

110TH CONGRESS
2D SESSION

S. 3163

To provide for a Federal employees program to authorize the use of leave by caregivers for family members of certain individuals performing military service, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 19, 2008

Mr. FEINGOLD (for himself and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To provide for a Federal employees program to authorize the use of leave by caregivers for family members of certain individuals performing military service, 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.**

4 This Act may be cited as the “Military Family Sup-
5 port Act”.

1 **SEC. 2. FEDERAL EMPLOYEES PROGRAM FOR USE OF**
2 **LEAVE BY CAREGIVERS FOR FAMILY MEM-**
3 **BERS OF INDIVIDUALS PERFORMING CER-**
4 **TAIN MILITARY SERVICE.**

5 (a) FEDERAL EMPLOYEES PROGRAM.—

6 (1) DEFINITIONS.—In this subsection:

7 (A) CAREGIVER.—The term “caregiver”
8 means an individual who—

9 (i) is an employee;

10 (ii) is at least 18 years of age; and

11 (iii) is capable of self care and care of
12 children or other dependent family mem-
13 bers of a qualified member of the Armed
14 Forces.

15 (B) COVERED PERIOD OF SERVICE.—The
16 term “covered period of service” means any pe-
17 riod of service performed by an employee as a
18 caregiver—

19 (i) while the individual who designated
20 the caregiver under paragraph (3)(A) re-
21 mains a qualified member of the Armed
22 Forces; or

23 (ii) after being designated as the care-
24 giver under paragraph (3)(B) and while
25 the applicable qualified member of the

1 Armed Forces remains a qualified member
2 of the Armed Forces.

3 (C) EMPLOYEE.—Except as provided
4 under paragraph (5), the term “employee” has
5 the meaning given under section 6331 of title
6 5, United States Code.

7 (D) FAMILY MEMBER.—The term “family
8 member” includes—

9 (i) individuals for whom the qualified
10 member of the Armed Forces provides
11 medical, financial, and logistical support
12 (such as housing, food, clothing, or trans-
13 portation); and

14 (ii) children under the age of 19
15 years, elderly adults, persons with disabil-
16 ities, and other persons who are unable to
17 care for themselves in the absence of the
18 qualified member of the Armed Forces.

19 (E) QUALIFIED MEMBER OF THE ARMED
20 FORCES.—The term “qualified member of the
21 Armed Forces”—

22 (i) means—

23 (I) a member of a reserve compo-
24 nent of the Armed Forces as de-
25 scribed under section 10101 of title

1 10, United States Code, who has re-
 2 ceived notice to report to, or is serving
 3 on, active duty in the Armed Forces
 4 in support of a contingency operation
 5 as defined under section 101(a)(13) of
 6 title 10, United States Code; or

7 (II) a member of the Armed
 8 Forces on active duty who is eligible
 9 for hostile fire or imminent danger
 10 special pay under section 310 of title
 11 37, United States Code; and

12 (ii) includes a member described
 13 under clause (i) who is medically dis-
 14 charged or retires from the Armed Forces,
 15 but only for the 36 month period beginning
 16 on the date of that medical discharge or
 17 retirement.

18 (2) ESTABLISHMENT OF PROGRAM.—The Office
 19 of Personnel Management shall establish a program
 20 that—

21 (A) authorizes a caregiver to—

22 (i) use any sick leave of that caregiver
 23 during a covered period of service; and

24 (ii) use any leave available to that
 25 caregiver under subchapter III or IV of

chapter 63 of title 5, United States Code,
during a covered period of service as
though that covered period of service is a
medical emergency;

(B) provides a process under which a care-
giver provides the employing agency reasonable
notice of the need for leave under this section,
similar to the process under which notice is pro-
vided to the employing agency under subchapter
V of chapter 63 of title 5, United States Code;
and

(C) protects employees from discrimination
or retaliation for the use of the leave under this
section and provides employees with the oppor-
tunity to appeal a denial of the use of leave
under this section.

(3) DESIGNATION OF CAREGIVER.—

(A) IN GENERAL.—A qualified member of
the Armed Forces shall submit a written des-
ignation of the individual who is the caregiver
for any family member of that member of the
Armed Forces during a covered period of serv-
ice to the employing agency and the Office of
Personnel Management.

1 (B) INCAPACITATED MEMBERS.—If a
 2 qualified member of the Armed Forces who did
 3 not submit a designation under subparagraph
 4 (A) becomes incapacitated and is unable to sub-
 5 mit that designation, a designation under sub-
 6 paragraph (A) may be submitted on behalf of
 7 that member by another individual in accord-
 8 ance with regulations prescribed by the Office
 9 of Personnel Management after consultation
 10 with the Department of Defense.

11 (4) USE OF CAREGIVER LEAVE.—Leave may
 12 only be used under this subsection for purposes di-
 13 rectly relating to, or resulting from, the designation
 14 of an employee as a caregiver.

15 (5) PROHIBITION OF COERCION.—

16 (A) DEFINITION.—In this section:

17 (i) EMPLOYEE.—The term “em-
 18 ployee” has the meaning given under sec-
 19 tion 2105 of title 5, United States Code.

20 (ii) INTIMIDATE, THREATEN, OR CO-
 21 ERCE.—The term “intimidate, threaten, or
 22 coerce” includes promising to confer or
 23 conferring any benefit (such as appoint-
 24 ment, promotion, or compensation), or tak-
 25 ing or threatening to take any reprisal

1 (such as deprivation of appointment, pro-
2 motion, or compensation).

3 (B) PROHIBITION.—An employee shall not
4 directly or indirectly intimidate, threaten, or co-
5 erce, or attempt to intimidate, threaten, or co-
6 erce, any other employee for the purpose of
7 interfering with the exercise of any rights which
8 such other employee may have under this Act.

9 (6) REGULATIONS.—Not later than 120 days
10 after the date of enactment of this Act, the Office
11 of Personnel Management shall prescribe regulations
12 to carry out this subsection.

13 (7) TERMINATION.—The program under this
14 subsection shall terminate on December 31, 2012.

15 (b) GAO REPORT.—Not later than June 30, 2010,
16 the Government Accountability Office shall submit a re-
17 port to Congress on the program under subsections (a)
18 that includes—

19 (1) an evaluation of the success of the program;

20 (2) recommendations for the continuance or
21 termination of the program; and

22 (3) a recommendation for the program or an
23 expansion of the Family Medical Leave Act of 1993.

24 (c) OFFSET.—The aggregate amount authorized to
25 be appropriated for fiscal year 2008 for the use of the

- 1 Department of Defense for research, development, test
- 2 and evaluation shall be reduced by \$2,000,000.

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