
18 (10 months) with additional time provided in some  
19 countries for leave to care for a sick child. In those  
20 countries, the average duration of paid childbirth-re-  
21 lated leave is 36 weeks.

22 (9) In more than half of the OECD countries  
23 (16 countries), the cash benefit provided while on  
24 the paid childbirth-related leave replaces between 70  
25 and 100 percent of prior wages.

1           (10) Among the OECD countries, adoptive  
2           mothers and adoptive parents are increasingly eligi-  
3           ble for the paid childbirth-related leave.

4 **TITLE I—FAMILY INCOME TO RE-**  
5 **SPOND TO SIGNIFICANT**  
6 **TRANSITIONS**

7 **SEC. 101. SHORT TITLE.**

8           This title may be cited as the “Family Income to Re-  
9           spond to Significant Transitions Insurance Act”.

10 **SEC. 102. PURPOSES.**

11           The purposes of this title are—

12           (1) to establish a demonstration program that  
13           supports the efforts of States and political subdivi-  
14           sions to provide partial or full wage replacement,  
15           often referred to as FIRST insurance, to new par-  
16           ents so that the new parents are able to spend time  
17           with a new infant or newly adopted child, and to  
18           other employees; and

19           (2) to learn about the most effective mecha-  
20           nisms for providing the wage replacement assistance.

21 **SEC. 103. DEFINITIONS.**

22           In this title:

23           (1) EMPLOYER; SON OR DAUGHTER; STATE.—

24           The terms “employer”, “son or daughter”, and  
25           “State” have the meanings given the terms in sec-

1 tion 101 of the Family and Medical Leave Act of  
2 1993 (29 U.S.C. 2611).

3 (2) SECRETARY.—The term “Secretary” means  
4 the Secretary of Labor, acting after consultation  
5 with the Secretary of Health and Human Services.

6 **SEC. 104. DEMONSTRATION PROJECTS.**

7 (a) GRANTS.—

8 (1) IN GENERAL.—The Secretary shall make  
9 grants to eligible entities to pay for the Federal  
10 share of the cost of carrying out projects that assist  
11 families by providing, through various mechanisms,  
12 wage replacement for eligible individuals who are re-  
13 sponding to—

14 (A) caregiving needs resulting from the  
15 birth or adoption of a son or daughter; or

16 (B) other family caregiving needs.

17 (2) PERIODS.—The Secretary shall make the  
18 grants for periods of 5 years.

19 (b) ELIGIBLE ENTITIES.—To be eligible to receive a  
20 grant under this section, an entity shall be a State or polit-  
21 ical subdivision of a State.

22 (c) USE OF FUNDS.—

23 (1) IN GENERAL.—An entity that receives a  
24 grant under this section may use the funds made  
25 available through the grant to provide partial or full

1 wage replacement as described in subsection (a) to  
2 eligible individuals—

3 (A) directly;

4 (B) through an insurance program, such  
5 as a State temporary disability insurance pro-  
6 gram or the State unemployment compensation  
7 benefit program;

8 (C) through a private disability or other  
9 insurance plan, or another mechanism provided  
10 by a private employer; or

11 (D) through another mechanism.

12 (2) PERIOD.—In carrying out a project under  
13 this section, the entity shall provide partial or full  
14 wage replacement to eligible individuals for not less  
15 than 6 weeks during a period of leave, or an absence  
16 from employment, described in subsection (d)(2),  
17 during any 12-month period. Wage replacement  
18 available to an individual under this paragraph shall  
19 be in addition to any compensation from annual or  
20 sick leave that the individual may elect to use during  
21 a period of leave, or an absence from employment,  
22 described in subsection (d)(2), during any 12-month  
23 period.

24 (3) ADMINISTRATIVE COSTS.—No entity may  
25 use more than 10 percent of the total funds made

1 available through the grant during the 5-year period  
2 of the grant to pay for the administrative costs re-  
3 lating to a project described in subsection (a).

4 (d) ELIGIBLE INDIVIDUALS.—To be eligible to re-  
5 ceive wage replacement under subsection (a), an individual  
6 shall—

7 (1) meet such eligibility criteria as the eligible  
8 entity providing the wage replacement may specify  
9 in an application described in subsection (e); and

10 (2) be—

11 (A) an individual who is taking leave,  
12 under the Family and Medical Leave Act of  
13 1993 (29 U.S.C. 2601 et seq.), other Federal,  
14 State, or local law, or a private plan, for a rea-  
15 son described in subparagraph (A) or (B) of  
16 section 102(a)(1) of the Family and Medical  
17 Leave Act of 1993 (29 U.S.C. 2612(a)(1));

18 (B) at the option of the eligible entity, an  
19 individual who—

20 (i) is taking leave, under that Act,  
21 other Federal, State, or local law, or a pri-  
22 vate plan, for a reason described in sub-  
23 paragraph (C), (D), (E), or (F) of section  
24 102(a)(1) of the Family and Medical

1 Leave Act of 1993 (29 U.S.C. 2612(a)(1));

2 or

3 (ii) leaves employment, and has an ab-  
4 sence from employment, because the indi-  
5 vidual has elected to care for a son or  
6 daughter under age 1; or

7 (C) at the option of the eligible entity, an  
8 individual who has an absence from employ-  
9 ment and has other characteristics specified by  
10 the eligible entity in an application described in  
11 subsection (e).

12 (e) APPLICATION.—To be eligible to receive a grant  
13 under this section, an entity shall submit an application  
14 to the Secretary, at such time, in such manner, and con-  
15 taining such information as the Secretary may require, in-  
16 cluding, at a minimum—

17 (1) a plan for the project to be carried out with  
18 the grant;

19 (2) information demonstrating that the appli-  
20 cant consulted representatives of employers and em-  
21 ployees, including labor organizations, in developing  
22 the plan;

23 (3) estimates of the costs and benefits of the  
24 project;

1           (4)(A) information on the number and type of  
2 families to be covered by the project, and the extent  
3 of such coverage in the area served under the grant;  
4 and

5           (B) information on any criteria or characteris-  
6 tics that the entity will use to determine whether an  
7 individual is eligible for wage replacement under  
8 subsection (a), as described in paragraphs (1) and  
9 (2)(C) of subsection (d);

10          (5) if the project will expand on State and pri-  
11 vate systems of wage replacement for eligible indi-  
12 viduals, information on the manner in which the  
13 project will expand on the systems;

14          (6) information demonstrating the manner in  
15 which the wage replacement assistance provided  
16 through the project will assist families in which an  
17 individual takes leave or is absent from employment  
18 as described in subsection (d)(2); and

19          (7) an assurance that the applicant will partici-  
20 pate in efforts to evaluate the effectiveness of the  
21 project.

22          (f) **SELECTION CRITERIA.**—In selecting entities to re-  
23 ceive grants for projects under this section, the Secretary  
24 shall—

25           (1) take into consideration—

- 1 (A) the scope of the proposed projects;
- 2 (B) the cost-effectiveness, feasibility, and  
3 financial soundness of the proposed projects;
- 4 (C) the extent to which the proposed  
5 projects would expand access to wage replace-  
6 ment in response to family caregiving needs,  
7 particularly for low-wage employees, in the area  
8 served by the grant; and
- 9 (D) the benefits that would be offered to  
10 families and children through the proposed  
11 projects; and
- 12 (2) to the extent feasible, select entities pro-  
13 posing projects that utilize diverse mechanisms, in-  
14 cluding expansion of State unemployment compensa-  
15 tion benefit programs, and establishment or expan-  
16 sion of State temporary disability insurance pro-  
17 grams, to provide the wage replacement.
- 18 (g) FEDERAL SHARE.—
- 19 (1) IN GENERAL.—The Federal share of the  
20 cost described in subsection (a) shall be—
- 21 (A) 50 percent for the first year of the  
22 grant period;
- 23 (B) 40 percent for the second year of that  
24 period;

1 (C) 30 percent for the third year of that  
2 period; and

3 (D) 20 percent for each subsequent year.

4 (2) NON-FEDERAL SHARE.—The non-Federal  
5 share of the cost may be in cash or in kind, fairly  
6 evaluated, including plant, equipment, and services  
7 and may be provided from State, local, or private  
8 sources, or Federal sources other than this title.

9 (h) SUPPLEMENT NOT SUPPLANT.—Funds appro-  
10 priated pursuant to the authority of this title shall be used  
11 to supplement and not supplant other Federal, State, and  
12 local public funds and private funds expended to provide  
13 wage replacement.

14 (i) EFFECT ON EXISTING RIGHTS.—Nothing in this  
15 title shall be construed to supersede, preempt, or otherwise  
16 infringe on the provisions of any collective bargaining  
17 agreement or any employment benefit program or plan  
18 that provides greater rights to employees than the rights  
19 established under this title.

20 **SEC. 105. NOTIFICATION.**

21 An eligible entity that provides partial or full wage  
22 replacement to an eligible individual under this title shall  
23 notify (in a form and manner prescribed by the Sec-  
24 retary)—

1           (1) the employer of the individual of the  
2 amount of the wage replacement provided; and

3           (2) the individual and the employer of the indi-  
4 vidual that the employer shall count an appropriate  
5 period of leave, calculated under section 102(g) of  
6 the Family and Medical Leave Act of 1993 (29  
7 U.S.C. 2612(g)), as added by section 108, against  
8 the total amount of leave (if any) to which the em-  
9 ployee is entitled under section 102(a)(1) of that Act  
10 (29 U.S.C. 2612(a)(1)).

11 **SEC. 106. EVALUATIONS AND REPORTS.**

12       (a) AVAILABLE FUNDS.—The Secretary shall use not  
13 more than 2 percent of the funds made available under  
14 section 107 to carry out this section.

15       (b) EVALUATIONS.—The Secretary shall, directly or  
16 by contract, evaluate the effectiveness of projects carried  
17 out with grants made under section 104, including con-  
18 ducting—

19           (1) research relating to the projects, including  
20 research comparing—

21               (A) the scope of the projects, including the  
22 type of insurance or other wage replacement  
23 mechanism used, the method of financing used,  
24 the eligibility requirements, the level of the  
25 wage replacement benefit provided (such as the

1 percentage of salary replaced), and the length  
2 of the benefit provided, for the projects;

3 (B) the utilization of the projects, includ-  
4 ing the characteristics of individuals who ben-  
5 efit from the projects, particularly low-wage  
6 workers, and factors that determine the ability  
7 of eligible individuals to obtain wage replace-  
8 ment through the projects; and

9 (C) the costs of and savings achieved by  
10 the projects, including the cost-effectiveness of  
11 the projects and their benefits for children and  
12 families;

13 (2) analysis of the overall need for wage re-  
14 placement; and

15 (3) analysis of the impact of the projects on the  
16 overall availability of wage replacement.

17 (c) REPORTS.—

18 (1) INITIAL REPORT.—Not later than 3 years  
19 after the beginning of the grant period for the first  
20 grant made under section 104, the Secretary shall  
21 prepare and submit to Congress a report that con-  
22 tains information resulting from the evaluations con-  
23 ducted under subsection (b).

24 (2) SUBSEQUENT REPORTS.—Not later than 4  
25 years after the beginning of that grant period, and

1 annually thereafter, the Secretary shall prepare and  
2 submit to Congress a report that contains—

3 (A) information resulting from the evalua-  
4 tions conducted under subsection (b); and

5 (B) usage data for the demonstration  
6 projects, for the most recent year for which the  
7 data are available.

8 **SEC. 107. AUTHORIZATION OF APPROPRIATIONS.**

9 There are authorized to be appropriated to carry out  
10 this title \$400,000,000 for fiscal year 2006 and such sums  
11 as may be necessary for each subsequent fiscal year.

12 **SEC. 108. TECHNICAL AND CONFORMING AMENDMENTS.**

13 (a) IN GENERAL.—Section 102 of the Family and  
14 Medical Leave Act of 1993 (29 U.S.C. 2612) is amended  
15 by adding at the end the following:

16 “(g) RELATIONSHIP TO FIRST INSURANCE.—

17 “(1) FULL WAGE REPLACEMENT.—If an eligible  
18 entity provides full wage replacement to an employee  
19 for a period under title I of the Family and Medical  
20 Leave Expansion Act, the employee’s employer shall  
21 count an amount of leave, equal to that period,  
22 against the total amount of leave (if any) to which  
23 the employee is entitled under subsection (a)(1).

24 “(2) PARTIAL WAGE REPLACEMENT.—If an eli-  
25 gible entity provides partial wage replacement to an

1 employee for a period under title I of the Family  
 2 and Medical Leave Expansion Act, the employee’s  
 3 employer shall—

4 “(A) total the amount of partial wage re-  
 5 placement provided for that period;

6 “(B) convert the total into a corresponding  
 7 amount of full wage replacement provided for a  
 8 proportionately reduced period; and

9 “(C) count an amount of leave, equal to  
 10 the period described in subparagraph (B),  
 11 against the total amount of leave (if any) to  
 12 which the employee is entitled under subsection  
 13 (a)(1).”.

14 (b) TECHNICAL AND CONFORMING AMENDMENTS.—  
 15 Section 102(d)(2) of the Family and Medical Leave Act  
 16 of 1993 (29 U.S.C. 2612(d)(2)) is amended by striking  
 17 “for leave” each place it appears and inserting “for any  
 18 unpaid leave”.

19 **TITLE II—FAMILY FRIENDLY**  
 20 **WORKPLACES**

21 **SEC. 201. SHORT TITLE.**

22 This title may be cited as the “Family and Medical  
 23 Leave Fairness Act of 2005”.

1 **SEC. 202. COVERAGE OF EMPLOYEES.**

2 Paragraphs (2)(B)(ii) and (4)(A)(i) of section 101 of  
 3 the Family and Medical Leave Act of 1993 (29 U.S.C.  
 4 2611(2)(B)(ii) and (4)(A)(i)) are amended by striking  
 5 “50” each place it appears and inserting “25”.

6 **TITLE III—EMPLOYMENT PRO-**  
 7 **TECTION FOR BATTERED**  
 8 **WOMEN**

9 **SEC. 301. ENTITLEMENT TO LEAVE FOR ADDRESSING DO-**  
 10 **MESTIC VIOLENCE FOR NON-FEDERAL EM-**  
 11 **PLOYEES.**

12 (a) DEFINITIONS.—Section 101 of the Family and  
 13 Medical Leave Act of 1993 (29 U.S.C. 2611) is amended  
 14 by adding at the end the following:

15 “(14) ADDRESSING DOMESTIC VIOLENCE AND  
 16 ITS EFFECTS.—The term ‘addressing domestic vio-  
 17 lence and its effects’ means—

18 “(A) being unable to attend or perform  
 19 work due to an incident of domestic violence;

20 “(B) seeking medical attention for or re-  
 21 covering from injuries caused by domestic vio-  
 22 lence;

23 “(C) seeking legal assistance or remedies,  
 24 including communicating with the police or an  
 25 attorney, or participating in any legal pro-  
 26 ceeding, related to domestic violence;

1           “(D) obtaining services from a domestic vi-  
2           olence shelter or program or rape crisis center  
3           as a result of domestic violence;

4           “(E) obtaining psychological counseling re-  
5           lated to experiences of domestic violence;

6           “(F) participating in safety planning and  
7           other actions to increase safety from future do-  
8           mestic violence, including temporary or perma-  
9           nent relocation; and

10           “(G) participating in any other activity ne-  
11           cessitated by domestic violence that must be un-  
12           dertaken during the hours of employment in-  
13           volved.

14           “(15) DOMESTIC VIOLENCE.—The term ‘domes-  
15           tic violence’ means domestic violence, and dating vio-  
16           lence, as such terms are defined in section 2105 of  
17           the Omnibus Crime Control and Safe Streets Act of  
18           1968 (42 U.S.C. 3796hh-4).”.

19           (b) LEAVE REQUIREMENT.—Section 102 of the Fam-  
20           ily and Medical Leave Act of 1993 (29 U.S.C. 2612) is  
21           amended—

22           (1) in subsection (a)(1), by adding at the end  
23           the following:

24           “(E) In order to care for the son, daugh-  
25           ter, or parent of the employee, if such son,

1 daughter, or parent is addressing domestic vio-  
2 lence and its effects.

3 “(F) Because the employee is addressing  
4 domestic violence and its effects, which make  
5 the employee unable to perform the functions of  
6 the position of such employee.”;

7 (2) in subsection (b), by adding at the end the  
8 following:

9 “(3) DOMESTIC VIOLENCE.—Leave under sub-  
10 paragraph (E) or (F) of subsection (a)(1) may be  
11 taken by an eligible employee intermittently or on a  
12 reduced leave schedule. The taking of leave intermit-  
13 tently or on a reduced leave schedule pursuant to  
14 this paragraph shall not result in a reduction in the  
15 total amount of leave to which the employee is enti-  
16 tled under subsection (a) beyond the amount of leave  
17 actually taken.”; and

18 (3) in subsection (d)(2)(B), by striking “(C) or  
19 (D)” and inserting “(C), (D), (E), or (F)”.

20 (c) CERTIFICATION.—Section 103 of the Family and  
21 Medical Leave Act of 1993 (29 U.S.C. 2613) is amend-  
22 ed—

23 (1) in the title of the section, by inserting be-  
24 fore the period the following: “; **CONFIDEN-**  
25 **TIALITY**”; and

1 (2) by adding at the end the following:

2 “(f) DOMESTIC VIOLENCE.—In determining if an em-  
3 ployee meets the requirements of subparagraph (E) or (F)  
4 of section 102(a)(1), the employer of an employee may re-  
5 quire the employee to provide—

6 “(1) a written statement describing the domes-  
7 tic violence and its effects;

8 “(2) documentation of the domestic violence in-  
9 volved, such as a police or court record, or docu-  
10 mentation from a shelter worker, an employee of a  
11 domestic violence program, an attorney, a member  
12 of the clergy, or a medical or other professional,  
13 from whom the employee has sought assistance in  
14 addressing domestic violence and its effects; or

15 “(3) other corroborating evidence, such as a  
16 statement from any other individual with knowledge  
17 of the circumstances that provide the basis for the  
18 claim of domestic violence, or physical evidence of  
19 domestic violence, such as a photograph, torn or  
20 bloody clothing, or any other damaged property.

21 “(g) CONFIDENTIALITY.—All evidence provided to  
22 the employer under subsection (f) of domestic violence ex-  
23 perience by an employee or the son, daughter, or parent  
24 of an employee, including a statement of an employee, any  
25 other documentation or corroborating evidence, and the

1 fact that an employee has requested leave for the purpose  
 2 of addressing, or caring for a son, daughter, or parent who  
 3 is addressing, domestic violence and its effects, shall be  
 4 retained in the strictest confidence by the employer, except  
 5 to the extent that disclosure is requested, or consented to,  
 6 by the employee for the purpose of—

7           “(1) protecting the safety of the employee or a  
 8           family member or co-worker of the employee; or

9           “(2) assisting in documenting domestic violence  
 10          for a court or agency.”.

11          (d) TABLE OF CONTENTS.—The table of contents in  
 12 section 1(b) of the Family and Medical Leave Act of 1993  
 13 (29 U.S.C. prec. 2601) is amended by striking the item  
 14 relating to section 103 and inserting the following:

“Sec. 103. Certification; confidentiality.”.

15 **SEC. 302. ENTITLEMENT TO LEAVE FOR ADDRESSING DO-**  
 16 **MESTIC VIOLENCE FOR FEDERAL EMPLOY-**  
 17 **EES.**

18          (a) DEFINITIONS.—Section 6381 of title 5, United  
 19 States Code, is amended—

20           (1) at the end of paragraph (5), by striking  
 21           “and”;

22           (2) in paragraph (6), by striking the period and  
 23           inserting a semicolon; and

24           (3) by adding at the end the following:

1           “(7) the term ‘addressing domestic violence and  
2 its effects’ has the meaning given the term in section  
3 101 of the Family and Medical Leave Act of 1993  
4 (29 U.S.C. 2611); and

5           “(8) the term ‘domestic violence’ means domes-  
6 tic violence, and dating violence, as such terms are  
7 defined in section 2105 of the Omnibus Crime Con-  
8 trol and Safe Streets Act of 1968 (42 U.S.C.  
9 3796hh-4).”.

10       (b) LEAVE REQUIREMENT.—Section 6382 of title 5,  
11 United States Code, is amended—

12           (1) in subsection (a)(1), by adding at the end  
13 the following:

14           “(E) In order to care for the son, daughter, or  
15 parent of the employee, if such son, daughter, or  
16 parent is addressing domestic violence and its ef-  
17 fects.

18           “(F) Because the employee is addressing do-  
19 mestic violence and its effects, which make the em-  
20 ployee unable to perform the functions of the posi-  
21 tion of such employee.”;

22           (2) in subsection (b), by adding at the end the  
23 following:

24           “(3) DOMESTIC VIOLENCE.—Leave under sub-  
25 paragraph (E) or (F) of subsection (a)(1) may be

1 taken by an employee intermittently or on a reduced  
2 leave schedule. The taking of leave intermittently or  
3 on a reduced leave schedule pursuant to this para-  
4 graph shall not result in a reduction in the total  
5 amount of leave to which the employee is entitled  
6 under subsection (a) beyond the amount of leave ac-  
7 tually taken.”; and

8 (3) in subsection (d), by striking “(C), or (D)”  
9 and inserting “(C), (D), (E), or (F)”.

10 (c) CERTIFICATION.—Section 6383 of title 5, United  
11 States Code, is amended—

12 (1) in the title of the section, by adding at the  
13 end the following: “; **CONFIDENTIALITY**”; and

14 (2) by adding at the end the following:

15 “(f) In determining if an employee meets the require-  
16 ments of subparagraph (E) or (F) of section 6382(a)(1),  
17 the employing agency of an employee may require the em-  
18 ployee to provide—

19 “(1) a written statement describing the domes-  
20 tic violence and its effects;

21 “(2) documentation of the domestic violence in-  
22 volved, such as a police or court record, or docu-  
23 mentation from a shelter worker, an employee of a  
24 domestic violence program, an attorney, a member  
25 of the clergy, or a medical or other professional,

1 from whom the employee has sought assistance in  
2 addressing domestic violence and its effects; or

3 “(3) other corroborating evidence, such as a  
4 statement from any other individual with knowledge  
5 of the circumstances that provide the basis for the  
6 claim of domestic violence, or physical evidence of  
7 domestic violence, such as a photograph, torn or  
8 bloody clothing, or other damaged property.

9 “(g) All evidence provided to the employing agency  
10 under subsection (f) of domestic violence experienced by  
11 an employee or the son, daughter, or parent of an em-  
12 ployee, including a statement of an employee, any other  
13 documentation or corroborating evidence, and the fact  
14 that an employee has requested leave for the purpose of  
15 addressing, or caring for a son, daughter, or parent who  
16 is addressing, domestic violence and its effects, shall be  
17 retained in the strictest confidence by the employing agen-  
18 cy, except to the extent that disclosure is requested, or  
19 consented to, by the employee for the purpose of—

20 “(1) protecting the safety of the employee or a  
21 family member or co-worker of the employee; or

22 “(2) assisting in documenting domestic violence  
23 for a court or agency.”.

24 (d) TABLE OF SECTIONS.—The table of sections for  
25 chapter 63 of title 5, United States Code, is amended by

1 striking the item relating to section 6383 and inserting  
 2 the following:

“6383. Certification; confidentiality.”.

3 **SEC. 303. EXISTING LEAVE USABLE FOR DOMESTIC VIO-**  
 4 **LENCE.**

5 (a) DEFINITIONS.—In this section:

6 (1) ADDRESSING DOMESTIC VIOLENCE AND ITS  
 7 EFFECTS.—The term “addressing domestic violence  
 8 and its effects” has the meaning given the term in  
 9 section 101 of the Family and Medical Leave Act of  
 10 1993 (29 U.S.C. 2611), as amended in section  
 11 301(a).

12 (2) EMPLOYEE.—The term “employee” means  
 13 any person employed by an employer. In the case of  
 14 an individual employed by a public agency, such  
 15 term means an individual employed as described in  
 16 section 3(e) of the Fair Labor Standards Act of  
 17 1938 (29 U.S.C. 203(e)).

18 (3) EMPLOYER.—The term “employer”—

19 (A) means any person engaged in com-  
 20 merce or in any industry or activity affecting  
 21 commerce who employs individuals, if such per-  
 22 son is also subject to the Family and Medical  
 23 Leave Act of 1993 (29 U.S.C. 2601 et seq.) or  
 24 to any provision of a State or local law, collec-  
 25 tive bargaining agreement, or employment bene-

1 fits program or plan, addressing paid or unpaid  
2 leave from employment (including family, med-  
3 ical, sick, annual, personal, or similar leave);  
4 and

5 (B) includes any person acting directly or  
6 indirectly in the interest of an employer in rela-  
7 tion to any employee, and includes a public  
8 agency, who is subject to a law, agreement, pro-  
9 gram, or plan described in subparagraph (A),  
10 but does not include any labor organization  
11 (other than when acting as an employer) or  
12 anyone acting in the capacity of officer or agent  
13 of such labor organization.

14 (4) EMPLOYMENT BENEFITS.—The term “em-  
15 ployment benefits” has the meaning given the term  
16 in section 101 of the Family and Medical Leave Act  
17 of 1993 (29 U.S.C. 2611).

18 (5) PARENT; SON OR DAUGHTER.—The terms  
19 “parent” and “son or daughter” have the meanings  
20 given the terms in section 101 of the Family and  
21 Medical Leave Act of 1993 (29 U.S.C. 2611).

22 (6) PUBLIC AGENCY.—The term “public agen-  
23 cy” has the meaning given the term in section 3 of  
24 the Fair Labor Standards Act of 1938 (29 U.S.C.  
25 203).

1           (b) USE OF EXISTING LEAVE.—An employee who is  
2 entitled to take paid or unpaid leave (including family,  
3 medical, sick, annual, personal, or similar leave) from em-  
4 ployment, pursuant to State or local law, a collective bar-  
5 gaining agreement, or an employment benefits program or  
6 plan, shall be permitted to use such leave for the purpose  
7 of addressing domestic violence and its effects, or for the  
8 purpose of caring for a son or daughter or parent of the  
9 employee, if such son or daughter or parent is addressing  
10 domestic violence and its effects.

11           (c) CERTIFICATION.—In determining whether an em-  
12 ployee qualifies to use leave as described in subsection (b),  
13 an employer may require a written statement, documenta-  
14 tion of domestic violence, or corroborating evidence con-  
15 sistent with section 103(f) of the Family and Medical  
16 Leave Act of 1993 (29 U.S.C. 2613(f)), as amended by  
17 section 301(c).

18           (d) CONFIDENTIALITY.—All evidence provided to the  
19 employer under subsection (c) of domestic violence experi-  
20 enced by an employee or the son or daughter or parent  
21 of the employee, including a statement of an employee,  
22 any other documentation or corroborating evidence, and  
23 the fact that an employee has requested leave for the pur-  
24 pose of addressing, or caring for a son or daughter or par-  
25 ent who is addressing, domestic violence and its effects,

1 shall be retained in the strictest confidence by the em-  
 2 ployer, except to the extent that disclosure is requested,  
 3 or consented to, by the employee for the purpose of—

4 (1) protecting the safety of the employee or a  
 5 family member or co-worker of the employee; or

6 (2) assisting in documenting domestic violence  
 7 for a court or agency.

8 (e) PROHIBITED ACTS.—

9 (1) INTERFERENCE WITH RIGHTS.—

10 (A) EXERCISE OF RIGHTS.—It shall be un-  
 11 lawful for any employer to interfere with, re-  
 12 strain, or deny the exercise of or the attempt to  
 13 exercise, any right provided under this section.

14 (B) DISCRIMINATION.—It shall be unlaw-  
 15 ful for any employer to discharge or in any  
 16 other manner discriminate against an individual  
 17 for opposing any practice made unlawful by this  
 18 section.

19 (2) INTERFERENCE WITH PROCEEDINGS OR IN-  
 20 QUIRIES.—It shall be unlawful for any person to dis-  
 21 charge or in any other manner discriminate against  
 22 any individual because such individual—

23 (A) has filed any charge, or had instituted  
 24 or caused to be instituted any proceeding,  
 25 under or related to this section;

1           (B) has given, or is about to give, any in-  
2           formation in connection with any inquiry or  
3           proceeding relating to any right provided under  
4           this section; or

5           (C) has testified, or is about to testify, in  
6           any inquiry or proceeding relating to any right  
7           provided under this section.

8           (f) ENFORCEMENT.—

9           (1) PUBLIC ENFORCEMENT.—The Secretary of  
10          Labor shall have the powers set forth in subsections  
11          (b), (c), (d), and (e) of section 107 of the Family  
12          and Medical Leave Act of 1993 (29 U.S.C. 2617)  
13          for the purpose of public agency enforcement of any  
14          alleged violation of subsection (e) against any em-  
15          ployer.

16          (2) PRIVATE ENFORCEMENT.—The remedies  
17          and procedures set forth in section 107(a) of the  
18          Family and Medical Leave Act of 1993 (29 U.S.C.  
19          2617(a)) shall be the remedies and procedures pur-  
20          suant to which an employee may initiate a legal ac-  
21          tion against an employer for alleged violations of  
22          subsection (e).

23          (3) REFERENCES.—For purposes of paragraphs  
24          (1) and (2), references in section 107 of the Family  
25          and Medical Leave Act of 1993 (29 U.S.C. 2617) to

1 section 105 of such Act (29 U.S.C. 2615) shall be  
2 considered to be references to subsection (e).

3 (4) EMPLOYER LIABILITY UNDER OTHER  
4 LAWS.—Nothing in this section shall be construed to  
5 limit the liability of an employer to an employee for  
6 harm suffered relating to the employee’s experience  
7 of domestic violence pursuant to any other Federal  
8 or State law, including a law providing for a legal  
9 remedy.

## 10 **TITLE IV—FEDERAL EMPLOYEES** 11 **PAID PARENTAL LEAVE**

### 12 **SEC. 401. SHORT TITLE.**

13 This title may be cited as the “Federal Employees  
14 Paid Parental Leave Act of 2005”.

### 15 **SEC. 402. DEMONSTRATION PROJECT.**

16 Subchapter V of chapter 63 of title 5, United States  
17 Code, is amended—

18 (1) by redesignating section 6387 as section  
19 6388; and

20 (2) by inserting after section 6386 the fol-  
21 lowing:

#### 22 **“§ 6387. Paid leave demonstration project**

23 “(a) The Office of Personnel Management may,  
24 through an agreement or contract with 1 or more employ-  
25 ing agencies described in subsection (b), conduct under

1 section 4703 a demonstration project that assists families  
2 by providing paid leave for eligible individuals who are re-  
3 sponding to—

4 “(1) caregiving needs resulting from the birth  
5 or adoption of a son or daughter; or

6 “(2) other family caregiving needs.

7 “(b) In carrying out a project under this section, an  
8 employing agency of 1 or more employees shall provide  
9 partial or full paid leave to eligible individuals for not less  
10 than 6 weeks during a period of leave, or an absence from  
11 employment, described in subsection (c)(2), during any  
12 12-month period. Paid leave available to an individual  
13 under this subsection shall be in addition to any annual  
14 or sick leave that the individual may elect to use during  
15 a period of leave, or an absence from employment, de-  
16 scribed in subsection (c)(2), during any 12-month period.

17 “(c) To be eligible to receive paid leave under sub-  
18 section (a), an individual shall—

19 “(1) be an employee who meets such eligibility  
20 criteria as the Office of Personnel Management may  
21 specify in a plan described in section 4703(b); and

22 “(2) be—

23 “(A) an individual who is taking leave,  
24 under this subchapter, or other Federal law, for

1 a reason described in subparagraph (A) or (B)  
2 of section 6382(a)(1);

3 “(B) at the option of the Office of Per-  
4 sonnel Management, an individual who—

5 “(i) is taking leave, under this sub-  
6 chapter, or other Federal law, for a reason  
7 described in subparagraph (C), (D), (E),  
8 or (F) of section 6382(a)(1); or

9 “(ii) leaves employment, and has an  
10 absence from employment, because the in-  
11 dividual has elected to care for a son or  
12 daughter under age 1; or

13 “(C) at the option of the Office of Per-  
14 sonnel Management, an individual who has an  
15 absence from employment and has other char-  
16 acteristics specified by the Office of Personnel  
17 Management in a plan described in section  
18 4703(b).

19 “(d) An employing agency that provides partial or  
20 full paid leave to an eligible individual under this section  
21 shall notify (in a form and manner prescribed by the Of-  
22 fice of Personnel Management) the individual that the em-  
23 ploying agency shall count an appropriate period of leave,  
24 calculated under section 6382(f), against the total amount

1 of leave (if any) to which the employee is entitled under  
2 section 6382(a)(1).

3 “(e)(1) A demonstration project conducted under this  
4 section shall not be counted toward the 10-project limit  
5 established in section 4703(d)(2).

6 “(2) The Office of Personnel Management may pro-  
7 vide a waiver for the demonstration project in accordance  
8 with section 4703, except that section 4703(c)(1) shall not  
9 apply to such a waiver.

10 “(f)(1) There are authorized to be appropriated to  
11 carry out this section \$400,000,000 for fiscal year 2006  
12 and such sums as may be necessary for each subsequent  
13 fiscal year.

14 “(2) Funds appropriated under paragraph (1) may  
15 be allocated as described in section 4704.”.

16 **SEC. 403. TECHNICAL AND CONFORMING AMENDMENTS.**

17 (a) IN GENERAL.—Section 6382 of title 5, United  
18 States Code, is amended by adding at the end the fol-  
19 lowing:

20 “(f)(1) If an employing agency provides an amount  
21 of full paid leave to an employee for a period under section  
22 6387, the employing agency shall count an amount of  
23 leave, equal to that period, against the total amount of  
24 leave (if any) to which the employee is entitled under sub-  
25 section (a)(1).

1       “(2) If an employing agency provides an amount of  
2 partial paid leave to an employee for a period under sec-  
3 tion 6387, the employing agency shall—

4           “(A) total the amount of partial paid leave pro-  
5 vided for that period;

6           “(B) convert the total into a corresponding  
7 amount of full paid leave provided for a proportion-  
8 ately reduced period; and

9           “(C) count an amount of leave, equal to the pe-  
10 riod described in subparagraph (B), against the total  
11 amount of leave (if any) to which the employee is en-  
12 titled under subsection (a)(1).”.

13       (b) TECHNICAL AND CONFORMING AMENDMENTS.—  
14 Section 6382 of title 5, United States Code, is amended—

15           (1) in subsection (c), by striking “(d),” and in-  
16 serting “(d) or section 6387,”; and

17           (2) in subsection (d), by inserting “any unpaid”  
18 after “substitute for”.

19       (c) TABLE OF SECTIONS.—The table of sections for  
20 chapter 63 of title 5, United States Code, is amended by  
21 striking the item relating to section 6387 and inserting  
22 the following:

“6387. Paid leave demonstration project.

“6388. Regulations.”.

1 **SEC. 404. EFFECTIVE DATE.**

2       The amendments made by this title shall not be effec-  
3 tive with respect to any birth or placement occurring be-  
4 fore the end of the 6-month period beginning on the date  
5 of enactment of this Act.

6       **TITLE V—TIME FOR SCHOOLS**

7 **SEC. 501. SHORT TITLE.**

8       This title may be cited as the “Time for Schools Act  
9 of 2005”.

10 **SEC. 502. GENERAL REQUIREMENTS FOR LEAVE.**

11       (a) ENTITLEMENT TO LEAVE.—Section 102(a) of the  
12 Family and Medical Leave Act of 1993 (29 U.S.C.  
13 2612(a)) is amended by adding at the end the following:

14               “(3) ENTITLEMENT TO SCHOOL INVOLVEMENT  
15 LEAVE.—

16               “(A) IN GENERAL.—Subject to section  
17 103(h), an eligible employee shall be entitled to  
18 a total of 24 hours of leave during any 12-  
19 month period to participate in an academic ac-  
20 tivity of a school of a son or daughter of the  
21 employee, such as a parent-teacher conference  
22 or an interview for a school, or to participate in  
23 literacy training under a family literacy pro-  
24 gram.

25               “(B) DEFINITIONS.—In this paragraph:

1                   “(i) FAMILY LITERACY PROGRAM.—

2                   The term ‘family literacy program’ means  
3                   a program of services that are of sufficient  
4                   intensity in terms of hours, and of suffi-  
5                   cient duration, to make sustainable  
6                   changes in a family and that integrate all  
7                   of the following activities:

8                                 “(I) Interactive literacy activities  
9                                 between parents and their sons and  
10                                daughters.

11                               “(II) Training for parents on  
12                                how to be the primary teacher for  
13                                their sons and daughters and full  
14                                partners in the education of their sons  
15                                and daughters.

16                               “(III) Parent literacy training.

17                               “(IV) An age-appropriate edu-  
18                                cation program for sons and daugh-  
19                                ters.

20                               “(ii) LITERACY.—The term ‘literacy’,  
21                                used with respect to an individual, means  
22                                the ability of the individual to speak, read,  
23                                and write English, and compute and solve  
24                                problems, at levels of proficiency nec-  
25                                essary—

1                   “(I) to function on the job, in the  
2                   family of the individual, and in soci-  
3                   ety;

4                   “(II) to achieve the goals of the  
5                   individual; and

6                   “(III) to develop the knowledge  
7                   potential of the individual.

8                   “(iii) SCHOOL.—The term ‘school’  
9                   means an elementary school or secondary  
10                  school (as such terms are defined in sec-  
11                  tion 9101 of the Elementary and Sec-  
12                  ondary Education Act of 1965 (20 U.S.C.  
13                  7801)), a Head Start program assisted  
14                  under the Head Start Act (42 U.S.C. 9831  
15                  et seq.), and a child care facility operated  
16                  by a provider who meets the applicable  
17                  State or local government licensing, certifi-  
18                  cation, approval, or registration require-  
19                  ments, if any.

20                  “(4) LIMITATION.—No employee may take  
21                  more than a total of 12 workweeks of leave under  
22                  paragraphs (1) and (3) during any 12-month pe-  
23                  riod.”.

24                  (b) SCHEDULE.—Section 102(b)(1) of such Act (29  
25                  U.S.C. 2612(b)(1)) is amended by inserting after the sec-

1 ond sentence the following: “Leave under subsection  
2 (a)(3) may be taken intermittently or on a reduced leave  
3 schedule.”.

4 (c) SUBSTITUTION OF PAID LEAVE.—Section  
5 102(d)(2)(A) of such Act (29 U.S.C. 2612(d)(2)(A)) is  
6 amended by inserting before the period the following:  
7 “, or for leave provided under subsection (a)(3) for any  
8 part of the 24-hour period of such leave under such sub-  
9 section”.

10 (d) NOTICE.—Section 102(e) of such Act (29 U.S.C.  
11 2612(e)) is amended by adding at the end the following:

12 “(3) NOTICE FOR SCHOOL INVOLVEMENT  
13 LEAVE.—In any case in which the necessity for leave  
14 under subsection (a)(3) is foreseeable, the employee  
15 shall provide the employer with not less than 7 days’  
16 notice, before the date the leave is to begin, of the  
17 employee’s intention to take leave under such sub-  
18 section. If the necessity for the leave is not foresee-  
19 able, the employee shall provide such notice as is  
20 practicable.”.

21 (e) CERTIFICATION.—Section 103 of such Act (29  
22 U.S.C. 2613), as amended by section 301(c), is further  
23 amended by adding at the end the following:

24 “(h) CERTIFICATION FOR SCHOOL INVOLVEMENT  
25 LEAVE.—An employer may require that a request for

1 leave under section 102(a)(3) be supported by a certifi-  
 2 cation issued at such time and in such manner as the Sec-  
 3 retary may by regulation prescribe.”.

4 **SEC. 503. SCHOOL INVOLVEMENT LEAVE FOR CIVIL SERV-**  
 5 **ICE EMPLOYEES.**

6 (a) ENTITLEMENT TO LEAVE.—Section 6382(a) of  
 7 title 5, United States Code, is amended by adding at the  
 8 end the following:

9 “(3)(A) Subject to section 6383(h), an employee shall  
 10 be entitled to a total of 24 hours of leave during any 12-  
 11 month period to participate in an academic activity of a  
 12 school of a son or daughter of the employee, such as a  
 13 parent-teacher conference or an interview for a school, or  
 14 to participate in literacy training under a family literacy  
 15 program.

16 “(B) In this paragraph:

17 “(i) The term ‘family literacy program’ means  
 18 a program of services that are of sufficient intensity  
 19 in terms of hours, and of sufficient duration, to  
 20 make sustainable changes in a family and that inte-  
 21 grate all of the following activities:

22 “(I) Interactive literacy activities between  
 23 parents and their sons and daughters.

24 “(II) Training for parents on how to be  
 25 the primary teacher for their sons and daugh-

1           ters and full partners in the education of their  
2           sons and daughters.

3                   “(III) Parent literacy training.

4                   “(IV) An age-appropriate education pro-  
5           gram for sons and daughters.

6                   “(ii) The term ‘literacy’, used with respect to  
7           an individual, means the ability of the individual to  
8           speak, read, and write English, and compute and  
9           solve problems, at levels of proficiency necessary—

10                   “(I) to function on the job, in the family  
11           of the individual, and in society;

12                   “(II) to achieve the goals of the individual;  
13           and

14                   “(III) to develop the knowledge potential  
15           of the individual.

16                   “(iii) The term ‘school’ means an elementary  
17           school or secondary school (as such terms are de-  
18           fined in section 9101 of the Elementary and Sec-  
19           ondary Education Act of 1965 (20 U.S.C. 7801)), a  
20           Head Start program assisted under the Head Start  
21           Act (42 U.S.C. 9831 et seq.), and a child care facil-  
22           ity operated by a provider who meets the applicable  
23           State or local government licensing, certification, ap-  
24           proval, or registration requirements, if any.

1 “(4) No employee may take more than a total of 12  
2 workweeks of leave under paragraphs (1) and (3) during  
3 any 12-month period.”.

4 (b) SCHEDULE.—Section 6382(b)(1) of such title is  
5 amended by inserting after the second sentence the fol-  
6 lowing: “Leave under subsection (a)(3) may be taken  
7 intermittently or on a reduced leave schedule.”.

8 (c) SUBSTITUTION OF PAID LEAVE.—Section  
9 6382(d) of such title is amended by inserting before  
10 “, except” the following: “, or for leave provided under  
11 subsection (a)(3) any of the employee’s accrued or accu-  
12 mulated annual leave under subchapter I for any part of  
13 the 24-hour period of such leave under such subsection”.

14 (d) NOTICE.—Section 6382(e) of such title is amend-  
15 ed by adding at the end the following:

16 “(3) In any case in which the necessity for leave  
17 under subsection (a)(3) is foreseeable, the employee shall  
18 provide the employing agency with not less than 7 days’  
19 notice, before the date the leave is to begin, of the employ-  
20 ee’s intention to take leave under such subsection. If the  
21 necessity for the leave is not foreseeable, the employee  
22 shall provide such notice as is practicable.”.

23 (e) CERTIFICATION.—Section 6383 of such title, as  
24 amended by section 302(c), is further amended by adding  
25 at the end the following:

1       “(h) An employing agency may require that a request  
2 for leave under section 6382(a)(3) be supported by a cer-  
3 tification issued at such time and in such manner as the  
4 Office of Personnel Management may by regulation pre-  
5 scribe.”.

6 **SEC. 504. EFFECTIVE DATE.**

7       This title takes effect 120 days after the date of en-  
8 actment of this Act.

○