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(Original Signature of Member)

112TH CONGRESS
1ST SESSION

H. R.

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

Ms. DELAURO introduced the following bill; which was referred to the Committee on _____

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.

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 “Healthy Families Act”.

5 **SEC. 2. FINDINGS.**

6 Congress makes the following findings:

7 (1) Working Americans need time to meet their
8 own health care needs and to care for family mem-

1 bers, including their children, spouse, parents, and
2 parents-in-law, and other children and adults for
3 whom they are caretakers.

4 (2) Health care needs include preventive health
5 care, diagnostic procedures, medical treatment, and
6 recovery in response to short- and long-term ill-
7 nesses and injuries.

8 (3) Providing employees time off to meet health
9 care needs ensures that they will be healthier in the
10 long run. Preventive care helps avoid illnesses and
11 injuries and routine medical care helps detect ill-
12 nesses early and shorten their duration.

13 (4) When parents are available to care for their
14 children who become sick, children recover faster,
15 more serious illnesses are prevented, and children's
16 overall mental and physical health improve. In a
17 2009 study published in the American Journal of
18 Public Health, 81 percent of parents of a child with
19 special health care needs reported that taking leave
20 from work to be with their child had a "good" or
21 "very good" effect on their child's physical health.
22 Similarly, 85 percent of parents of such a child
23 found that taking such leave had a "good" or "very
24 good" effect on their child's emotional health.

1 (5) When parents cannot afford to miss work
2 and must send children with contagious illnesses to
3 child care centers or schools, infection can spread
4 rapidly through child care centers and schools.

5 (6) Providing paid sick time improves public
6 health by reducing infectious disease. Policies that
7 make it easier for sick adults and children to be iso-
8 lated at home reduce the spread of infectious dis-
9 ease.

10 (7) Routine medical care reduces medical costs
11 by detecting and treating illness and injury early,
12 decreasing the need for emergency care. These sav-
13 ings benefit public and private payers of health in-
14 surance, including private businesses.

15 (8) The provision of individual and family sick
16 time by large and small businesses, both here in the
17 United States and elsewhere, demonstrates that pol-
18 icy solutions are both feasible and affordable in a
19 competitive economy. A 2009 study by the Center
20 for Economic and Policy Research found that, of 22
21 countries with comparable economies, the United
22 States was 1 of only 3 countries that did not provide
23 any paid time off for workers with short-term ill-
24 nesses.

1 (9) Measures that ensure that employees are in
2 good health and do not need to worry about unmet
3 family health problems help businesses by promoting
4 productivity and reducing employee turnover.

5 (10) The American Productivity Audit found
6 that presenteeism—the practice of employees coming
7 to work despite illness—costs \$180,000,000,000 an-
8 nually in lost productivity. Studies in the *Journal of*
9 *Occupational and Environmental Medicine*, the *Em-*
10 *ployee Benefit News*, and the *Harvard Business Re-*
11 *view* show that presenteeism is a larger productivity
12 drain than either absenteeism or short-term dis-
13 ability.

14 (11) The absence of paid sick time has forced
15 Americans to make untenable choices between need-
16 ed income and jobs on the one hand and caring for
17 their own and their family's health on the other.

18 (12) Nearly half of Americans lack paid sick
19 time for self-care or to care for a family member.
20 For families in the lowest quartile of earners, 79
21 percent lack paid sick time. For families in the next
22 2 quartiles, 46 and 38 percent, respectively, lack
23 paid sick time. Even for families in the highest in-
24 come quartile, 28 percent lack paid sick time. In ad-

1 dition, millions of workers cannot use paid sick time
2 to care for ill family members.

3 (13) Due to the roles of men and women in so-
4 ciety, the primary responsibility for family care-
5 taking often falls on women, and such responsibility
6 affects the working lives of women more than it af-
7 fects the working lives of men.

8 (14) An increasing number of men are also tak-
9 ing on caretaking obligations, and men who request
10 paid time for caretaking purposes are often denied
11 accommodation or penalized because of stereotypes
12 that caretaking is only “women’s work”.

13 (15) Employers’ reliance on persistent stereo-
14 types about the “proper” roles of both men and
15 women in the workplace and in the home continues
16 a cycle of discrimination and fosters stereotypical
17 views about women’s commitment to work and their
18 value as employees.

19 (16) Employment standards that apply to only
20 one gender have serious potential for encouraging
21 employers to discriminate against employees and ap-
22 plicants for employment who are of that gender.

23 (17) It is in the national interest to ensure that
24 all Americans can care for their own health and the
25 health of their families while prospering at work.

1 (18) Nearly 1 in 3 American women report
2 physical or sexual abuse by a husband or boyfriend
3 at some point in their lives. Domestic violence also
4 affects men. Women account for about 85 percent of
5 the victims of domestic violence and men account for
6 approximately 15 percent of the victims. Therefore,
7 women disproportionately need time off to care for
8 their health or to find solutions, such as obtaining
9 a restraining order or finding housing, to avoid or
10 prevent physical or sexual abuse.

11 (19) Up to 85 percent of domestic violence vic-
12 tims miss work because of abuse. The mean number
13 of days of paid work lost by a rape victim is 8.1
14 days, by a victim of physical assault is 7.2 days, and
15 by a victim of stalking is 10.1 days. Nationwide, do-
16 mestic violence victims lose almost 8,000,000 days of
17 paid work per year.

18 (20) Without paid sick days that can be used
19 to address the effects of domestic violence, these vic-
20 tims are in grave danger of losing their jobs. Sur-
21 veys have found that 96 to 98 percent of employed
22 domestic violence victims experience problems at
23 work related to the violence. The Government Ac-
24 countability Office similarly found that 24 to 52 per-
25 cent of victims report losing a job due, at least in

1 part, to domestic violence. The loss of employment
2 can be particularly devastating for victims of domes-
3 tic violence, who often need economic security to en-
4 sure safety.

5 (21) The Centers for Disease Control and Pre-
6 vention has estimated that domestic violence costs
7 over \$700,000,000 annually due to the victims' lost
8 productivity in employment.

9 (22) Efforts to assist abused employees result
10 in positive outcomes for employers as well as em-
11 ployees because employers can retain workers who
12 might otherwise be compelled to leave. In a 2002
13 survey, 68 percent of corporate leaders surveyed said
14 that a company's financial performance would ben-
15 efit from addressing domestic violence among its em-
16 ployees.

17 **SEC. 3. PURPOSES.**

18 The purposes of this Act are—

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

24 (2) to diminish public and private health care
25 costs by enabling workers to seek early and routine

1 medical care for themselves and their family mem-
2 bers;

3 (3) to assist employees who are, or whose fam-
4 ily members are, victims of domestic violence, sexual
5 assault, or stalking, by providing the employees with
6 paid time away from work to allow the victims to re-
7 ceive treatment and to take the necessary steps to
8 ensure their protection;

9 (4) to accomplish the purposes described in
10 paragraphs (1) through (3) in a manner that is fea-
11 sible for employers; and

12 (5) consistent with the provision of the 14th
13 amendment to the Constitution relating to equal
14 protection of the laws, and pursuant to Congress'
15 power to enforce that provision under section 5 of
16 that amendment—

17 (A) to accomplish the purposes described
18 in paragraphs (1) through (3) in a manner that
19 minimizes the potential for employment dis-
20 crimination on the basis of sex by ensuring gen-
21 erally that paid sick time is available for eligible
22 medical reasons on a gender-neutral basis; and

23 (B) to promote the goal of equal employ-
24 ment opportunity for women and men.

1 **SEC. 4. DEFINITIONS.**

2 In this Act:

3 (1) CHILD.—The term “child” means a biological,
4 cal, foster, or adopted child, a stepchild, a legal
5 ward, or a child of a person standing in loco
6 parentis, who is—

7 (A) under 18 years of age; or

8 (B) 18 years of age or older and incapable
9 of self-care because of a mental or physical dis-
10 ability.

11 (2) DOMESTIC VIOLENCE.—The term “domestic
12 violence” has the meaning given the term in section
13 40002(a) of the Violence Against Women Act of
14 1994 (42 U.S.C. 13925(a)), except that the ref-
15 erence in such section to the term “jurisdiction re-
16 ceiving grant monies” shall be deemed to mean the
17 jurisdiction in which the victim lives or the jurisdic-
18 tion in which the employer involved is located.

19 (3) EMPLOYEE.—The term “employee” means
20 an individual who is—

21 (A)(i) an employee, as defined in section
22 3(e) of the Fair Labor Standards Act of 1938
23 (29 U.S.C. 203(e)), who is not covered under
24 subparagraph (E), including such an employee
25 of the Library of Congress, except that a ref-
26 erence in such section to an employer shall be

1 considered to be a reference to an employer de-
2 scribed in clauses (i)(I) and (ii) of paragraph
3 (4)(A); or

4 (ii) an employee of the Government Ac-
5 countability Office;

6 (B) a State employee described in section
7 304(a) of the Government Employee Rights Act of
8 1991 (42 U.S.C. 2000e-16c(a));

9 (C) a covered employee, as defined in section
10 101 of the Congressional Accountability Act of 1995
11 (2 U.S.C. 1301), other than an applicant for em-
12 ployment;

13 (D) a covered employee, as defined in section
14 411(c) of title 3, United States Code; or

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

18 (4) EMPLOYER.—

19 (A) IN GENERAL.—The term “employer”
20 means a person who is—

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

1 (II) an entity employing a State em-
2 ployee described in section 304(a) of the
3 Government Employee Rights Act of 1991;

4 (III) an employing office, as defined
5 in section 101 of the Congressional Ac-
6 countability Act of 1995;

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

10 (V) an employing agency covered
11 under subchapter V of chapter 63 of title
12 5, United States Code; and

13 (ii) is engaged in commerce (including
14 government), or an industry or activity af-
15 fecting commerce (including government),
16 as defined in subparagraph (B)(iii).

17 (B) COVERED EMPLOYER.—

18 (i) IN GENERAL.—In subparagraph
19 (A)(i)(I), the term “covered employer”—

20 (I) means any person engaged in
21 commerce or in any industry or activ-
22 ity affecting commerce who employs
23 15 or more employees for each work-
24 ing day during each of 20 or more

1 calendar workweeks in the current or
2 preceding calendar year;

3 (II) includes—

4 (aa) any person who acts,
5 directly or indirectly, in the inter-
6 est of an employer to any of the
7 employees of such employer; and

8 (bb) any successor in inter-
9 est of an employer;

10 (III) includes any “public agen-
11 cy”, as defined in section 3(x) of the
12 Fair Labor Standards Act of 1938
13 (29 U.S.C. 203(x)); and

14 (IV) includes the Government
15 Accountability Office and the Library
16 of Congress.

17 (ii) PUBLIC AGENCY.—For purposes
18 of clause (i)(III), a public agency shall be
19 considered to be a person engaged in com-
20 merce or in an industry or activity affect-
21 ing commerce.

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

24 (I) COMMERCE.—The terms
25 “commerce” and “industry or activity

1 affecting commerce” mean any activ-
2 ity, business, or industry in commerce
3 or in which a labor dispute would
4 hinder or obstruct commerce or the
5 free flow of commerce, and include
6 “commerce” and any “industry affect-
7 ing commerce”, as defined in para-
8 graphs (1) and (3) of section 501 of
9 the Labor Management Relations Act,
10 1947 (29 U.S.C. 142 (1) and (3)).

11 (II) EMPLOYEE.—The term “em-
12 ployee” has the same meaning given
13 such term in section 3(e) of the Fair
14 Labor Standards Act of 1938 (29
15 U.S.C. 203(e)).

16 (III) PERSON.—The term “per-
17 son” has the same meaning given
18 such term in section 3(a) of the Fair
19 Labor Standards Act of 1938 (29
20 U.S.C. 203(a)).

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

24 (5) EMPLOYMENT BENEFITS.—The term “em-
25 ployment benefits” means all benefits provided or

1 made available to employees by an employer, includ-
2 ing group life insurance, health insurance, disability
3 insurance, sick leave, annual leave, educational bene-
4 fits, and pensions, regardless of whether such bene-
5 fits are provided by a practice or written policy of
6 an employer or through an “employee benefit plan”,
7 as defined in section 3(3) of the Employee Retirement
8 Income Security Act of 1974 (29 U.S.C.
9 1002(3)).

10 (6) HEALTH CARE PROVIDER.—The term
11 “health care provider” means a provider who—

12 (A)(i) is a doctor of medicine or osteopathy
13 who is authorized to practice medicine or sur-
14 gery (as appropriate) by the State in which the
15 doctor practices; or

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

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

22 (7) PAID SICK TIME.—The term “paid sick
23 time” means an increment of compensated leave that
24 can be earned by an employee for use during an ab-
25 sence from employment for any of the reasons de-

1 scribed in paragraphs (1) through (4) of section
2 5(b).

3 (8) PARENT.—The term “parent” means a bio-
4 logical, foster, or adoptive parent of an employee, a
5 stepparent of an employee, or a legal guardian or
6 other person who stood in loco parentis to an em-
7 ployee when the employee was a child.

8 (9) SECRETARY.—The term “Secretary” means
9 the Secretary of Labor.

10 (10) SEXUAL ASSAULT.—The term “sexual as-
11 sault” has the meaning given the term in section
12 40002(a) of the Violence Against Women Act of
13 1994 (42 U.S.C. 13925(a)).

14 (11) SPOUSE.—The term “spouse”, with re-
15 spect to an employee, has the meaning given such
16 term by the marriage laws of the State in which the
17 employee resides.

18 (12) STALKING.—The term “stalking” has the
19 meaning given the term in section 40002(a) of the
20 Violence Against Women Act of 1994 (42 U.S.C.
21 13925(a)).

22 (13) VICTIM SERVICES ORGANIZATION.—The
23 term “victim services organization” means a non-
24 profit, nongovernmental organization that provides
25 assistance to victims of domestic violence, sexual as-

1 sault, or stalking or advocates for such victims, in-
2 cluding a rape crisis center, an organization carrying
3 out a domestic violence, sexual assault, or stalking
4 prevention or treatment program, an organization
5 operating a shelter or providing counseling services,
6 or a legal services organization or other organization
7 providing assistance through the legal process.

8 **SEC. 5. PROVISION OF PAID SICK TIME.**

9 (a) ACCRUAL OF PAID SICK TIME.—

10 (1) IN GENERAL.—An employer shall permit
11 each employee employed by the employer to earn not
12 less than 1 hour of paid sick time for every 30 hours
13 worked, to be used as described in subsection (b).
14 An employer shall not be required to permit an em-
15 ployee to earn, under this section, more than 56
16 hours of paid sick time in a calendar year, unless
17 the employer chooses to set a higher limit.

18 (2) EXEMPT EMPLOYEES.—

19 (A) IN GENERAL.—Except as provided in
20 paragraph (3), for purposes of this section, an
21 employee who is exempt from overtime require-
22 ments under section 13(a)(1) of the Fair Labor
23 Standards Act of 1938 (29 U.S.C. 213(a)(1))
24 shall be assumed to work 40 hours in each
25 workweek.

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

6 (3) DATES OF ACCRUAL AND USE.—Employees
7 shall begin to earn paid sick time under this section
8 at the commencement of their employment. An em-
9 ployee shall be entitled to use the earned paid sick
10 time beginning on the 60th calendar day following
11 commencement of the employee's employment. After
12 that 60th calendar day, the employee may use the
13 paid sick time as the time is earned. An employer
14 may, at the discretion of the employer, loan paid
15 sick time to an employee in advance of the earning
16 of such time under this section by such employee.

17 (4) CARRYOVER.—

18 (A) IN GENERAL.—Except as provided in
19 subparagraph (B), paid sick time earned under
20 this section shall carry over from 1 calendar
21 year to the next.

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

1 (5) EMPLOYERS WITH EXISTING POLICIES.—

2 Any employer with a paid leave policy who makes
3 available an amount of paid leave that is sufficient
4 to meet the requirements of this section and that
5 may be used for the same purposes and under the
6 same conditions as the purposes and conditions out-
7 lined in subsection (b) shall not be required to per-
8 mit an employee to earn additional paid sick time
9 under this section.

10 (6) CONSTRUCTION.—Nothing in this section

11 shall be construed as requiring financial or other re-
12 imbursement to an employee from an employer upon
13 the employee's termination, resignation, retirement,
14 or other separation from employment for earned
15 paid sick time that has not been used.

16 (7) REINSTATEMENT.—If an employee is sepa-

17 rated from employment with an employer and is re-
18 hired, within 12 months after that separation, by the
19 same employer, the employer shall reinstate the em-
20 ployee's previously earned paid sick time. The em-
21 ployee shall be entitled to use the earned paid sick
22 time and earn additional paid sick time at the re-
23 commencement of employment with the employer.

24 (8) PROHIBITION.—An employer may not re-

25 quire, as a condition of providing paid sick time

1 under this Act, that the employee involved search for
2 or find a replacement worker to cover the hours dur-
3 ing which the employee is using paid sick time.

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

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

9 (2) An absence resulting from obtaining profes-
10 sional medical diagnosis or care, or preventive med-
11 ical care, for the employee.

12 (3) An absence for the purpose of caring for a
13 child, a parent, a spouse, or any other individual re-
14 lated by blood or affinity whose close association
15 with the employee is the equivalent of a family rela-
16 tionship, who—

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

20 (B) in the case of someone who is not a
21 child, is otherwise in need of care.

22 (4) An absence resulting from domestic vio-
23 lence, sexual assault, or stalking, if the time is to—

24 (A) seek medical attention for the em-
25 ployee or the employee's child, parent, or

1 spouse, or an individual related to the employee
2 as described in paragraph (3), to recover from
3 physical or psychological injury or disability
4 caused by domestic violence, sexual assault, or
5 stalking;

6 (B) obtain or assist a related person de-
7 scribed in paragraph (3) in obtaining services
8 from a victim services organization;

9 (C) obtain or assist a related person de-
10 scribed in paragraph (3) in obtaining psycho-
11 logical or other counseling;

12 (D) seek relocation; or

13 (E) take legal action, including preparing
14 for or participating in any civil or criminal legal
15 proceeding related to or resulting from domestic
16 violence, sexual assault, or stalking.

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

21 (d) PROCEDURES.—

22 (1) IN GENERAL.—Paid sick time shall be pro-
23 vided upon the oral or written request of an em-
24 ployee. Such request shall—

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

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

7 (C) otherwise, be provided as soon as prac-
8 ticable after the employee is aware of the need
9 for such period.

10 (2) CERTIFICATION IN GENERAL.—

11 (A) PROVISION.—

12 (i) IN GENERAL.—Subject to subpara-
13 graph (C), an employer may require that a
14 request for paid sick time under this sec-
15 tion for a purpose described in paragraph
16 (1), (2), or (3) of subsection (b) be sup-
17 ported by a certification issued by the
18 health care provider of the eligible em-
19 ployee or of an individual described in sub-
20 section (b)(3), as appropriate, if the period
21 of such time covers more than 3 consecu-
22 tive workdays.

23 (ii) TIMELINESS.—The employee shall
24 provide a copy of such certification to the
25 employer in a timely manner, not later

1 than 30 days after the first day of the pe-
2 riod of time. The employer shall not delay
3 the commencement of the period of time on
4 the basis that the employer has not yet re-
5 ceived the certification.

6 (B) SUFFICIENT CERTIFICATION.—

7 (i) IN GENERAL.—A certification pro-
8 vided under subparagraph (A) shall be suf-
9 ficient if it states—

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

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

14 (III) the appropriate medical
15 facts within the knowledge of the
16 health care provider regarding the
17 condition involved, subject to clause
18 (ii); and

19 (IV)(aa) for purposes of paid sick
20 time under subsection (b)(1), a state-
21 ment that absence from work is medi-
22 cally necessary;

23 (bb) for purposes of such time
24 under subsection (b)(2), the dates on
25 which testing for a medical diagnosis

1 or care is expected to be given and the
2 duration of such testing or care; and
3 (cc) for purposes of such time
4 under subsection (b)(3), in the case of
5 time to care for someone who is not a
6 child, a statement that care is needed
7 for an individual described in such
8 subsection, and an estimate of the
9 amount of time that such care is
10 needed for such individual.

11 (ii) LIMITATION.—In issuing a certifi-
12 cation under subparagraph (A), a health
13 care provider shall make reasonable efforts
14 to limit the medical facts described in
15 clause (i)(III) that are disclosed in the cer-
16 tification to the minimum necessary to es-
17 tablish a need for the employee to utilize
18 paid sick time.

19 (C) REGULATIONS.—Regulations pre-
20 scribed under section 13 shall specify the man-
21 ner in which an employee who does not have
22 health insurance shall provide a certification for
23 purposes of this paragraph.

24 (D) CONFIDENTIALITY AND NONDISCLO-
25 SURE.—

1 (i) PROTECTED HEALTH INFORMA-
2 TION.—Nothing in this Act shall be con-
3 strued to require a health care provider to
4 disclose information in violation of section
5 1177 of the Social Security Act (42 U.S.C.
6 1320d–6) or the regulations promulgated
7 pursuant to section 264(c) of the Health
8 Insurance Portability and Accountability
9 Act of 1996 (42 U.S.C. 1320d–2 note).

10 (ii) HEALTH INFORMATION
11 RECORDS.—If an employer possesses
12 health information about an employee or
13 an employee’s child, parent, spouse or
14 other individual described in subsection
15 (b)(3), such information shall—

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

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

21 (III) not be disclosed except to
22 the affected employee or with the per-
23 mission of the affected employee.

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

1 (A) IN GENERAL.—An employer may re-
2 quire that a request for paid sick time under
3 this section for a purpose described in sub-
4 section (b)(4) be supported by 1 of the fol-
5 lowing forms of documentation:

6 (i) A police report indicating that the
7 employee, or a member of the employee’s
8 family described in subsection (b)(4), was
9 a victim of domestic violence, sexual as-
10 sault, or stalking.

11 (ii) A court order protecting or sepa-
12 rating the employee or a member of the
13 employee’s family described in subsection
14 (b)(4) from the perpetrator of an act of
15 domestic violence, sexual assault, or stalk-
16 ing, or other evidence from the court or
17 prosecuting attorney that the employee or
18 a member of the employee’s family de-
19 scribed in subsection (b)(4) has appeared
20 in court or is scheduled to appear in court
21 in a proceeding related to domestic vio-
22 lence, sexual assault, or stalking.

23 (iii) Other documentation signed by
24 an employee or volunteer working for a vic-
25 tim services organization, an attorney, a

1 police officer, a medical professional, a so-
2 cial worker, an antiviolence counselor, or a
3 member of the clergy, affirming that the
4 employee or a member of the employee's
5 family described in subsection (b)(4) is a
6 victim of domestic violence, sexual assault,
7 or stalking.

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

11 (i) subclauses (III) and (IV) of sub-
12 paragraph (B)(i) and subparagraph (B)(ii)
13 of such paragraph shall not apply;

14 (ii) the certification shall state the
15 reason that the leave is required with the
16 facts to be disclosed limited to the min-
17 imum necessary to establish a need for the
18 employee to be absent from work, and the
19 employee shall not be required to explain
20 the details of the domestic violence, sexual
21 assault, or stalking involved; and

22 (iii) with respect to confidentiality
23 under subparagraph (D) of such para-
24 graph, any information provided to the em-
25 ployer under this paragraph shall be con-

1 confidential, except to the extent that any dis-
2 closure of such information is—

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

5 (II) otherwise required by appli-
6 cable Federal or State law.

7 **SEC. 6. POSTING REQUIREMENT.**

8 (a) IN GENERAL.—Each employer shall post and
9 keep posted a notice, to be prepared or approved in ac-
10 cordance with procedures specified in regulations pre-
11 scribed under section 13, setting forth excerpts from, or
12 summaries of, the pertinent provisions of this Act includ-
13 ing—

14 (1) information describing paid sick time avail-
15 able to employees under this Act;

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

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

21 (4) information that describes—

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

24 (B) how the employee can contact the Sec-
25 retary (or other appropriate authority as de-

1 scribed in section 8) if any of the rights are vio-
2 lated.

3 (b) LOCATION.—The notice described under sub-
4 section (a) shall be posted—

5 (1) in conspicuous places on the premises of the
6 employer, where notices to employees (including ap-
7 plicants) are customarily posted; or

8 (2) in employee handbooks.

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

13 **SEC. 7. PROHIBITED ACTS.**

14 (a) INTERFERENCE WITH RIGHTS.—

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

19 (A) discharging or discriminating against
20 (including retaliating against) any individual,
21 including a job applicant, for exercising, or at-
22 tempting to exercise, any right provided under
23 this Act;

24 (B) using the taking of paid sick time
25 under this Act as a negative factor in an em-

1 ployment action, such as hiring, promotion, or
2 a disciplinary action; or

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

6 (2) DISCRIMINATION.—It shall be unlawful for
7 any employer to discharge or in any other manner
8 discriminate against (including retaliating against)
9 any individual, including a job applicant, for oppos-
10 ing any practice made unlawful by this Act.

11 (b) INTERFERENCE WITH PROCEEDINGS OR INQUIR-
12 IES.—It shall be unlawful for any person to discharge or
13 in any other manner discriminate against (including retali-
14 ating against) any individual, including a job applicant,
15 because such individual—

16 (1) has filed an action, or has instituted or
17 caused to be instituted any proceeding, under or re-
18 lated to this Act;

19 (2) has given, or is about to give, any informa-
20 tion in connection with any inquiry or proceeding re-
21 lating to any right provided under this Act; or

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

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

6 **SEC. 8. ENFORCEMENT AUTHORITY.**

7 (a) IN GENERAL.—

8 (1) DEFINITION.—In this subsection:

9 (A) the term “employee” means an em-
10 ployee described in subparagraph (A) or (B) of
11 section 4(3); and

12 (B) the term “employer” means an em-
13 ployer described in subclause (I) or (II) of sec-
14 tion 4(4)(A)(i).

15 (2) INVESTIGATIVE AUTHORITY.—

16 (A) IN GENERAL.—To ensure compliance
17 with the provisions of this Act, or any regula-
18 tion or order issued under this Act, the Sec-
19 retary shall have, subject to subparagraph (C),
20 the investigative authority provided under sec-
21 tion 11(a) of the Fair Labor Standards Act of
22 1938 (29 U.S.C. 211(a)), with respect to em-
23 ployers, employees, and other individuals af-
24 fected.

1 (B) OBLIGATION TO KEEP AND PRESERVE
2 RECORDS.—An employer shall make, keep, and
3 preserve records pertaining to compliance with
4 this Act in accordance with section 11(c) of the
5 Fair Labor Standards Act of 1938 (29 U.S.C.
6 211(c)) and in accordance with regulations pre-
7 scribed by the Secretary.

8 (C) REQUIRED SUBMISSIONS GENERALLY
9 LIMITED TO AN ANNUAL BASIS.—The Secretary
10 shall not require, under the authority of this
11 paragraph, an employer to submit to the Sec-
12 retary any books or records more than once
13 during any 12-month period, unless the Sec-
14 retary has reasonable cause to believe there
15 may exist a violation of this Act or any regula-
16 tion or order issued pursuant to this Act, or is
17 investigating a charge pursuant to paragraph
18 (4).

19 (D) SUBPOENA AUTHORITY.—For the pur-
20 poses of any investigation provided for in this
21 paragraph, the Secretary shall have the sub-
22 poena authority provided for under section 9 of
23 the Fair Labor Standards Act of 1938 (29
24 U.S.C. 209).

1 (3) CIVIL ACTION BY EMPLOYEES OR INDIVID-
2 UALS.—

3 (A) RIGHT OF ACTION.—An action to re-
4 cover the damages or equitable relief prescribed
5 in subparagraph (B) may be maintained
6 against any employer in any Federal or State
7 court of competent jurisdiction by one or more
8 employees or individuals or their representative
9 for and on behalf of—

- 10 (i) the employees or individuals; or
11 (ii) the employees or individuals and
12 others similarly situated.

13 (B) LIABILITY.—Any employer who vio-
14 lates section 7 (including a violation relating to
15 rights provided under section 5) shall be liable
16 to any employee or individual affected—

- 17 (i) for damages equal to—
18 (I) the amount of—
19 (aa) any wages, salary, em-
20 ployment benefits, or other com-
21 pensation denied or lost by rea-
22 son of the violation; or
23 (bb) in a case in which
24 wages, salary, employment bene-
25 fits, or other compensation have

1 not been denied or lost, any ac-
2 tual monetary losses sustained as
3 a direct result of the violation up
4 to a sum equal to 56 hours of
5 wages or salary for the employee
6 or individual;

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

10 (III) an additional amount as liq-
11 uidated damages; and

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

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

21 (4) ACTION BY THE SECRETARY.—

22 (A) ADMINISTRATIVE ACTION.—The Sec-
23 retary shall receive, investigate, and attempt to
24 resolve complaints of violations of section 7 (in-
25 cluding a violation relating to rights provided

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

6 (B) CIVIL ACTION.—The Secretary may
7 bring an action in any court of competent juris-
8 diction to recover the damages described in
9 paragraph (3)(B)(i).

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

20 (5) LIMITATION.—

21 (A) IN GENERAL.—Except as provided in
22 subparagraph (B), an action may be brought
23 under paragraph (3), (4), or (6) not later than
24 2 years after the date of the last event consti-

1 tuting the alleged violation for which the action
2 is brought.

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

10 (C) COMMENCEMENT.—In determining
11 when an action is commenced under paragraph
12 (3), (4), or (6) for the purposes of this para-
13 graph, it shall be considered to be commenced
14 on the date when the complaint is filed.

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

19 (A) to restrain violations of section 7 (in-
20 cluding a violation relating to rights provided
21 under section 5), including the restraint of any
22 withholding of payment of wages, salary, em-
23 ployment benefits, or other compensation, plus
24 interest, found by the court to be due to em-
25 ployees or individuals eligible under this Act; or

1 (B) to award such other equitable relief as
2 may be appropriate, including employment, re-
3 instatement, and promotion.

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

8 (8) GOVERNMENT ACCOUNTABILITY OFFICE
9 AND LIBRARY OF CONGRESS.—Notwithstanding any
10 other provision of this subsection, in the case of the
11 Government Accountability Office and the Library of
12 Congress, the authority of the Secretary of Labor
13 under this subsection shall be exercised respectively
14 by the Comptroller General of the United States and
15 the Librarian of Congress.

16 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-
17 COUNTABILITY ACT OF 1995.—The powers, remedies, and
18 procedures provided in the Congressional Accountability
19 Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as de-
20 fined in section 101 of that Act (2 U.S.C. 1301)), or any
21 person, alleging a violation of section 202(a)(1) of that
22 Act (2 U.S.C. 1312(a)(1)) shall be the powers, remedies,
23 and procedures this Act provides to that Board, or any
24 person, alleging an unlawful employment practice in viola-

1 tion of this Act against an employee described in section
2 4(3)(C).

3 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE
4 3, UNITED STATES CODE.—The powers, remedies, and
5 procedures provided in chapter 5 of title 3, United States
6 Code, to the President, the Merit Systems Protection
7 Board, or any person, alleging a violation of section
8 412(a)(1) of that title, shall be the powers, remedies, and
9 procedures this Act provides to the President, that Board,
10 or any person, respectively, alleging an unlawful employ-
11 ment practice in violation of this Act against an employee
12 described in section 4(3)(D).

13 (d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE
14 5, UNITED STATES CODE.—The powers, remedies, and
15 procedures provided in title 5, United States Code, to an
16 employing agency, provided in chapter 12 of that title to
17 the Merit Systems Protection Board, or provided in that
18 title to any person, alleging a violation of chapter 63 of
19 that title, shall be the powers, remedies, and procedures
20 this Act provides to that agency, that Board, or any per-
21 son, respectively, alleging an unlawful employment prac-
22 tice in violation of this Act against an employee described
23 in section 4(3)(E).

24 (e) REMEDIES FOR STATE EMPLOYEES.—

1 (1) WAIVER OF SOVEREIGN IMMUNITY.—A
2 State’s receipt or use of Federal financial assistance
3 for any program or activity of a State shall con-
4 stitute a waiver of sovereign immunity, under the
5 11th amendment to the Constitution or otherwise, to
6 a suit brought by an employee of that program or
7 activity under this Act for equitable, legal, or other
8 relief authorized under this Act.

9 (2) OFFICIAL CAPACITY.—An official of a State
10 may be sued in the official capacity of the official by
11 any employee who has complied with the procedures
12 under subsection (a)(3), for injunctive relief that is
13 authorized under this Act. In such a suit the court
14 may award to the prevailing party those costs au-
15 thorized by section 722 of the Revised Statutes (42
16 U.S.C. 1988).

17 (3) APPLICABILITY.—With respect to a par-
18 ticular program or activity, paragraph (1) applies to
19 conduct occurring on or after the day, after the date
20 of enactment of this Act, on which a State first re-
21 ceives or uses Federal financial assistance for that
22 program or activity.

23 (4) DEFINITION OF PROGRAM OR ACTIVITY.—In
24 this subsection, the term “program or activity” has

1 the meaning given the term in section 606 of the
2 Civil Rights Act of 1964 (42 U.S.C. 2000d–4a).

3 **SEC. 9. COLLECTION OF DATA ON PAID SICK TIME AND**
4 **FURTHER STUDY.**

5 (a) COMPILATION OF INFORMATION.—Effective 90
6 days after the date of enactment of this Act, the Commis-
7 sioner of Labor Statistics shall annually compile informa-
8 tion on the following:

9 (1) The number of employees who used paid
10 sick time.

11 (2) The number of hours of paid sick time
12 used.

13 (3) The number of employees who used paid
14 sick time for absences necessary due to domestic vio-
15 lence, sexual assault, or stalking.

16 (4) The demographic characteristics of employ-
17 ees who were eligible for and who used paid sick
18 time.

19 (b) GAO STUDY.—

20 (1) IN GENERAL.—The Comptroller General of
21 the United States shall annually conduct a study to
22 determine the following:

23 (A)(i) The number of days employees used
24 paid sick time and the reasons for the use.

1 (ii) The number of employees who used the
2 paid sick time for periods of time covering more
3 than 3 consecutive workdays.

4 (B) The cost and benefits to employers of
5 implementing the paid sick time policies.

6 (C) The cost to employees of providing cer-
7 tification to obtain the paid sick time.

8 (D) The benefits of the paid sick time to
9 employees and their family members, including
10 effects on employees' ability to care for their
11 family members or to provide for their own
12 health needs.

13 (E) Whether the paid sick time affected
14 employees' ability to sustain an adequate in-
15 come while meeting needs of the employees and
16 their family members.

17 (F) Whether employers who administered
18 paid sick time policies prior to the date of en-
19 actment of this Act were affected by the provi-
20 sions of this Act.

21 (G) Whether other types of leave were af-
22 fected by this Act.

23 (H) Whether paid sick time affected reten-
24 tion and turnover and costs of presenteeism.

1 (I) Whether the paid sick time increased
2 the use of less costly preventive medical care
3 and lowered the use of emergency room care.

4 (J) Whether the paid sick time reduced the
5 number of children sent to school when the chil-
6 dren were sick.

7 (2) AGGREGATING DATA.—The data collected
8 under subparagraphs (A) and (D) of paragraph (1)
9 shall be aggregated by gender, race, disability, earn-
10 ings level, age, marital status, family type, including
11 parental status, and industry.

12 (3) REPORTS.—

13 (A) IN GENERAL.—Not later than 18
14 months after the date of enactment of this Act,
15 the Comptroller General of the United States
16 shall prepare and submit a report to the appro-
17 priate committees of Congress concerning the
18 results of the study conducted pursuant to
19 paragraph (1) and the data aggregated under
20 paragraph (2).

21 (B) FOLLOWUP REPORT.—Not later than
22 5 years after the date of enactment of this Act,
23 the Comptroller General of the United States
24 shall prepare and submit a followup report to
25 the appropriate committees of Congress con-

1 cerning the results of the study conducted pur-
2 suant to paragraph (1) and the data aggregated
3 under paragraph (2).

4 **SEC. 10. EFFECT ON OTHER LAWS.**

5 (a) FEDERAL AND STATE ANTIDISCRIMINATION
6 LAWS.—Nothing in this Act shall be construed to modify
7 or affect any Federal or State law prohibiting discrimina-
8 tion on the basis of race, religion, color, national origin,
9 sex, age, or disability.

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

17 **SEC. 11. EFFECT ON EXISTING EMPLOYMENT BENEFITS.**

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

24 (b) LESS PROTECTIVE.—The rights established for
25 employees under this Act shall not be diminished by any

1 contract, collective bargaining agreement, or any employ-
2 ment benefit program or plan.

3 **SEC. 12. ENCOURAGEMENT OF MORE GENEROUS LEAVE**
4 **POLICIES.**

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

9 **SEC. 13. REGULATIONS.**

10 (a) IN GENERAL.—

11 (1) AUTHORITY.—Except as provided in para-
12 graph (2), not later than 180 days after the date of
13 enactment of this Act, the Secretary shall prescribe
14 such regulations as are necessary to carry out this
15 Act with respect to employees described in subpara-
16 graph (A) or (B) of section 4(3) and other individ-
17 uals affected by employers described in subclause (I)
18 or (II) of section 4(4)(A)(i).

19 (2) GOVERNMENT ACCOUNTABILITY OFFICE; LI-
20 BRARY OF CONGRESS.—The Comptroller General of
21 the United States and the Librarian of Congress
22 shall prescribe the regulations with respect to em-
23 ployees of the Government Accountability Office and
24 the Library of Congress, respectively and other indi-
25 viduals affected by the Comptroller General of the

1 United States and the Librarian of Congress, re-
2 spectively.

3 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-
4 COUNTABILITY ACT OF 1995.—

5 (1) AUTHORITY.—Not later than 120 days
6 after the date of enactment of this Act, the Board
7 of Directors of the Office of Compliance shall pre-
8 scribe (in accordance with section 304 of the Con-
9 gressional Accountability Act of 1995 (2 U.S.C.
10 1384)) such regulations as are necessary to carry
11 out this Act with respect to employees described in
12 section 4(3)(C) and other individuals affected by em-
13 ployers described in section 4(4)(A)(i)(III).

14 (2) AGENCY REGULATIONS.—The regulations
15 prescribed under paragraph (1) shall be the same as
16 substantive regulations promulgated by the Sec-
17 retary to carry out this Act except insofar as the
18 Board may determine, for good cause shown and
19 stated together with the regulations prescribed
20 under paragraph (1), that a modification of such
21 regulations would be more effective for the imple-
22 mentation of the rights and protections involved
23 under this section.

24 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE
25 3, UNITED STATES CODE.—

1 (1) AUTHORITY.—Not later than 120 days
2 after the date of enactment of this Act, the Presi-
3 dent (or the designee of the President) shall pre-
4 scribe such regulations as are necessary to carry out
5 this Act with respect to employees described in sec-
6 tion 4(3)(D) and other individuals affected by em-
7 ployers described in section 4(4)(A)(i)(IV).

8 (2) AGENCY REGULATIONS.—The regulations
9 prescribed under paragraph (1) shall be the same as
10 substantive regulations promulgated by the Sec-
11 retary to carry out this Act except insofar as the
12 President (or designee) may determine, for good
13 cause shown and stated together with the regula-
14 tions prescribed under paragraph (1), that a modi-
15 fication of such regulations would be more effective
16 for the implementation of the rights and protections
17 involved under this section.

18 (d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE
19 5, UNITED STATES CODE.—

20 (1) AUTHORITY.—Not later than 120 days
21 after the date of enactment of this Act, the Director
22 of the Office of Personnel Management shall pre-
23 scribe such regulations as are necessary to carry out
24 this Act with respect to employees described in sec-

1 tion 4(3)(E) and other individuals affected by em-
2 ployers described in section 4(4)(A)(i)(V).

3 (2) AGENCY REGULATIONS.—The regulations
4 prescribed under paragraph (1) shall be the same as
5 substantive regulations promulgated by the Sec-
6 retary to carry out this Act except insofar as the Di-
7 rector may determine, for good cause shown and
8 stated together with the regulations prescribed
9 under paragraph (1), that a modification of such
10 regulations would be more effective for the imple-
11 mentation of the rights and protections involved
12 under this section.

13 **SEC. 14. EFFECTIVE DATES.**

14 (a) EFFECTIVE DATE.—This Act shall take effect 6
15 months after the date of issuance of regulations under sec-
16 tion 13(a)(1).

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

21 (1) the date of the termination of such agree-
22 ment; or

23 (2) the date that occurs 18 months after the
24 date of issuance of regulations under section
25 13(a)(1).