

116TH CONGRESS
2D SESSION

S. 3491

To prohibit adverse employment actions against quarantined or isolated individuals, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 12, 2020

Ms. SMITH (for herself, Mrs. GILLIBRAND, Mr. BENNET, Mr. VAN HOLLEN, Mrs. FEINSTEIN, Mr. CASEY, Mr. KAINE, Mr. SANDERS, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To prohibit adverse employment actions against quarantined or isolated individuals, 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 “Job Protection for
5 Quarantined Individuals Act of 2020”.

1 **SEC. 2. PROHIBITION ON ADVERSE EMPLOYMENT ACTIONS**
2 **AGAINST QUARANTINED OR ISOLATED INDIVIDUALS.**
3

4 (a) IN GENERAL.—An employer shall not discharge,
5 discipline, threaten, or penalize an employee of the em-
6 ployer, or otherwise discriminate in the work terms, condi-
7 tions, location, or privileges of the employee, because the
8 employee—

9 (1) has been, or is, in isolation or quarantine;

10 or

11 (2) has responsibility for the care of a family
12 member in isolation or quarantine, regardless of
13 whether such employee has assumed responsibility
14 for all or a portion of such care voluntarily, by con-
15 tract, or by agreement.

16 (b) ENFORCEMENT AUTHORITY.—

17 (1) INVESTIGATIVE AUTHORITY.—

18 (A) IN GENERAL.—To ensure compliance
19 with the provisions of subsection (a) or any
20 order issued under this section, the Secretary
21 shall have the investigative authority provided
22 under section 11(a) of the Fair Labor Stand-
23 ards Act of 1938 (29 U.S.C. 211(a)), with re-
24 spect to employers, employees, and other indi-
25 viduals affected.

(B) 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).

(2) 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 subsection (a) 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 com-

1 pensation denied or lost by rea-
2 son of the violation; or

3 (bb) in a case in which
4 wages, salary, employment bene-
5 fits, or other compensation have
6 not been denied or lost, any ac-
7 tual monetary losses sustained as
8 a direct result of the violation;

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

12 (III) an additional amount as liq-
13 uidated damages; and

14 (ii) for such equitable relief as may be
15 appropriate, including employment, rein-
16 statement, and promotion.

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

23 (3) ACTION BY THE SECRETARY.—

24 (A) ADMINISTRATIVE ACTION.—The Sec-
25 retary shall receive, investigate, and attempt to

1 resolve complaints of violations of subsection
2 (a) in the same manner that the Secretary re-
3 ceives, investigates, and attempts to resolve
4 complaints of violations of sections 6 and 7 of
5 the Fair Labor Standards Act of 1938 (29
6 U.S.C. 206 and 207).

7 (B) CIVIL ACTION.—The Secretary may
8 bring an action in any court of competent juris-
9 diction to recover the damages described in
10 paragraph (2)(B)(i).

11 (C) SUMS RECOVERED.—Any sums recov-
12 ered by the Secretary pursuant to subparagraph
13 (B) shall be held in a special deposit account
14 and shall be paid, on order of the Secretary, di-
15 rectly to each employee or individual affected.
16 Any such sums not paid to an employee or indi-
17 vidual affected because of inability to do so
18 within a period of 3 years shall be deposited
19 into the Treasury of the United States as mis-
20 cellaneous receipts.

21 (4) LIMITATION.—

22 (A) IN GENERAL.—An action may be
23 brought under paragraph (2), (3), or (5) not
24 later than 2 years after the date of the last

1 event constituting the alleged violation for
2 which the action is brought.

3 (B) COMMENCEMENT.—In determining
4 when an action is commenced under paragraph
5 (2), (3), or (5) for the purposes of this para-
6 graph, it shall be considered to be commenced
7 on the date when the complaint is filed.

8 (5) ACTION FOR INJUNCTION BY SECRETARY.—

9 The district courts of the United States shall have
10 jurisdiction, for cause shown, in an action brought
11 by the Secretary—

12 (A) to restrain violations of subsection (a),
13 including the restraint of any withholding of
14 payment of wages, salary, employment benefits,
15 or other compensation, plus interest, found by
16 the court to be due to employees under this sec-
17 tion; or

18 (B) to award such other equitable relief as
19 may be appropriate, including employment, re-
20 instatement, and promotion.

21 (6) SOLICITOR OF LABOR.—The Solicitor of
22 Labor may appear for and represent the Secretary
23 on any litigation brought under paragraph (3) or
24 (5).

25 (c) DEFINITIONS.—In this section:

1 (1) FMLA DEFINITIONS.—The terms “parent”,
 2 “son or daughter”, “spouse”, and “covered service-
 3 member” have the meanings given the terms in sec-
 4 tion 101 of the Family and Medical Leave Act of
 5 1993 (29 U.S.C. 2611).

6 (2) ANY OTHER INDIVIDUAL RELATED BY
 7 BLOOD OR AFFINITY WHOSE CLOSE ASSOCIATION IS
 8 THE EQUIVALENT OF A FAMILY RELATIONSHIP.—
 9 The term “any other individual related by blood or
 10 affinity whose close association is the equivalent of
 11 a family relationship”, used with respect to an em-
 12 ployee, means any person with whom the employee
 13 has a significant personal bond that is or is like a
 14 family relationship, regardless of biological or legal
 15 relationship.

16 (3) DOMESTIC PARTNER.—The term “domestic
 17 partner”, used with respect to an employee,
 18 means—

19 (A) the person recognized as the domestic
 20 partner of the employee under any domestic
 21 partnership or civil union law of a State or po-
 22 litical subdivision of a State; or

23 (B) in the case of an unmarried employee,
 24 an unmarried adult person who is in a com-
 25 mitted, personal relationship with the employee,

1 is not a domestic partner as described in sub-
2 paragraph (A) to or in such a relationship with
3 any other person, and who is designated to the
4 employer by such employee as that employee's
5 domestic partner.

6 (4) EMPLOYER.—The term “employer” means
7 a person engaged in an industry affecting commerce.

8 (5) FAMILY MEMBER.—The term “family mem-
9 ber” means—

10 (A) a spouse or domestic partner, son or
11 daughter, son-in-law, daughter-in-law, parent,
12 parent-in-law, grandparent, grandchild, sibling,
13 uncle or aunt, or nephew or niece; or

14 (B) the next of kin of a covered service-
15 member, or any other individual related by
16 blood or affinity whose close association is the
17 equivalent of a family relationship with the cov-
18 ered servicemember.

19 (6) GRANDCHILD.—The term “grandchild”
20 means the son or daughter of an employee's son or
21 daughter.

22 (7) GRANDPARENT.—The term “grandparent”
23 means a parent of a parent of an employee.

1 (8) ISOLATION OR QUARANTINE.—The term
2 “isolation or quarantine”, with respect to an indi-
3 vidual, means isolation or quarantine because of—

4 (A) a quarantine order under section 361
5 of the Public Health Service Act (42 U.S.C.
6 264);

7 (B) an order or directive of a State, local,
8 or Tribal government;

9 (C) an order of a Federal, State, or Tribal
10 court;

11 (D) a written recommendation of a State,
12 local, or Tribal official that the individual enter
13 isolation or quarantine; or

14 (E) voluntary health monitoring, which oc-
15 curs when an individual does not have symp-
16 toms but is believed to have been exposed to
17 someone who is sick based on guidance issued
18 by the Centers for Disease Control and Preven-
19 tion or the applicable State, local, or Tribal
20 health department.

21 (9) NEPHEW; NIECE.—The terms “nephew”
22 and “niece”, used with respect to an employee, mean
23 a son or daughter of the employee’s sibling.

1 (10) PARENT-IN-LAW.—The term “parent-in-
2 law” means a parent of the spouse or domestic part-
3 ner of an employee.

4 (11) SIBLING.—The term “sibling” means any
5 person who is a son or daughter of an employee’s
6 parent (other than the employee).

7 (12) SON-IN-LAW; DAUGHTER-IN-LAW.—The
8 terms “son-in-law” and “daughter-in-law”, used
9 with respect to an employee, mean any person who
10 is a spouse or domestic partner of a son or daugh-
11 ter, as the case may be, of the employee.

12 (13) UNCLE; AUNT.—The terms “uncle” and
13 “aunt”, used with respect to an employee, mean the
14 son or daughter, as the case may be, of the employ-
15 ee’s grandparent (other than the employee’s parent).

16 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
17 tion shall be construed to alter the sick leave or sick pay
18 terms of any employment relationship or require payment
19 of wages for hours not worked.

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