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H. R. 1516

To allow Americans to earn paid sick time so that they can address their own health needs and the health needs of their families.

IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 2017

Ms. DELAURO (for herself, Mr. KENNEDY, Ms. ESTY, Mr. MOULTON, Ms. ESHOO, Ms. SÁNCHEZ, Ms. LOFGREN, Mr. SWALWELL of California, Mr. DELANEY, Mr. COURTNEY, Ms. JUDY CHU of California, Mr. TAKANO, Mrs. NAPOLITANO, Ms. WILSON of Florida, Mr. QUIGLEY, Mr. MEEKS, Mr. LYNCH, Ms. VELÁZQUEZ, Mr. CLEAVER, Mr. BLUMENAUER, Mr. COHEN, Ms. WASSERMAN SCHULTZ, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. SEAN PATRICK MALONEY of New York, Mr. KILMER, Ms. BONAMICI, Ms. TITUS, Ms. KAPTUR, Mr. JEFFRIES, Mr. PERLMUTTER, Ms. SCHAKOWSKY, Ms. GABBARD, Ms. SEWELL of Alabama, Mr. BERA, Mr. CICILLINE, Ms. PINGREE, Mr. BEN RAY LUJÁN of New Mexico, Mr. AL GREEN of Texas, Mr. CARSON of Indiana, Mr. WALZ, Mrs. DAVIS of California, Ms. BROWNLEY of California, Mr. NADLER, Mr. GUTIÉRREZ, Mr. GRIJALVA, Ms. CLARK of Massachusetts, Mr. LEVIN, Ms. MOORE, Mr. LARSEN of Washington, Mr. SCHIFF, Mr. GARAMENDI, Ms. MATSUI, Ms. CLARKE of New York, Mr. LANGEVIN, Ms. MICHELLE LUJAN GRISHAM of New Mexico, Mr. LARSON of Connecticut, Ms. FRANKEL of Florida, Ms. SLAUGHTER, Mr. CÁRDENAS, Mrs. CAROLYN B. MALONEY of New York, Ms. SPEIER, Ms. ROYBAL-ALLARD, Ms. TSONGAS, Mr. POCAN, Mr. SCOTT of Virginia, Mr. AGUILAR, Mr. TONKO, Ms. NORTON, Ms. DELBENE, Miss RICE of New York, Mrs. DINGELL, Mr. ELLISON, Ms. MCCOLLUM, Mr. BEYER, Mr. RYAN of Ohio, Mrs. WATSON COLEMAN, Mr. VEASEY, Mr. KILDEE, Ms. KELLY of Illinois, Ms. MENG, Ms. JACKSON LEE, Mr. BRADY of Pennsylvania, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. PASCRELL, Ms. PELOSI, Mr. CUMMINGS, Mr. POLIS, Mr. MCNERNEY, Mr. SMITH of Washington, Mr. NOLAN, Mr. ENGEL, Mr. FOSTER, Mr. THOMPSON of California, Mrs. BUSTOS, Mr. LOWENTHAL, Mr. PETERS, Mr. EVANS, Ms. LEE, Mr. KIHUEN, Mr. PRICE of North Carolina, Mr. HASTINGS, Mr. DEUTCH, Mr. RUIZ, Ms. FUDGE, Mr. DESAULNIER, Mr. LEWIS of Georgia, Mr. HIGGINS of New York, and Ms. SHEA-PORTER) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on House Administration, and Oversight and Government Reform, 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

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A BILL

To allow Americans to earn paid sick time so that they can address their own health needs and the health needs of their families.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Healthy Families Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Working people need time to meet their own health care needs and to care for family members. The absence of paid sick time has forced working people to make untenable choices between needed income and jobs on the one hand and caring for their own and their family's health on the other. It is in the national interest to ensure that all working people can care for their own health and the health of their families while prospering at work.

(2) Thirty-six percent of the private sector workforce and 10 percent of the public sector workforce, lacks paid sick time. Millions more theoreti-

cally have access to sick time, but have not been on the job long enough to use it. Millions more lack sick time they can use to care for a sick child or ill family member.

(3) Working people without paid sick days are more likely to go to work sick and delay or forgo needed health care. A 2016 study in the journal Health Affairs found that working adults without paid sick days are 3 times more likely to forgo medical care for themselves, and 1.6 times more likely to forgo medical care for their family, compared to working adults with paid sick days. Lack of paid sick days is also a barrier to receiving cancer screenings and preventive care, according to a 2012 study published by BioMed Central Public Health.

(4) Nearly one in four parents without paid sick time reports sending a sick child to school or child care because the parent has to go to work. When children go to school and child care sick, they risk their own health and that of other children, teachers and administrators. Research suggests that schools play a key role in transmitting contagious illnesses like influenza.

(5) A 2012 study published in the American Journal of Public Health found that a lack of work-

place policies like paid sick days contributed to an additional 5,000,000 cases of influenza-like illness during the H1N1 pandemic of 2009.

(6) An analysis examining influenza rates following the implementation of comprehensive paid sick time laws in seven major cities in the United States found that when workers gained access to paid sick time in those cities, the general influenza rate in the population decreased by 5.5 to 6.5 percent. This analysis by the National Bureau of Economic Research estimates that those laws helped prevent about 100 influenza-like infections per week for every 100,000 people.

(7) Paid sick days contribute to more cost-effective use of health care resources. A 2011 study by the Institute for Women's Policy Research found that a universal paid sick days policy would reduce preventable visits to the emergency room and result in cost savings of $1,100,000,000 per year, including $500,000,000 in savings for public health insurance programs like Medicare and Medicaid.

(8) The American Productivity Audit completed in 2003 found that lost productivity due to illness costs $226,000,000,000 annually, and that 71 percent of that cost stems from presenteeism—the

practice of employees coming to work while ill. Studies in the Journal of Occupational and Environmental Medicine and the Journal of the American Medical Association show that presenteeism is a larger productivity drain than either absenteeism or short-term disability.

(9) Working while sick also increases a worker's probability of suffering an injury on the job. A 2012 study published by the American Journal of Public Health found that workers with access to paid sick leave were 28 percent less likely than workers without paid sick leave to suffer nonfatal occupational injuries.

(10) Workers' access to paid sick time varies dramatically by wage level, as demonstrated by the following:

(A) For private sector workers—

(i) for workers in the lowest quartile of earners, 61 percent lack paid sick time;

(ii) for workers in the next 2 quartiles, 35 and 25 percent, respectively, lack paid sick time; and

(iii) even for workers in the highest quartile, 16 percent lack paid sick time.

(B) For public sector workers—

(i) for workers in the lowest quartile of earners, 23 percent lack paid sick time;

(ii) for workers in the next 2 quartiles, 6 and 7 percent, respectively, lack paid sick time; and

(iii) for workers in the highest quartile, 2 percent lack paid sick time.

(11) Workers' access to paid sick days also varies depending on their occupation and race. For example, more than 80 percent of workers in food preparation and serving occupations lack access to paid sick days, compared to only 23 percent of workers in management occupations. More than half of Latino workers and nearly half of Native American or Alaskan Native workers do not have access to paid sick days, compared to nearly 40 percent of white and black workers.

(12) According to the Centers for Disease Control and Prevention, more than 1 in 3 women and more than 1 in 4 men in America report having experienced rape, physical abuse, or stalking by an intimate partner at some point in their lives. Women and men of color are even more likely to report being impacted by intimate partner violence. Too many people, and especially women, are forced to

risk losing their jobs or critical income when they need to take time away from work to address domestic violence related issues, such as obtaining a restraining order or finding housing, in order to avoid or prevent physical or sexual abuse.

(13) Without paid sick time that can be used to address the effects of domestic violence, these victims are in grave danger of losing their jobs. One survey found that 96 percent of employed domestic violence victims experienced problems at work related to the violence. The Government Accountability Office similarly found that 24 to 52 percent of victims report losing a job due, at least in part, to domestic violence. The loss of employment can be particularly devastating for victims of domestic violence, who often need economic security to ensure safety.

(14) The Centers for Disease Control and Prevention has estimated that intimate partner violence costs over $700,000,000 annually due to the victims' lost productivity in employment.

(15) Efforts to assist abused employees result in positive outcomes for employers as well as employees because employers can retain workers who might otherwise be compelled to leave.

(16) Dozens of States, cities, and localities have or will soon have paid sick time laws in place and evidence shows that those laws are working well for workers, businesses, and the economy.

(17) A 2009 study by the Center for Economic and Policy Research found that, of 22 countries with comparable economies, the United States was 1 of only 3 countries that did not provide any paid time off for workers with short-term illnesses.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to ensure that working people can address their own health needs and the health needs of their families by requiring employers to permit employees to earn up to 56 hours of paid sick time including paid time for family care;

(2) to diminish public and private health care costs by enabling workers to seek early and routine health care for themselves and their family members;

(3) to assist employees who are, or whose family members are, victims of domestic violence, sexual assault, or stalking, by providing the employees with paid time away from work to allow the victims to receive treatment and to take the necessary steps to ensure their protection;

(4) to address the historical and persistent widespread pattern of employment discrimination on the basis of gender by both private and public sector employers;

(5) to accomplish the purposes described in paragraphs (1) through (4) in a manner that is feasible for employers; and

(6) consistent with the provision of the 14th Amendment to the Constitution relating to equal protection of the laws, and pursuant to Congress' power to enforce that provision under section 5 of that Amendment—

(A) to accomplish the purposes described in paragraphs (1) through (4) in a manner that minimizes the potential for employment discrimination on the basis of sex by ensuring generally that paid sick time is available for eligible medical reasons on a gender-neutral basis; and

(B) to promote the goal of equal employment opportunity for women and men.

SEC. 4. DEFINITIONS.

In this Act:

(1) CHILD.—The term ''child'' means a biological, foster, or adopted child, a stepchild, a child of

a domestic partner, a legal ward, or a child of a person standing in loco parentis, who is—

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

(2) DOMESTIC PARTNER.—

(A) IN GENERAL.—The term ''domestic partner'', with respect to an individual, means another individual with whom the individual is in a committed relationship.

(B) COMMITTED RELATIONSHIP DEFINED.—The term ''committed relationship'' means a relationship between two individuals, each at least 18 years of age, in which each individual is the other individual's sole domestic partner and both individuals share responsibility for a significant measure of each other's common welfare. The term includes any such relationship between two individuals, including individuals of the same sex, that is granted legal recognition by a State or political subdivision of a State as a marriage or analogous relationship, including a civil union or domestic partnership.

(3) DOMESTIC VIOLENCE.—The term ''domestic violence'' has the meaning given the term in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)), except that the reference in such section to the term ''jurisdiction receiving grant monies'' shall be deemed to mean the jurisdiction in which the victim lives or the jurisdiction in which the employer involved is located. Such term also includes dating violence, as that term is defined in such section.

(4) EMPLOYEE.—The term ''employee'' means an individual who is—

(A)(i) an employee, as defined in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)), who is not covered under subparagraph (E), including such an employee of the Library of Congress, except that a reference in such section to an employer shall be considered to be a reference to an employer described in clauses (i)(I) and (ii) of paragraph (5)(A); or

(ii) an employee of the Government Accountability Office;

(B) a State employee described in section 304(a) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16c(a));

(C) a covered employee, as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301), other than an applicant for employment;

(D) a covered employee, as defined in section 411(c) of title 3, United States Code; or

(E) a Federal officer or employee covered under subchapter V of chapter 63 of title 5, United States Code.

(5) EMPLOYER.—

(A) IN GENERAL.—The term ''employer'' means a person who is—

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

(II) an entity employing a State employee described in section 304(a) of the Government Employee Rights Act of 1991;

(III) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995;

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

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

(ii) is engaged in commerce (including government), or an industry or activity affecting commerce (including government), as defined in subparagraph (B)(iii).

(B) COVERED EMPLOYER.—

(i) IN GENERAL.—In subparagraph (A)(i)(I), the term ''covered employer''—

(I) means any person engaged in commerce or in any industry or activity affecting commerce who employs 15 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding year;

(II) means a smaller employer, as defined in subparagraph (C), to which the special rule in paragraph (3) of section 5(a) applies;

(III) includes—

(aa) any person who acts, directly or indirectly, in the interest of an employer to any of the employees of such employer; and

(bb) any successor in interest of an employer;

(IV) includes any ''public agency'', as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)); and

(V) includes the Government Accountability Office and the Library of Congress.

(ii) PUBLIC AGENCY.—For purposes of clause (i)(IV), a public agency shall be considered to be a person engaged in commerce or in an industry or activity affecting commerce.

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

(I) COMMERCE.—The terms ''commerce'' and ''industry or activity affecting commerce'' mean any activity, business, or industry in commerce or in which a labor dispute would

hinder or obstruct commerce or the free flow of commerce, and include ''commerce'' and any ''industry affecting commerce'', as defined in paragraphs (1) and (3) of section 501 of the Labor Management Relations Act, 1947 (29 U.S.C. 142 (1) and (3)).

(II) EMPLOYEE.—The term ''employee'' has the same meaning given such term in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)).

(III) PERSON.—The term ''person'' has the same meaning given such term in section 3(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(a)).

(C) SMALLER EMPLOYER.—The term ''smaller employer'' means any person engaged in commerce or in any industry or activity affecting commerce who employs fewer than 15 employees for each working day during each of 20 or more calendar workweeks in the preceding year.

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

(6) EMPLOYMENT BENEFITS.—The term ''employment benefits'' means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an ''employee benefit plan'', as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)).

(7) HEALTH CARE PROVIDER.—The term ''health care provider'' means a provider who—

(A)(i) is a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or

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

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

(8) PAID SICK TIME.—The term ''paid sick time'' means an increment of compensated leave that can be earned by an employee for use during an absence from employment for any of the reasons described in paragraphs (1) through (4) of section 5(b).

(9) PARENT.—The term ''parent'' means a biological, foster, or adoptive parent of an employee, a stepparent of an employee, parent-in-law, parent of a domestic partner, or a legal guardian or other person who stood in loco parentis to an employee when the employee was a child.

(10) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

(11) SEXUAL ASSAULT.—The term ''sexual assault'' has the meaning given the term in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)).

(12) SPOUSE.—The term ''spouse'', with respect to an employee, has the meaning given such term by the marriage laws of the State in which the marriage was celebrated.

(13) STALKING.—The term ''stalking'' has the meaning given the term in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)).

(14) STATE.—The term ''State'' has the meaning given the term in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(15) UNPAID SICK TIME.—The term ''unpaid sick time'' means the leave earned and used in the same manner and under the same conditions as paid sick time for the purposes of this Act, except that no compensation shall be paid.

(16) VICTIM SERVICES ORGANIZATION.—The term ''victim services organization'' means a nonprofit, nongovernmental organization that provides assistance to victims of domestic violence, sexual assault, or stalking or advocates for such victims, including a rape crisis center, an organization carrying out a domestic violence, sexual assault, or stalking prevention or treatment program, an organization operating a shelter or providing counseling services, or a legal services organization or other organization providing assistance through the legal process.

SEC. 5. EARNED PAID SICK TIME.

(a) EARNING OF PAID SICK TIME.—

(1) IN GENERAL.—An employer shall provide each employee employed by the employer not less than 1 hour of earned paid sick time for every 30 hours worked, to be used as described in subsection (b). An employer shall not be required to permit an employee to earn, under this section, more than 56 hours of paid sick time in a year, unless the employer chooses to set a higher limit.

(2) EXEMPT EMPLOYEES.—

(A) IN GENERAL.—Except as provided in paragraph (4), for purposes of this section, an employee who is exempt from overtime requirements under section 13(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(1)) shall be assumed to work 40 hours in each workweek.

(B) SHORTER NORMAL WORKWEEK.—If the normal workweek of such an employee is less than 40 hours, the employee shall earn paid sick time based upon that normal workweek.

(3) SPECIAL RULE FOR SMALLER EMPLOYERS.—A smaller employer may provide paid sick time as provided under paragraph (1) but if such smaller employer opts not to do so, the smaller em-

ployer shall provide not fewer than 56 hours of unpaid sick time to each employee per year to be used for the same purposes and under the same conditions as set out in this Act. The provision and earning of unpaid sick time shall be treated in all respects the same as the provision and earning of paid sick time under this Act. References in this Act to paid sick time shall, with respect to smaller employers, be deemed to be references to unpaid sick time.

(4) DATES FOR BEGINNING TO EARN PAID SICK TIME AND USE.—Employees shall begin to earn paid sick time under this section at the commencement of their employment. An employee shall be entitled to use the earned paid sick time beginning on the 60th calendar day following commencement of the employee's employment. After that 60th calendar day, the employee may use the paid sick time as the time is earned. An employer may, at the discretion of the employer, loan paid sick time to an employee for use by such employee in advance of the employee earning such sick time as provided in this subsection and may permit use before the 60th day of employment.

(5) CARRYOVER.—

(A) IN GENERAL.—Except as provided in subparagraph (B), paid sick time earned under

this section shall carry over from one year to the next.

(B) CONSTRUCTION.—This Act shall not be construed to require an employer to permit an employee to earn more than 56 hours of earned paid sick time at a given time.

(6) EMPLOYERS WITH EXISTING POLICIES.—Any employer with a paid leave policy who makes available an amount of paid leave that is sufficient to meet the requirements of this section and that may be used for the same purposes and under the same conditions as the purposes and conditions outlined in subsection (b) shall not be required to permit an employee to earn additional paid sick time under this section.

(7) CONSTRUCTION.—Nothing in this section shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment for earned paid sick time that has not been used.

(8) REINSTATEMENT.—If an employee is separated from employment with an employer and is rehired, within 12 months after that separation, by the same employer, the employer shall reinstate the em-

ployee's previously earned paid sick time. The employee shall be entitled to use the earned paid sick time and earn additional paid sick time at the recommencement of employment with the employer.

(9) PROHIBITION.—An employer may not require, as a condition of providing paid sick time under this Act, that the employee involved search for or find a replacement employee to cover the hours during which the employee is using paid sick time.

(b) USES.—Paid sick time earned under this section may be used by an employee for any of the following:

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

(2) An absence resulting from obtaining professional medical diagnosis or care, or preventive medical care, for the employee.

(3) An absence for the purpose of caring for a child, a parent, a spouse, a domestic partner, or any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship, who—

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

(B) in the case of someone who is a child, is required to attend a school meeting or a meeting at a place where the child is receiving care necessitated by the child's health condition or disability; or

(C) is otherwise in need of care.

(4) An absence resulting from domestic violence, sexual assault, or stalking, if the time is to—

(A) seek medical attention for the employee or the employee's child, parent, spouse, domestic partner, or an individual related to the employee as described in paragraph (3), to recover from physical or psychological injury or disability caused by domestic violence, sexual assault, or stalking;

(B) obtain or assist a related person described in paragraph (3) in obtaining services from a victim services organization;

(C) obtain or assist a related person described in paragraph (3) in obtaining psychological or other counseling;

(D) seek relocation; or

(E) take legal action, including preparing for or participating in any civil or criminal legal

proceeding related to or resulting from domestic violence, sexual assault, or stalking.

(c) SCHEDULING.—An employee shall make a reasonable effort to schedule a period of paid sick time under this Act in a manner that does not unduly disrupt the operations of the employer.

(d) PROCEDURES.—

(1) IN GENERAL.—Paid sick time shall be provided upon the oral or written request of an employee. Such request shall—

(A) include the expected duration of the period of such time;

(B) in a case in which the need for such period of time is foreseeable at least 7 days in advance of such period, be provided at least 7 days in advance of such period; and

(C) otherwise, be provided as soon as practicable after the employee is aware of the need for such period.

(2) CERTIFICATION IN GENERAL.—

(A) PROVISION.—

(i) IN GENERAL.—Subject to subparagraph (C), an employer may require that a request for paid sick time under this section for a purpose described in paragraph

(1), (2), or (3) of subsection (b) be supported by a certification issued by the health care provider of the eligible employee or of an individual described in subsection (b)(3), as appropriate, if the period of such time covers more than 3 consecutive workdays.

(ii) TIMELINESS.—The employee shall provide a copy of such certification to the employer in a timely manner, not later than 30 days after the first day of the period of time. The employer shall not delay the commencement of the period of time on the basis that the employer has not yet received the certification.

(B) SUFFICIENT CERTIFICATION.—

(i) IN GENERAL.—A certification provided under subparagraph (A) shall be sufficient if it states—

(I) the date on which the period of time will be needed;

(II) the probable duration of the period of time;

(III) the appropriate medical facts within the knowledge of the

health care provider regarding the condition involved, subject to clause (ii); and

(IV)(aa) for purposes of paid sick time under subsection (b)(1), a statement that absence from work is medically necessary;

(bb) for purposes of such time under subsection (b)(2), the dates on which testing for a medical diagnosis or care is expected to be given and the duration of such testing or care; and

(cc) for purposes of such time under subsection (b)(3), in the case of time to care for someone who is not a child, a statement that care is needed for an individual described in such subsection, and an estimate of the amount of time that such care is needed for such individual.

(ii) LIMITATION.—In issuing a certification under subparagraph (A), a health care provider shall make reasonable efforts to limit the medical facts described in clause (i)(III) that are disclosed in the cer-

tification to the minimum necessary to establish a need for the employee to utilize paid sick time.

(C) REGULATIONS.—Regulations prescribed under section 14 shall specify the manner in which an employee who does not have health insurance shall provide a certification for purposes of this paragraph.

(D) CONFIDENTIALITY AND NONDISCLOSURE.—

(i) PROTECTED HEALTH INFORMATION.—Nothing in this Act shall be construed to require a health care provider to disclose information in violation of section 1177 of the Social Security Act (42 U.S.C. 1320d–6) or the regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

(ii) HEALTH INFORMATION RECORDS.—If an employer possesses health information about an employee or an employee's child, parent, spouse, domestic partner, or an individual related to the

employee as described in subsection (b)(3), such information shall—

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

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

(III) not be disclosed except to the affected employee or with the permission of the affected employee.

(3) CERTIFICATION IN THE CASE OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING.—

(A) IN GENERAL.—An employer may require that a request for paid sick time under this section for a purpose described in subsection (b)(4) be supported by any one of the following forms of documentation, but the employer may not specify the particular form of documentation to be provided:

(i) A police report indicating that the employee, or a member of the employee's family described in subsection (b)(4), was a victim of domestic violence, sexual assault, or stalking.

(ii) A court order protecting or separating the employee or a member of the employee's family described in subsection (b)(4) from the perpetrator of an act of domestic violence, sexual assault, or stalking, or other evidence from the court or prosecuting attorney that the employee or a member of the employee's family described in subsection (b)(4) has appeared in court or is scheduled to appear in court in a proceeding related to domestic violence, sexual assault, or stalking.

(iii) Other documentation signed by an employee or volunteer working for a victim services organization, an attorney, a police officer, a medical professional, a social worker, an antiviolence counselor, or a member of the clergy, affirming that the employee or a member of the employee's family described in subsection (b)(4) is a victim of domestic violence, sexual assault, or stalking.

(B) REQUIREMENTS.—The requirements of paragraph (2) shall apply to certifications under this paragraph, except that—

(i) subclauses (III) and (IV) of subparagraph (B)(i) and subparagraph (B)(ii) of such paragraph shall not apply;

(ii) the certification shall state the reason that the leave is required with the facts to be disclosed limited to the minimum necessary to establish a need for the employee to be absent from work, and the employee shall not be required to explain the details of the domestic violence, sexual assault, or stalking involved; and

(iii) with respect to confidentiality under subparagraph (D) of such paragraph, any information provided to the employer under this paragraph shall be confidential, except to the extent that any disclosure of such information is—

(I) requested or consented to in writing by the employee; or

(II) otherwise required by applicable Federal or State law.

SEC. 6. NOTICE REQUIREMENT.

(a) IN GENERAL.—Each employer shall notify each employee and include in any employee handbook the information described in paragraphs (1) through (4). Each em-

ployer shall post and keep posted a notice, to be prepared or approved in accordance with procedures specified in regulations prescribed under section 14, setting forth excerpts from, or summaries of, the pertinent provisions of this Act including—

(1) information describing paid sick time available to employees under this Act;

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

(3) the details of the notice requirement for a foreseeable period of time under section 5(d)(1)(B); and

(4) information that describes—

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

(B) how the employee can contact the Secretary (or other appropriate authority as described in section 8) if any of the rights are violated.

(b) LOCATION.—The notice described under subsection (a) shall be posted—

(1) in conspicuous places on the premises of the employer, where notices to employees (including applicants) are customarily posted; or

(2) in employee handbooks.

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

SEC. 7. PROHIBITED ACTS.

(a) INTERFERENCE WITH RIGHTS.—

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

(A) discharging or discriminating against (including retaliating against) any individual, including a job applicant, for exercising, or attempting to exercise, any right provided under this Act;

(B) using the taking of paid sick time or unpaid sick time under this Act as a negative factor in an employment action, such as hiring, promotion, reducing hours or number of shifts, or a disciplinary action; or

(C) counting the paid sick time or unpaid sick time under a no-fault attendance policy or any other absence control policy.

(2) DISCRIMINATION.—It shall be unlawful for any employer to discharge or in any other manner

discriminate against (including retaliating against) any individual, including a job applicant, for opposing any practice made unlawful by this Act.

(b) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate against (including retaliating against) any individual, including a job applicant, because such individual—

(1) has filed an action, or has instituted or caused to be instituted any proceeding, under or related to this Act;

(2) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this Act; or

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

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

SEC. 8. ENFORCEMENT AUTHORITY.

(a) IN GENERAL.—

(1) DEFINITION.—In this subsection—

(A) the term ''employee'' means an employee described in subparagraph (A) or (B) of section 4(4); and

(B) the term ''employer'' means an employer described in subclause (I) or (II) of section 4(5)(A)(i).

(2) INVESTIGATIVE AUTHORITY.—

(A) IN GENERAL.—To ensure compliance with the provisions of this Act, or any regulation or order issued under this Act, the Secretary shall have, subject to subparagraph (C), the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)), with respect to employers, employees, and other individuals affected.

(B) OBLIGATION TO KEEP AND PRESERVE RECORDS.—An employer shall make, keep, and preserve records pertaining to compliance with this Act in accordance with section 11(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(c)) and in accordance with regulations prescribed by the Secretary.

(C) REQUIRED SUBMISSIONS GENERALLY LIMITED TO AN ANNUAL BASIS.—The Secretary

shall not require, under the authority of this paragraph, an employer to submit to the Secretary any books or records more than once during any 12-month period, unless the Secretary has reasonable cause to believe there may exist a violation of this Act or any regulation or order issued pursuant to this Act, or is investigating a charge pursuant to paragraph (4).

(D) SUBPOENA AUTHORITY.—For the purposes of any investigation provided for in this paragraph, the Secretary shall have the subpoena authority provided for under section 9 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209).

(3) CIVIL ACTION BY EMPLOYEES OR INDIVIDUALS.—

(A) RIGHT OF ACTION.—An action to recover the damages or equitable relief prescribed in subparagraph (B) may be maintained against any employer in any Federal or State court of competent jurisdiction by one or more employees or individuals or their representative for and on behalf of—

(i) the employees or individuals; or

(ii) the employees or individuals and others similarly situated.

(B) LIABILITY.—Any employer who violates section 7 (including a violation relating to rights provided under section 5) shall be liable to any employee or individual affected—

(i) for damages equal to—

(I) the amount of—

(aa) any wages, salary, employment benefits, or other compensation denied or lost by reason of the violation; or

(bb) in a case in which wages, salary, employment benefits, or other compensation have not been denied or lost, any actual monetary losses sustained as a direct result of the violation up to a sum equal to 56 hours of wages or salary for the employee or individual;

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

(III) an additional amount as liquidated damages; and

(ii) for such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(C) FEES AND COSTS.—The court in an action under this paragraph shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(4) ACTION BY THE SECRETARY.—

(A) ADMINISTRATIVE ACTION.—The Secretary shall receive, investigate, and attempt to resolve complaints of violations of section 7 (including a violation relating to rights provided under section 5) in the same manner that the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207).

(B) CIVIL ACTION.—The Secretary may bring an action in any court of competent jurisdiction to recover the damages described in paragraph (3)(B)(i).

(C) SUMS RECOVERED.—Any sums recovered by the Secretary pursuant to subparagraph (B) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each employee or individual affected. Any such sums not paid to an employee or individual affected because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

(5) LIMITATION.—

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

(B) WILLFUL VIOLATION.—In the case of an action brought for a willful violation of section 7 (including a willful violation relating to rights provided under section 5), such action may be brought within 3 years of the date of the last event constituting the alleged violation for which such action is brought.

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

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

(A) to restrain violations of section 7 (including a violation relating to rights provided under section 5), including the restraint of any withholding of payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due to employees or individuals eligible under this Act; or

(B) to award such other equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(7) SOLICITOR OF LABOR.—The Solicitor of Labor may appear for and represent the Secretary on any litigation brought under paragraph (4) or (6).

(8) GOVERNMENT ACCOUNTABILITY OFFICE AND LIBRARY OF CONGRESS.—Notwithstanding any

other provision of this subsection, in the case of the Government Accountability Office and the Library of Congress, the authority of the Secretary of Labor under this subsection shall be exercised respectively by the Comptroller General of the United States and the Librarian of Congress.

(b) EMPLOYEES COVERED BY CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.—The powers, remedies, and procedures provided in the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as defined in section 101 of that Act (2 U.S.C. 1301)), or any person, alleging a violation of section 202(a)(1) of that Act (2 U.S.C. 1312(a)(1)) shall be the powers, remedies, and procedures this Act provides to that Board, or any person, alleging an unlawful employment practice in violation of this Act against an employee described in section 4(4)(C).

(c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE 3, UNITED STATES CODE.—The powers, remedies, and procedures provided in chapter 5 of title 3, United States Code, to the President, the Merit Systems Protection Board, or any person, alleging a violation of section 412(a)(1) of that title, shall be the powers, remedies, and procedures this Act provides to the President, that Board, or any person, respectively, alleging an unlawful employ-

ment practice in violation of this Act against an employee described in section 4(4)(D).

(d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE 5, UNITED STATES CODE.—The powers, remedies, and procedures provided in title 5, United States Code, to an employing agency, provided in chapter 12 of that title to the Merit Systems Protection Board, or provided in that title to any person, alleging a violation of chapter 63 of that title, shall be the powers, remedies, and procedures this Act provides to that agency, that Board, or any person, respectively, alleging an unlawful employment practice in violation of this Act against an employee described in section 4(4)(E).

(e) REMEDIES FOR STATE EMPLOYEES.—

(1) WAIVER OF SOVEREIGN IMMUNITY.—A State's receipt or use of Federal financial assistance for any program or activity of a State shall constitute a waiver of sovereign immunity, under the 11th Amendment to the Constitution or otherwise, to a suit brought by an employee of that program or activity under this Act for equitable, legal, or other relief authorized under this Act.

(2) OFFICIAL CAPACITY.—An official of a State may be sued in the official capacity of the official by any employee who has complied with the procedures

under subsection (a)(3), for injunctive relief that is authorized under this Act. In such a suit the court may award to the prevailing party those costs authorized by section 722 of the Revised Statutes (42 U.S.C. 1988).

(3) APPLICABILITY.—With respect to a particular program or activity, paragraph (1) applies to conduct occurring on or after the day, after the date of enactment of this Act, on which a State first receives or uses Federal financial assistance for that program or activity.

(4) DEFINITION OF PROGRAM OR ACTIVITY.—In this subsection, the term ''program or activity'' has the meaning given the term in section 606 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4a).

SEC. 9. AUTHORIZATION OF APPROPRIATIONS FOR EDUCATION AND OUTREACH.

There is authorized to be appropriated to the Secretary of Labor such sums as may be necessary in order that the Secretary may conduct a public awareness campaign to educate and inform the public of the requirements for paid sick time required by this Act.

SEC. 10. COLLECTION OF DATA ON PAID SICK TIME AND FURTHER STUDY.

(a) COMPILATION OF INFORMATION.—The Commissioner of Labor Statistics shall annually compile information on the following:

(1) The amount of paid and unpaid sick time available to employees by occupation and type of employment establishment.

(2) An estimate of the average sick time used by employees according to occupation and the type of employment establishment.

(b) GAO STUDY.—Not later than 5 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study to evaluate the implementation of this Act. Such study shall include an estimation of employees' access to paid sick time, employees' awareness of their rights under this Act, and employers' experiences complying with this Act. Such study shall take into account access, awareness and experiences of employees by race, ethnicity, gender, and occupation.

(c) REPORT.—Upon completion of the study required by subsection (b), the Comptroller General of the United States shall prepare and submit a report to the appropriate committees of Congress concerning the results of the study and the information compiled pursuant to subsection (a).

SEC. 11. EFFECT ON OTHER LAWS.

(a) FEDERAL AND STATE ANTIDISCRIMINATION LAWS.—Nothing in this Act shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, disability, sexual orientation, gender identity, marital status, familial status, or any other protected status.

(b) STATE AND LOCAL LAWS.—Nothing in this Act shall be construed to supersede (including preempting) any provision of any State or local law that provides greater paid sick time or leave rights (including greater amounts of paid sick time or leave, or greater coverage of those eligible for paid sick time or leave) than the rights established under this Act.

SEC. 12. EFFECT ON EXISTING EMPLOYMENT BENEFITS.

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

(b) LESS PROTECTIVE.—The rights established for employees under this Act shall not be diminished by any contract, collective bargaining agreement, or any employment benefit program or plan.

SEC. 13. ENCOURAGEMENT OF MORE GENEROUS LEAVE POLICIES.

Nothing in this Act shall be construed to discourage employers from adopting or retaining leave policies more generous than policies that comply with the requirements of this Act.

SEC. 14. REGULATIONS.

(a) IN GENERAL.—

(1) AUTHORITY.—Except as provided in paragraph (2), not later than 180 days after the date of enactment of this Act, the Secretary shall prescribe such regulations as are necessary to carry out this Act with respect to employees described in subparagraph (A) or (B) of section 4(4) and other individuals affected by employers described in subclause (I) or (II) of section 4(5)(A)(i).

(2) GOVERNMENT ACCOUNTABILITY OFFICE; LIBRARY OF CONGRESS.—The Comptroller General of the United States and the Librarian of Congress shall prescribe the regulations with respect to employees of the Government Accountability Office and the Library of Congress, respectively, and other individuals affected by the Comptroller General of the United States and the Librarian of Congress, respectively.

(b) EMPLOYEES COVERED BY CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.—

(1) AUTHORITY.—Not later than 90 days after the Secretary prescribes regulations under subsection (a), the Board of Directors of the Office of Compliance shall prescribe (in accordance with section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384)) such regulations as are necessary to carry out this Act with respect to employees described in section 4(4)(C) and other individuals affected by employers described in section 4(5)(A)(i)(III).

(2) AGENCY REGULATIONS.—The regulations prescribed under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary to carry out this Act except insofar as the Board may determine, for good cause shown and stated together with the regulations prescribed under paragraph (1), that a modification of such regulations would be more effective for the implementation of the rights and protections involved under this section.

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

(1) AUTHORITY.—Not later than 90 days after the Secretary prescribes regulations under subsection (a), the President (or the designee of the President) shall prescribe such regulations as are necessary to carry out this Act with respect to employees described in section 4(4)(D) and other individuals affected by employers described in section 4(5)(A)(i)(IV).

(2) AGENCY REGULATIONS.—The regulations prescribed under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary to carry out this Act except insofar as the President (or designee) may determine, for good cause shown and stated together with the regulations prescribed under paragraph (1), that a modification of such regulations would be more effective for the implementation of the rights and protections involved under this section.

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

(1) AUTHORITY.—Not later than 90 days after the Secretary prescribes regulations under subsection (a), the Director of the Office of Personnel Management shall prescribe such regulations as are necessary to carry out this Act with respect to em-

ployees described in section 4(4)(E) and other individuals affected by employers described in section 4(5)(A)(i)(V).

(2) AGENCY REGULATIONS.—The regulations prescribed under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary to carry out this Act except insofar as the Director may determine, for good cause shown and stated together with the regulations prescribed under paragraph (1), that a modification of such regulations would be more effective for the implementation of the rights and protections involved under this section.

SEC. 15. EFFECTIVE DATES.

(a) EFFECTIVE DATE.—This Act shall take effect 6 months after the date of issuance of regulations under section 14(a)(1).

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

(1) the date of the termination of such agreement; or

(2) the date that occurs 18 months after the date of issuance of regulations under section 14(a)(1).

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