

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 798

To amend the Family and Medical Leave Act of 1993 and title 5, United States Code, to provide entitlement to leave to eligible employees whose spouse, son, daughter, or parent is a member of the Armed Forces who is serving on active duty in support of a contingency operation or who is notified of an impending call or order to active duty in support of a contingency operation, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 14, 2005

Mr. FEINGOLD (for himself, Mr. CORZINE, Mr. DAYTON, Mr. DURBIN, Mr. LAUTENBERG, Ms. MIKULSKI, and Mrs. MURRAY) 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 and title 5, United States Code, to provide entitlement to leave to eligible employees whose spouse, son, daughter, or parent is a member of the Armed Forces who is serving on active duty in support of a contingency operation or who is notified of an impending call or order to active duty in support of a contingency operation, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Military Families  
3 Leave Act of 2005”.

4 **SEC. 2. LEAVE FOR MILITARY FAMILIES UNDER THE FAM-  
5 ILY AND MEDICAL LEAVE ACT OF 1993.**

6 (a) ENTITLEMENT TO LEAVE.—Section 102(a)(1) of  
7 the Family and Medical Leave Act of 1993 (29 U.S.C.  
8 2612(a)(1)) is amended by adding at the end the following  
9 new subparagraph:

10 “(E) Because of any qualifying exigency  
11 (as the Secretary may by regulation determine)  
12 arising out of the fact that the spouse, or a son,  
13 daughter, or parent of the employee is on active  
14 duty (or has been notified of an impending call  
15 or order to active duty) in the Armed Forces in  
16 support of a contingency operation.”.

17 (b) INTERMITTENT OR REDUCED LEAVE SCHED-  
18 ULE.—Section 102(b)(1) of such Act (29 U.S.C.  
19 2612(b)(1)) is amended by inserting after the second sen-  
20 tence the following new sentence: “Subject to subsection  
21 (e)(3) and section 103(f), leave under subsection (a)(1)(E)  
22 may be taken intermittently or on a reduced leave sched-  
23 ule.”.

24 (c) SUBSTITUTION OF PAID LEAVE.—Section  
25 102(d)(2)(A) of such Act (29 U.S.C. 2612(d)(2)(A)) is  
26 amended by striking “or (C)” and inserting “(C), or (E)”.

1 (d) NOTICE.—Section 102(e) of such Act (29 U.S.C.  
2 2612(e)) is amended by adding at the end the following  
3 new paragraph:

4 “(3) NOTICE FOR LEAVE DUE TO ACTIVE DUTY  
5 OF FAMILY MEMBER.—In any case in which the ne-  
6 cessity for leave under subsection (a)(1)(E) is fore-  
7 seeable based on notification of an impending call or  
8 order to active duty in support of a contingency op-  
9 eration, the employee shall provide such notice to the  
10 employer as is reasonable and practicable.”.

11 (e) CERTIFICATION.—Section 103 of such Act (29  
12 U.S.C. 2613) is amended by adding at the end the fol-  
13 lowing new subsection:

14 “(f) CERTIFICATION FOR LEAVE DUE TO ACTIVE  
15 DUTY OF FAMILY MEMBER.—An employer may require  
16 that a request for leave under section 102(a)(1)(E) be  
17 supported by a certification issued at such time and in  
18 such manner as the Secretary shall by regulation pre-  
19 scribe. If the Secretary issues a regulation requiring such  
20 certification, the employee shall provide, in a timely man-  
21 ner, a copy of such certification to the employer.”.

22 (f) DEFINITION.—Section 101 of such Act (29  
23 U.S.C. 2611) is amended by adding at the end the fol-  
24 lowing new paragraph:



1 (d) NOTICE.—Section 6382(e) of such title is amend-  
2 ed by adding at the end the following new paragraph:

3 “(3) In any case in which the necessity for  
4 leave under subsection (a)(1)(E) is foreseeable based  
5 on notification of an impending call or order to ac-  
6 tive duty in support of a contingency operation, the  
7 employee shall provide such notice to the employing  
8 agency as is reasonable and practicable.”.

9 (e) CERTIFICATION.—Section 6383 of such title is  
10 amended by adding at the end the following new sub-  
11 section:

12 “(f) An employing agency may require that a request  
13 for leave under section 6382(a)(1)(E) be supported by a  
14 certification issued at such time and in such manner as  
15 the employing agency may require.”.

16 (f) DEFINITION.—Section 6381 of such title is  
17 amended—

18 (1) in paragraph (5)(B), by striking “and” at  
19 the end;

20 (2) in paragraph (6)(B), by striking the period  
21 at the end and inserting “; and”; and

22 (3) by adding at the end the following new  
23 paragraph:

1           “(6) the term ‘contingency operation’ has the  
2           same meaning given such term in section 101(a)(13)  
3           of title 10.”.

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