

117TH CONGRESS
1ST SESSION

S. 2764

To amend title II of the Social Security Act to make available parental leave benefits to parents following the birth or adoption of a child, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 20, 2021

Mr. RUBIO (for himself and Mr. ROMNEY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title II of the Social Security Act to make available parental leave benefits to parents following the birth or adoption of a child, 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 “New Parents Act of
5 2021”.

6 **SEC. 2. PARENTAL LEAVE BENEFITS.**

7 (a) IN GENERAL.—Title II of the Social Security Act
8 is amended by inserting after section 218 the following:

1 **“SEC. 219. PARENTAL LEAVE BENEFITS.**

2 “(a) IN GENERAL.—Every individual—

3 “(1) who has—

4 “(A) not less than 8 quarters of coverage,
5 4 of which are credited to calendar quarters
6 during the calendar year preceding the calendar
7 year in which the 1st month of the benefit pe-
8 riod described in subsection (c) occurs; or

9 “(B) not less than 12 quarters of coverage;

10 and

11 “(2) who has filed an application for a parental
12 leave benefit with respect to a qualified child of the
13 individual,
14 shall be entitled to a parental leave benefit with respect
15 to such qualified child.

16 “(b) BENEFIT AMOUNT.—Such individual’s parental
17 leave benefit shall be an amount equal to the product of—

18 “(1) the number of benefit months (not to ex-
19 ceed 3) selected by the individual in the individual’s
20 application for a parental leave benefit, multiplied by

21 “(2) an amount equal to the primary insurance
22 amount for the individual that would be determined
23 under section 215 if—

24 “(A) the individual had attained age 62 in
25 the first month of the individual’s benefit pe-
26 riod; and

1 “(B) the individual had become entitled to
 2 an old-age insurance benefit under section 202
 3 beginning with such month.

4 For the purposes of the preceding sentence, the elapsed
 5 years referred to in section 215(b)(2)(B)(iii) shall not in-
 6 clude the year in which the individual’s benefit period be-
 7 gins, or any year thereafter.

8 “(c) PAYMENT OF BENEFIT.—

9 “(1) SELECTION OF NUMBER OF BENEFIT
 10 MONTHS.—In filing an application for a parental
 11 leave benefit under this section, an individual shall
 12 select the number of months (not to exceed 3) for
 13 which the individual will receive a monthly payment
 14 under such parental leave benefit (in this section re-
 15 ferred to as ‘benefit months’).

16 “(2) ELECTION OF BENEFIT MONTHS.—Not
 17 later than 14 days before the start of any month in
 18 the benefit period of an individual entitled to a pa-
 19 rental leave benefit, the individual may elect to treat
 20 such month as a benefit month. The number of
 21 months in such benefit period treated as benefit
 22 months shall equal the number selected in the indi-
 23 vidual’s benefit application, and the Commissioner
 24 may designate any month as a benefit month in any
 25 case in which an individual does not elect to treat

1 a sufficient number of months as benefit months be-
 2 fore the end of the benefit period.

3 “(3) AMOUNT OF MONTHLY PAYMENT.—The
 4 amount of a monthly payment made in any benefit
 5 month within a benefit period to an individual enti-
 6 tled to a parental leave benefit shall be an amount
 7 equal to—

8 “(A) the amount of the parental leave ben-
 9 efit determined for the individual under sub-
 10 section (b); divided by

11 “(B) the number of benefit months se-
 12 lected by the individual pursuant to paragraph
 13 (1) with respect to such benefit.

14 “(4) DEFINITION OF BENEFIT PERIOD.—For
 15 purposes of this section, the term ‘benefit period’
 16 means, with respect to an individual entitled to a pa-
 17 rental leave benefit with respect to a qualified child,
 18 the 1-year period beginning with the month after the
 19 month in which the birth or adoption of the qualified
 20 child occurs.

21 “(d) BENEFIT APPLICATION.—

22 “(1) IN GENERAL.—The Commissioner shall
 23 ensure that the application for a parental leave ben-
 24 efit—

1 “(A) includes a notice, clearly written in
2 language that is easily understandable to the
3 reader, explaining that—

4 “(i) failure to submit such proof or
5 documentation as the Commissioner may
6 require to demonstrate that the applicant
7 is the parent of the qualified child shall be
8 subject to criminal and civil penalties;

9 “(ii) the full cost to the Trust Funds
10 of any amount received by an individual as
11 a parental leave benefit must be repaid
12 through reductions to old-age insurance
13 benefits payable to the individual in subse-
14 quent months, or by other means;

15 “(iii) entitlement to a parental leave
16 benefit has no effect on the determination
17 of an individual’s entitlement to leave
18 under the Family and Medical Leave Act
19 of 1993; and

20 “(B) requires an attestation by the indi-
21 vidual submitting the application that—

22 “(i) the individual expects to be the
23 parent of a qualified child throughout the
24 benefit period with respect to such applica-
25 tion;

1 “(ii) the individual intends to use the
 2 benefit to finance spending more time with
 3 the qualified child at home and away from
 4 employment during the benefit period; and
 5 “(iii) the individual consents to the
 6 terms and conditions specified in the notice
 7 described in subparagraph (A).

8 “(2) OPTION TO FILE SIMULTANEOUS APPLICA-
 9 TIONS.—The Commissioner of Social Security may
 10 establish an option under which an individual may
 11 file an application for a parental leave benefit under
 12 this section with respect to a qualified child at the
 13 same time the individual submits an application for
 14 a social security account number for such qualified
 15 child.

16 “(3) ONLINE AVAILABILITY.—The Commis-
 17 sioner of Social Security shall, as soon as practicable
 18 after the date of enactment of this section, permit
 19 an individual to apply for a parental leave benefit
 20 through an internet website or other electronic
 21 media.

22 “(e) FRAUD PREVENTION.—

23 “(1) IN GENERAL.—The Commissioner of So-
 24 cial Security shall establish procedures to ensure the
 25 prevention of fraud with respect to applications for

parental leave benefits under this section, including procedures for the submission of such proof or documentation as the Commissioner may require to verify the information contained in such an application.

“(2) ENFORCEMENT.—In any case in which an individual willfully, knowingly, and with intent to deceive the Commissioner of Social Security fails to comply with the procedures established under paragraph (1), the Commissioner may impose on such individual, in addition to any other penalties that may be prescribed by law—

“(A) a civil monetary penalty of not more than \$7,500 for each such failure; and

“(B) an assessment, in lieu of any damages sustained by the United States because of such failure, of not more than twice the amount of the cost to the Federal Old-Age and Survivors Insurance Trust Fund of any parental leave benefit paid to the individual.

“(f) BENEFIT REPAYMENT.—

“(1) IN GENERAL.—An individual who is paid a parental leave benefit under this section shall repay the full cost of such benefit to the Federal Old-Age and Survivors Insurance Trust Fund (as

1 such amount is determined by the Commissioner) in
2 accordance with this subsection.

3 “(2) OLD-AGE INSURANCE BENEFIT OFFSET.—

4 “(A) IN GENERAL.—Except as provided in
5 paragraph (3), in the case of any individual de-
6 scribed in paragraph (1) who becomes entitled
7 to an old-age insurance benefit, deductions shall
8 be made from each monthly payment of such
9 benefit (not to exceed the first 60 such monthly
10 payments) in such amounts, subject to subpara-
11 graph (B), as the Commissioner of Social Secu-
12 rity shall determine necessary to fully recover
13 the cost to the Federal Old-Age and Survivors
14 Insurance Trust Fund of any parental leave
15 benefit paid to the individual as of the month
16 in which the individual becomes entitled to an
17 old-age insurance benefit.

18 “(B) NOTIFICATION.—Not later than the
19 beginning of each calendar year, the Commis-
20 sioner of Social Security shall notify each indi-
21 vidual whose old-age insurance benefits are sub-
22 ject to a deduction under subparagraph (A)
23 during such calendar year of the amount of the
24 deduction that will be applied to each monthly

1 payment of such benefits during the calendar
 2 year.

3 “(3) ALTERNATIVE INCREASE OF RETIREMENT
 4 AGE.—

5 “(A) IN GENERAL.—In the case of any in-
 6 dividual described in paragraph (1) who be-
 7 comes entitled to an old-age insurance benefit,
 8 such individual may elect, at the time of appli-
 9 cation for such benefit, to be subject to a retire-
 10 ment age increase in accordance with this para-
 11 graph. Such election shall be irrevocable, and
 12 an individual who makes such an election shall
 13 not be subject to a deduction under paragraph
 14 (2) for any month.

15 “(B) RETIREMENT AGE INCREASE.—Not-
 16 withstanding section 216(l)(1), with respect to
 17 an individual who makes an election under sub-
 18 paragraph (A), the retirement age of such indi-
 19 vidual shall be deemed to be—

20 “(i) the retirement age determined
 21 with respect to the individual under such
 22 section; plus

23 “(ii) the additional number of months
 24 the Commissioner of Social Security shall
 25 determine necessary to result in the full re-

1 covery of the cost to the Federal Old-Age
 2 and Survivors Insurance Trust Fund of
 3 any parental leave benefit paid to the indi-
 4 vidual as of the month in which the indi-
 5 vidual becomes entitled to an old-age in-
 6 surance benefit.

7 “(C) INCREASE TO EARLIEST ENTITLE-
 8 MENT AGE.—In the case of an individual who
 9 makes an election under subparagraph (A), not-
 10 withstanding subsection (a) of section 202, no
 11 old-age insurance benefit shall be paid to such
 12 individual for any month before the first month
 13 throughout which the individual has attained
 14 age 62 plus the additional number of months
 15 determined for the individual under subpara-
 16 graph (B)(ii).

17 “(4) OTHER RECOVERY METHODS.—In any
 18 case in which the Commissioner of Social Security
 19 determines that the cost to the Federal Old-Age and
 20 Survivors Insurance Trust Fund of a parental leave
 21 benefit paid to an individual cannot be fully recov-
 22 ered pursuant to paragraph (2) or (3)—

23 “(A) such benefit shall be deemed, upon
 24 the making of such determination, to be a pay-

1 ment of more than the correct amount for pur-
2 poses of section 204; and

3 “(B) the Commissioner may recover such
4 amounts by means of any method available to
5 the Commissioner under such section.

6 “(5) PROJECTION OF REPAYMENT AMOUNT.—

7 As soon as practicable after the date of enactment
8 of this section, the Commissioner shall establish a
9 system to make available through an internet
10 website or other electronic media to each individual
11 who is paid a parental leave benefit under this sec-
12 tion, beginning with the first month beginning after
13 the individual’s benefit period the projected amount
14 of the deduction to be made from each of the first
15 60 monthly payments of old-age insurance benefits
16 under paragraph (2), or if the individual so elects,
17 the additional number of months by which the indi-
18 vidual’s retirement age would be increased under
19 paragraph (3), in order to fully repay the cost to the
20 Federal Old-Age and Survivors Insurance Trust
21 Fund of any parental leave benefit paid to the indi-
22 vidual, and a description of the assumptions used by
23 the Commissioner in making such projection.

24 “(g) RELATIONSHIP WITH STATE LAW; EMPLOYER
25 BENEFITS.—

1 “(1) IN GENERAL.—This section does not pre-
 2 empt or supersede any provision of State or local
 3 law that authorizes a State or political subdivision to
 4 provide paid parental or family medical leave bene-
 5 fits similar to the benefits provided under this sec-
 6 tion.

7 “(2) GREATER BENEFITS ALLOWED.—Nothing
 8 in this Act shall be construed to diminish the obliga-
 9 tion of an employer to comply with any contract, col-
 10 lective bargaining agreement, or employment benefit
 11 program or plan that provides greater benefits for
 12 leave or other leave rights to individuals than the
 13 benefits for leave or leave rights established under
 14 this Act.

15 “(h) SUNSET.—No application for parental leave ben-
 16 efits under this section may be filed in any calendar year
 17 if the OASDI trust fund ratio (as defined in section
 18 215(i)) for such calendar year or for the year following
 19 such calendar year is projected, based on the intermediate
 20 projections in the most recent (as of January 1 of such
 21 calendar year) annual report issued under section
 22 201(c)(2), to be less than 20 percent.

23 “(i) DEFINITIONS.—For purposes of this section—
 24 “(1) the term ‘qualified child’ means, with re-
 25 spect to an individual for a benefit period, a biologi-

1 cal child or legally adopted child of the individual (as
 2 determined by the Commissioner of Social Security)
 3 who—

4 “(A) will not attain 18 years of age before
 5 the end of such benefit period; and

6 “(B) will be residing with, and under the
 7 care of, the individual during the benefit period
 8 as determined by the Commissioner.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) NONPAYMENT PROVISIONS.—Section 202 of
 11 the Social Security Act (42 U.S.C. 402) is amend-
 12 ed—

13 (A) in subsection (n)(1)(A), by striking
 14 “under this section or section 223” and insert-
 15 ing “under this section, section 219, or section
 16 223”;

17 (B) in subsection (t), in paragraphs (1)
 18 and (10), by striking “under this section or
 19 under section 223” each place it appears and
 20 inserting “under this section, under section
 21 219, or under section 223”;

22 (C) in subsection (u)(1), by striking
 23 “under this section or section 223” and insert-
 24 ing “under this section, section 219, or section
 25 223”; and

1 (D) in subsection (x)—

2 (i) in paragraph (1)(A), by striking
3 “under this section or under section 223”
4 and inserting “under this section, under
5 section 219, or under section 223”; and

6 (ii) in paragraph (2), by striking
7 “under this section or section 223” and in-
8 serting “under this section, section 219, or
9 section 223”.

10 (2) DELAYED RETIREMENT CREDITS.—Section
11 202(w) of the Social Security Act (42 U.S.C.
12 402(w)) is amended by inserting after “age 70”
13 each place it appears the following: “(or, in the case
14 of an individual whose retirement age is increased
15 under section 219(f)(3), age 70 plus the number of
16 months by which the individual’s retirement age is
17 so increased)”.

18 (3) VOLUNTARY SUSPENSION OF BENEFITS.—
19 Section 202(z)(1)(A)(ii) of the Social Security Act
20 (42 U.S.C. 402(z)(1)(A)(ii)) is amended by striking
21 “the age of 70” and inserting “age 70 (or, in the
22 case of an individual whose retirement age is in-
23 creased under section 219(f)(3), age 70 plus the
24 number of months by which the individual’s retire-
25 ment age is so increased)”.

1 (4) NUMBER OF BENEFIT COMPUTATION
 2 YEARS.—Section 215(b)(2)(A) of such Act (42
 3 U.S.C. 415(b)(2)(A)) is amended—

4 (A) in clause (i), by striking “, and” and
 5 inserting a semicolon;

6 (B) in clause (ii), by striking the period
 7 and inserting “; and”; and

8 (C) by inserting after clause (ii) the fol-
 9 lowing:

10 “(iii) in the case of an individual who is entitled
 11 to a parental leave benefit under section 219, by the
 12 number of years equal to one-fifth of such individ-
 13 ual’s elapsed years (disregarding any resulting frac-
 14 tional part of a year), but not by more than 5
 15 years.”.

16 (c) EFFECTIVE DATE.—The amendments made by
 17 this section shall apply with respect to applications for pa-
 18 rental leave benefits filed after 2022.

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