

111TH CONGRESS
1ST SESSION

H. R. 2515

To amend the Family and Medical Leave Act of 1993 to allow leave to address domestic violence, sexual assault, or stalking and their effects, and to include domestic partners under the Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2009

Ms. WOOLSEY (for herself, Ms. ROYBAL-ALLARD, and Mrs. MALONEY) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committees on Oversight and 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 amend the Family and Medical Leave Act of 1993 to allow leave to address domestic violence, sexual assault, or stalking and their effects, and to include domestic partners under 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.**

4 This Act may be cited as the “Domestic Violence
5 Leave Act”.

1 **SEC. 2. ENTITLEMENT TO LEAVE FOR DOMESTIC VIO-**
2 **LENCE, SEXUAL ASSAULT, OR STALKING.**

3 (a) **AUTHORITY FOR LEAVE.**—Section 102(a)(1) (29
4 U.S.C. 2612(a)(1)) is amended by adding at the end the
5 following:

6 “(F) In order to care for the family mem-
7 ber of the employee, if such family member is
8 addressing domestic violence, sexual assault, or
9 stalking and their effects.

10 “(G) Because the employee is addressing
11 domestic violence, sexual assault, or stalking
12 and their effects, the employee is unable to per-
13 form any of the functions of the position of
14 such employee.”.

15 (b) **DEFINITIONS.**—Section 101 (29 U.S.C. 2611) is
16 amended by adding at the end the following:

17 “(20) **DOMESTIC VIOLENCE.**—The term ‘domes-
18 tic violence’ has the meaning given such term in sec-
19 tion 40002 of the Violence Against Women Act of
20 1994 (42 U.S.C. 13925), and includes dating vio-
21 lence, as such term is defined in such section.

22 “(21) **SEXUAL ASSAULT.**—The term ‘sexual as-
23 sault’ has the meaning given that term in section
24 40002 of the Violence Against Women Act of 1994
25 (42 U.S.C. 13925).

1 “(22) STALKING.—The term ‘stalking’ has the
2 meaning given such term in section 40002 of the Vi-
3 olence Against Women Act of 1994 (42 U.S.C.
4 13925).

5 “(23) ADDRESSING DOMESTIC VIOLENCE, SEX-
6 UAL ASSAULT, OR STALKING AND THEIR EFFECTS.—
7 The term ‘addressing domestic violence, sexual as-
8 sault, or stalking and their effects’ means—

9 “(A) seeking medical attention for or re-
10 covering from injuries caused by domestic vio-
11 lence, sexual assault, or stalking;

12 “(B) seeking legal assistance or remedies,
13 including communicating with the police or an
14 attorney, or participating in any legal pro-
15 ceeding related to domestic violence, sexual as-
16 sault, or stalking;

17 “(C) attending support groups for victims
18 of domestic violence, sexual assault, or stalking;

19 “(D) obtaining psychological counseling re-
20 lated to experiences of domestic violence, sexual
21 assault, or stalking;

22 “(E) participating in safety planning and
23 other actions to increase safety from future do-
24 mestic violence, sexual assault, or stalking, in-
25 cluding temporary or permanent relocation; and

1 “(F) participating in any other activity ne-
2 cessitated by domestic violence, sexual assault,
3 or stalking which must be undertaken during
4 hours of employment.

5 “(24) FAMILY MEMBER.—The term ‘family
6 member’, used with respect to a person, means an
7 individual who is a spouse, domestic partner, parent,
8 son or daughter (including an adult son or daugh-
9 ter) of that person.”.

10 (c) INTERMITTENT OR REDUCED LEAVE.—Section
11 102(b) (29 U.S.C. 2612(b)) is amended by inserting be-
12 fore the last sentence: “Subject to subsection (e)(4) and
13 103(g), leave under subparagraph (F) or (G) of subsection
14 (a)(1) may be taken by an employee intermittently or on
15 a reduced leave schedule.”

16 (d) PAID LEAVE.—Section 102(d)(2)(B) (29 U.S.C.
17 2612(d)(2)(B)) is amended by inserting at the end the fol-
18 lowing: “An eligible employee may elect to substitute any
19 of the accrued paid vacation leave, personal leave, family
20 leave, or medical or sick leave of the employee for leave
21 provided under subparagraph (F) or (G) of subsection
22 (a)(1) for any part of the 12-week period of such leave
23 under such subsection, except that nothing in this title
24 shall require an employer to provide paid sick leave or paid

1 medical leave in any situation in which such employer
2 would not normally provide any such paid leave.”

3 (e) NOTICE.—Section 102(e)(29 U.S.C. 2612(e)), by
4 adding at the end the following:

5 “(4) NOTICE FOR LEAVE DUE TO DOMESTIC VI-
6 OLENCE, SEXUAL ASSAULT, OR STALKING.—In any
7 case in which the necessity for leave under subpara-
8 graph (F) or (G) of subsection (a)(1) is foreseeable
9 based on a scheduled appointment or planned activ-
10 ity to address domestic violence, sexual assault, or
11 stalking and their effects, the employee shall provide
12 such notice to the employer as is reasonable and
13 practicable.”.

14 (f) CERTIFICATION AND CONFIDENTIALITY.—Section
15 103 (29 U.S.C. 2613) is amended—

16 (1) in the title, by adding before the period the
17 following: “; **confidentiality**”; and

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

19 “(g) CERTIFICATION RELATED TO DOMESTIC VIO-
20 LENCE, SEXUAL ASSAULT, OR STALKING.—

21 “(1) IN GENERAL.—In determining if an em-
22 ployee meets the requirements of subparagraph (F)
23 or (G) of section 102(a)(1), the employer of an em-
24 ployee may require the employee to provide written

1 certification. Certification under this paragraph shall
2 be sufficient if it includes—

3 “(A) documentation of the domestic vio-
4 lence, sexual assault, or stalking, such as police
5 or court records, or documentation of the do-
6 mestic violence, sexual assault, or stalking from
7 a shelter worker, attorney, clergy, or medical or
8 other professional from whom the employee or
9 family member of the employee has sought as-
10 sistance in addressing domestic violence, sexual
11 assault, or stalking and their effects;

12 “(B) other corroborating evidence, such as
13 a statement from any other individual with
14 knowledge of the circumstances which provide
15 the basis for the claim, or physical evidence of
16 domestic violence, sexual assault, or stalking,
17 such as photographs, or torn or bloody clothes;
18 or

19 “(C) at the election of the employee, where
20 documentation described in subparagraph (A)
21 and corroborating evidence described in sub-
22 paragraph (B) is not available, a written state-
23 ment describing the domestic violence, sexual
24 assault, or stalking and their effects.

1 “(2) CONFIDENTIALITY.—All evidence of do-
 2 mestic violence, sexual assault, or stalking provided
 3 to an employer under this subsection, including an
 4 employee’s statement, any corroborating evidence,
 5 and the fact that an employee has requested leave
 6 for the purpose of addressing domestic violence, sex-
 7 ual assault, or stalking and their effects, shall be re-
 8 tained in the strictest confidence by the employer,
 9 except to the extent consented to by the employee
 10 where disclosure is necessary to—

11 “(A) protect the safety of the employee or
 12 family member of the employee; or

13 “(B) assist in documenting domestic vio-
 14 lence, sexual assault, or stalking for a court or
 15 law enforcement agency.”.

16 (g) TABLE OF CONTENTS.—The table of contents in
 17 section 1(b) of the Family and Medical Leave Act of 1993
 18 (29 U.S.C. prec. 2601) is amended by striking the item
 19 relating to section 103 and inserting the following:

“103. Certification; confidentiality”.

20 **SEC. 3. INCLUSION OF SAME-SEX SPOUSES AND DOMESTIC**
 21 **PARTNERS.**

22 (a) DEFINITIONS.—

23 (1) INCLUSION OF SAME-SEX SPOUSES.—Sec-
 24 tion 101(13) of the Family and Medical Leave Act
 25 of 1993 (29 U.S.C. 2611(13)) is amended, by insert-

1 ing “, and, notwithstanding section 7 of title I,
2 United States Code, includes a spouse of the same
3 sex as the employee as determined under applicable
4 State law” before the period.

5 (2) INCLUSION CHILDREN OF A DOMESTIC
6 PARTNER.—Section 101(12) of such Act (29 U.S.C.
7 2611(12)) is amended by inserting “a child of an in-
8 dividual’s domestic partner,” after “a legal ward,”.

9 (3) INCLUSION DOMESTIC PARTNERS.—Section
10 101 of such Act (as amended by section 2) is further
11 amended by adding at the end the following:

12 “(25) DOMESTIC PARTNER.—The term ‘domes-
13 tic partner’ means—

14 “(A) the person recognized as the domestic
15 partner of the employee under any domestic
16 partner registry or civil union laws of the State
17 or political subdivision of a State where the em-
18 ployee resides; or

19 “(B) in the case of an unmarried employee
20 who resides in a State where a person cannot
21 marry a person of the same sex under the laws
22 of the State, a single, unmarried adult person
23 of the same sex as the employee who is in a
24 committed, intimate relationship with the em-
25 ployee, is not a domestic partner to any other

1 person, and who is designated to the employer
2 by such employee as that employee's domestic
3 partner.".

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

7 (1) in subsection (a)(1)(C), by striking
8 “spouse,” both places it appears and inserting
9 “spouse or domestic partner,”;

10 (2) in subsection (a)(1)(E), by striking spouse,
11 and inserting “spouse or domestic partner,”;

12 (3) in subsection (a)(3), by striking “spouse,”
13 and inserting “spouse or domestic partner,”;

14 (4) in subsection (e)(2)(A), by inserting “do-
15 mestic partner,” after “spouse,”;

16 (5) in subsection (e)(3), by inserting “domestic
17 partner,” after “spouse,”;

18 (6) in subsection (f)—

19 (A) in the subsection heading, by inserting
20 “OR DOMESTIC PARTNERS” after “SPOUSES”;

21 (B) in paragraph (1), by striking “a hus-
22 band and wife” and inserting “both spouses or
23 both domestic partners”;

1 (C) in paragraph (2)(A), by striking “that
2 husband and wife” and inserting “spouses or
3 both domestic partners”; and

4 (D) in paragraph (2)(B), by striking “the
5 husband and wife” and inserting “both spouses
6 or both domestic partners”.

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

10 (1) in subsection (a), by inserting “domestic
11 partner,” after “spouse,”

12 (2) in subsection (b)(4)(A), by inserting “do-
13 mestic partner,” after “spouse,” both places it ap-
14 pears; and

15 (3) in subsection (b)(7), by inserting “domestic
16 partner,” after “spouse,”.

17 (d) EMPLOYMENT AND BENEFITS PROTECTION.—
18 Section 104(c)(3) of the Family and Medical Leave Act
19 of 1993 (29 U.S.C. 2614(c)(3)) is amended—

20 (1) in subparagraph (A)(i), by inserting “do-
21 mestic partner,” after “spouse,”; and

22 (2) in subparagraph (C)(ii), by inserting “do-
23 mestic partner,” after “spouse,”.

1 **SEC. 4. ENTITLEMENT TO LEAVE FOR FEDERAL EMPLOY-**
2 **EES FOR DOMESTIC VIOLENCE, SEXUAL AS-**
3 **SAULT, OR STALKING.**

4 (a) **AUTHORITY FOR LEAVE.**—Section 6382(a)(1) of
5 title 5, United States Code is amended by adding at the
6 end the following:

7 “(E) In order to care for the family member of
8 the employee, if such family member is addressing
9 domestic violence, sexual assault, or stalking and
10 their effects.

11 “(F) Because the employee is addressing do-
12 mestic violence, sexual assault, or stalking and their
13 effects, the employee is unable to perform any of the
14 functions of the position of such employee.”.

15 (b) **DEFINITIONS.**—Section 6381 of title 5, United
16 States Code is amended—

17 (1) at the end of paragraph (10), by striking
18 “and”;

19 (2) in paragraph (11), by striking the period
20 and inserting a semicolon; and

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

22 “(12) the terms ‘domestic violence’, ‘sexual as-
23 sault’, and ‘stalking’ all have the meaning given such
24 terms in section 40002 of the Violence Against
25 Women Act of 1994 (42 U.S.C. 13925), and the

1 term ‘domestic violence’ includes dating violence, as
2 such term is defined in such section;

3 “(13) the term ‘addressing domestic violence,
4 sexual assault, or stalking and their effects’
5 means—

6 “(A) seeking medical attention for or re-
7 covering from injuries caused by domestic vio-
8 lence, sexual assault, or stalking;

9 “(B) seeking legal assistance or remedies,
10 including communicating with the police or an
11 attorney, or participating in any legal pro-
12 ceeding related to domestic violence, sexual as-
13 sault, or stalking;

14 “(C) attending support groups for victims
15 of domestic violence, sexual assault, or stalking;

16 “(D) obtaining psychological counseling re-
17 lated to experiences of domestic violence, sexual
18 assault, or stalking;

19 “(E) participating in safety planning and
20 other actions to increase safety from future do-
21 mestic violence, sexual assault, or stalking, in-
22 cluding temporary or permanent relocation; and

23 “(F) participating in any other activity ne-
24 cessitated by domestic violence, sexual assault,

1 or stalking which must be undertaken during
2 hours of employment;

3 “(14) the term ‘family member’, used with re-
4 spect to a person, means an individual who is a
5 spouse, domestic partner, parent, son or daughter
6 (including an adult son or daughter) of that per-
7 son;”.

8 (c) INTERMITTENT OR REDUCED LEAVE.—Section
9 6382(b) of title 5, United States Code, is amended by add-
10 ing at the end the following:

11 “(3) Leave under subparagraph (E) or (F) of
12 subsection (a)(1) may be taken by an employee
13 intermittently or on a reduced leave schedule. The
14 taking of leave intermittently or on a reduced leave
15 schedule pursuant to this paragraph shall not result
16 in a reduction in the total amount of leave to which
17 the employee is entitled under subsection (a) beyond
18 the amount of leave actually taken.”.

19 (d) OTHER LEAVE.—Section 6382(d) of title 5,
20 United States Code, is amended by striking “(C), or (D)”
21 and inserting “(C), (D), (E), or (F)”.

22 (e) NOTICE.—Section 6282(e) of title 5, United
23 States Code, is amended by adding at the end the fol-
24 lowing:

1 “(3) In any case in which the necessity for
2 leave under subparagraph (F) or (G) of subsection
3 (a)(1) is foreseeable based on a scheduled appoint-
4 ment or planned activity to address domestic vio-
5 lence, sexual assault, or stalking and their effects,
6 the employee shall provide such notice to the em-
7 ploying agency as is reasonable and practicable.”.

8 (f) CERTIFICATION.—Section 6383 of title 5, United
9 States Code, is amended by adding at the end the fol-
10 lowing:

11 “(f) In determining if an employee meets the require-
12 ments of subparagraph (E) or (F) of section 6382(a)(1),
13 the employing agency of an employee may require the em-
14 ployee to provide written certification. Certification under
15 this subsection shall be sufficient if it includes—

16 “(1) documentation of the domestic violence,
17 sexual assault, or stalking, such as police or court
18 records, or documentation of the domestic violence,
19 sexual assault, or stalking from a shelter worker, at-
20 torney, clergy, or medical or other professional from
21 whom the employee or family member of the em-
22 ployee has sought assistance in addressing domestic
23 violence, sexual assault, or stalking and their effects;

24 “(2) other corroborating evidence, such as a
25 statement from any other individual with knowledge

1 of the circumstances which provide the basis for the
2 claim, or physical evidence of domestic violence, sex-
3 ual assault, or stalking, such as photographs or torn
4 or bloody clothes; or

5 “(3) at the election of the employee, where doc-
6 umentation described in paragraph (1) and corrobo-
7 rating evidence described in paragraph (2) is not
8 available, a written statement describing the domes-
9 tic violence, sexual assault, or stalking and their ef-
10 fects.”.

11 (g) CONFIDENTIALITY.—Section 6383 of title 5,
12 United States Code, as amended by subsection (f), is
13 amended—

14 (1) in the section heading, by adding before the
15 period the following: “; **confidentiality**”; and

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

17 “(g) All evidence of domestic violence, sexual assault,
18 or stalking provided to an employing agency under this
19 subsection, including an employee’s statement, any cor-
20 roborating evidence, and the fact that an employee has
21 requested leave for the purpose of addressing domestic vio-
22 lence, sexual assault, or stalking and their effects, shall
23 be retained in the strictest confidence by the employing
24 agency, except to the extent consented to by the employee
25 where disclosure is necessary to—

1 “(1) protect the safety of the employee or fam-
2 ily member of the employee; or

3 “(2) assist in documenting domestic violence,
4 sexual assault, or stalking for a court or law enforce-
5 ment agency.”.

6 (h) TABLE OF SECTIONS.—The table of sections for
7 chapter 63 of title 5, United States Code, is amended by
8 striking the item relating to section 6383 and inserting
9 the following:

“6383. Certification; confidentiality”.

10 **SEC. 5. INCLUSION OF SAME-SEX SPOUSES AND DOMESTIC**
11 **PARTNERS FOR LEAVE FOR FEDERAL EM-**
12 **PLOYEES.**

13 (a) DEFINITIONS.—Section 6381 of title 5, United
14 States Code, as amended by section 4, is further amend-
15 ed—

16 (1) in paragraph (6), by inserting “a child of
17 an individual’s domestic partner,” after “a legal
18 ward,”; and

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

20 “(15) the term ‘spouse’ means a husband or
21 wife, as the case may be, and, notwithstanding sec-
22 tion 7 of title I, United States Code, includes a
23 spouse of the same sex as the employee as deter-
24 mined under applicable State law; and

25 “(16) the term ‘domestic partner’ means—

1 “(A) the person recognized as the domestic
2 partner of the employee under any domestic
3 partner registry or civil union laws of the State
4 or political subdivision of a State where the em-
5 ployee resides; or

6 “(B) in the case of an unmarried employee
7 who resides in a State where a person cannot
8 marry a person of the same sex under the laws
9 of the State, a single, unmarried adult person
10 of the same sex as the employee who is in a
11 committed, intimate relationship with the em-
12 ployee, is not a domestic partner to any other
13 person, and who is designated to the employing
14 agency by such employee as that employee’s do-
15 mestic partner.”.

16 (b) LEAVE REQUIREMENT.—Section 6382 of title 5,
17 United States Code, is further amended—

18 (1) in subsection (a)(1)(C), by striking
19 “spouse,” both places it appears and inserting
20 “spouse or domestic partner,”;

21 (2) in subsection (a)(3), by striking “spouse,”
22 and inserting “spouse or domestic partner,”; and

23 (3) in subsection (e)(2)(A), by inserting “do-
24 mestic partner,” after “spouse,”.

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

3 (1) in subsection (a), by inserting “domestic
4 partner,” after “spouse,”; and

5 (2) in subsection (b)(4)(A), by inserting “do-
6 mestic partner,” after “spouse,” both places it ap-
7 pears.

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