

115TH CONGRESS
1ST SESSION

S. 362

To provide that 6 of the 12 weeks of parental leave made available to a Federal employee shall be paid leave, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 13, 2017

Mr. SCHATZ (for himself, Mrs. GILLIBRAND, and Mr. VAN HOLLEN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To provide that 6 of the 12 weeks of parental leave made available to a Federal employee shall be paid leave, 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 “Federal Employees
5 Paid Parental Leave Act of 2017”.

6 **SEC. 2. PAID PARENTAL LEAVE FOR EXECUTIVE BRANCH**
7 **EMPLOYEES.**

8 (a) AMENDMENT TO TITLE 5.—Section 6382(d) of
9 title 5, United States Code, is amended—

1 (1) by inserting “(1)” before “An employee may
2 elect” the first place it appears;

3 (2) by striking “(A), (B),”; and

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

5 “(2) An employee may elect to substitute for any
6 leave without pay under subparagraph (A) or (B) of sub-
7 section (a)(1) any paid leave which is available to such
8 employee for that purpose.

9 “(3) The paid leave that is available to an employee
10 for purposes of paragraph (2) is—

11 “(A) subject to paragraph (6), 6 administrative
12 workweeks of paid parental leave under this sub-
13 paragraph in connection with the birth or placement
14 involved; and

15 “(B) any annual or sick leave accrued or accu-
16 mulated by such employee under subchapter I.

17 “(4) Nothing in this subsection shall be considered
18 to require that an employee first use all or any portion
19 of the leave described in paragraph (3)(B) before being
20 allowed to use the paid parental leave described in para-
21 graph (3)(A).

22 “(5) Paid parental leave under paragraph (3)(A)—

23 “(A) shall be payable from any appropriation or
24 fund available for salaries or expenses for positions
25 within the employing agency;

1 “(B) shall not be considered to be annual or va-
2 cation leave for purposes of section 5551 or 5552 or
3 for any other purpose; and

4 “(C) if not used by the employee before the end
5 of the 12-month period (as referred to in subsection
6 (a)(1)) to which it relates, shall not accumulate for
7 any subsequent use.

8 “(6) The Director of the Office of Personnel Manage-
9 ment—

10 “(A) may promulgate regulations to increase
11 the amount of paid parental leave available to an
12 employee under paragraph (3)(A), to a total of not
13 more than 12 administrative workweeks, based on
14 the consideration of—

15 “(i) the benefits provided to the Federal
16 Government of offering increased paid parental
17 leave, including enhanced recruitment and re-
18 tention of employees;

19 “(ii) the cost to the Federal Government of
20 increasing the amount of paid parental leave
21 that is available to employees;

22 “(iii) trends in the private sector and in
23 State and local governments with respect to of-
24 fering paid parental leave;

1 “(iv) the role of the Federal Government
2 as a model employer;

3 “(v) the impact of increased paid parental
4 leave on lower-income and economically dis-
5 advantaged employees and their children; and

6 “(vi) such other factors as the Director
7 considers necessary; and

8 “(B) shall prescribe any regulations necessary
9 to carry out this subsection, including, subject to
10 paragraph (4), the manner in which an employee
11 may designate any day or other period as to which
12 such employee wishes to use paid parental leave de-
13 scribed in paragraph (3)(A).”.

14 (b) TSA.—

15 (1) IN GENERAL.—Section 114(n) of title 49,
16 United States Code, is amended—

17 (A) by striking “The personnel manage-
18 ment system” and inserting the following:

19 “(1) IN GENERAL.—The personnel management
20 system”; and

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

22 “(2) FAMILY AND MEDICAL LEAVE INCLUDING
23 PAID PARENTAL LEAVE.—The personnel manage-
24 ment system under paragraph (1) shall include fam-
25 ily and medical leave (including the ability to sub-

stitute paid leave (including paid parental leave) for any leave without pay under such family and medical leave) for employees of the Transportation Security Administration (including security screening personnel described in section 111(d) of the Aviation and Transportation Security Act (49 U.S.C. 44935 note)), which shall be provided in accordance with subchapter V of chapter 63 of title 5.”.

(2) CONFORMING AMENDMENTS RELATING TO SCREENER PERSONNEL.—Section 111(d) of the Aviation and Transportation Security Act (49 U.S.C. 44935 note) is amended—

(A) in paragraph (1), by striking “paragraph (2)” and inserting “paragraphs (2) and (3)”; and

(B) by adding at the end the following:

“(3) FAMILY AND MEDICAL LEAVE INCLUDING PAID PARENTAL LEAVE.—Notwithstanding any other provision of law, security screening personnel described in paragraph (1) shall be eligible for family and medical leave (including the ability to substitute paid leave (including paid parental leave) for any leave without pay under such family and medical leave) under subchapter V of chapter 63 of title 5,

1 United States Code, and in accordance with section
 2 114(n)(2) of title 49, United States Code.”.

3 (c) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply with respect to any birth or place-
 5 ment that occurs on or after the date that is 6 months
 6 after the date of enactment of this Act.

7 **SEC. 3. PAID PARENTAL LEAVE FOR CONGRESSIONAL EM-**
 8 **PLOYEES.**

9 (a) AMENDMENT TO CONGRESSIONAL ACCOUNT-
 10 ABILITY ACT.—Section 202 of the Congressional Account-
 11 ability Act of 1995 (2 U.S.C. 1312) is amended—

12 (1) in subsection (a)(1), by adding at the end
 13 the following: “In applying section 102(a)(1) (A)
 14 and (B) of such Act to covered employees, sub-
 15 section (d) shall apply.”;

16 (2) by redesignating subsections (d) and (e) as
 17 subsections (e) and (f), respectively; and

18 (3) by inserting after subsection (c) the fol-
 19 lowing:

20 “(d) SPECIAL RULE FOR PAID PARENTAL LEAVE
 21 FOR CONGRESSIONAL EMPLOYEES.—

22 “(1) SUBSTITUTION OF PAID LEAVE.—A cov-
 23 ered employee taking leave without pay under sub-
 24 paragraph (A) or (B) of section 102(a)(1) of the
 25 Family and Medical Leave Act of 1993 (29 U.S.C.

1 2612(a)(1)) may elect to substitute for any such
2 leave any paid leave which is available to such em-
3 ployee for that purpose.

4 “(2) AMOUNT OF PAID LEAVE.—The paid leave
5 that is available to a covered employee for purposes
6 of paragraph (1) is—

7 “(A) the number of weeks of paid parental
8 leave in connection with the birth or placement
9 involved that correspond to the number of ad-
10 ministrative workweeks of paid parental leave
11 available to Federal employees under section
12 6382(d)(3)(A) of title 5, United States Code;
13 and

14 “(B) any additional paid vacation or sick
15 leave provided by the employing office to such
16 employee.

17 “(3) LIMITATION.—Nothing in this subsection
18 shall be considered to require that an employee first
19 use all or any portion of the leave described in sub-
20 paragraph (B) of paragraph (2) before being allowed
21 to use the paid parental leave described in subpara-
22 graph (A) of paragraph (2).

23 “(4) ADDITIONAL RULES.—Paid parental leave
24 under paragraph (2)(A)—

1 “(A) shall be payable from any appropria-
 2 tion or fund available for salaries or expenses
 3 for positions within the employing office; and

4 “(B) if not used by the covered employee
 5 before the end of the 12-month period (as re-
 6 ferred to in section 102(a)(1) of the Family and
 7 Medical Leave Act of 1993 (29 U.S.C.
 8 2612(a)(1))) to which it relates, shall not accu-
 9 mulate for any subsequent use.”.

10 (b) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply with respect to any birth or place-
 12 ment that occurs on or after the date that is 6 months
 13 after the date of enactment of this Act.

14 **SEC. 4. CONFORMING AMENDMENT TO FAMILY AND MED-**
 15 **ICAL LEAVE ACT FOR GAO AND LIBRARY OF**
 16 **CONGRESS EMPLOYEES.**

17 (a) AMENDMENT TO FAMILY AND MEDICAL LEAVE
 18 ACT OF 1993.—Section 102(d) of the Family and Medical
 19 Leave Act of 1993 (29 U.S.C. 2612(d)) is amended by
 20 adding at the end the following:

21 “(3) SPECIAL RULE FOR GAO AND LIBRARY OF
 22 CONGRESS EMPLOYEES.—

23 “(A) SUBSTITUTION OF PAID LEAVE.—An
 24 employee of an employer described in section
 25 101(4)(A)(iv) taking leave under subparagraph

(A) or (B) of subsection (a)(1) may elect to substitute for any such leave any paid leave which is available to such employee for that purpose.

“(B) AMOUNT OF PAID LEAVE.—The paid leave that is available to an employee of an employer described in section 101(4)(A)(iv) for purposes of subparagraph (A) is—

“(i) the number of weeks of paid parental leave in connection with the birth or placement involved that correspond to the number of administrative workweeks of paid parental leave available to Federal employees under section 6382(d)(3)(A) of title 5, United States Code; and

“(ii) any additional paid vacation or sick leave provided by such employer.

“(C) LIMITATION.—Nothing in this paragraph shall be considered to require that an employee first use all or any portion of the leave described in clause (ii) of subparagraph (B) before being allowed to use the paid parental leave described in clause (i) of such subparagraph.

1 “(D) ADDITIONAL RULES.—Paid parental
2 leave under subparagraph (B)(i)—

3 “(i) shall be payable from any appro-
4 priation or fund available for salaries or
5 expenses for positions with the employer
6 described in section 101(4)(A)(iv); and

7 “(ii) if not used by the employee of
8 such employer before the end of the 12-
9 month period (as referred to in subsection
10 (a)(1)) to which it relates, shall not accu-
11 mulate for any subsequent use.”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall apply with respect to any birth or place-
14 ment that occurs on or after the date that is 6 months
15 after the date of enactment of this Act.

16 **SEC. 5. CLARIFICATION FOR MEMBERS OF THE NATIONAL**
17 **GUARD AND RESERVES.**

18 (a) EXECUTIVE BRANCH EMPLOYEES.—For pur-
19 poses of determining the eligibility of an employee who is
20 a member of the National Guard or Reserves to take leave
21 under subparagraph (A) or (B) of section 6382(a)(1) of
22 title 5, United States Code, or to substitute such leave
23 pursuant to subsection (d)(2) of section 6382 of such title
24 (as added by section 2), any service by such employee on
25 covered active duty (as defined in section 6381(7) of such

1 title) shall be counted as service as an employee for pur-
2 poses of section 6381(1)(B) of such title.

3 (b) TSA EMPLOYEES.—For purposes of determining
4 the eligibility of an employee of the Transportation Secu-
5 rity Administration (including security screening per-
6 sonnel described in section 111(d) of the Aviation and
7 Transportation Security Act (49 U.S.C. 44935 note)) who
8 is a member of the National Guard or Reserves to take
9 leave in a circumstance described in subparagraph (A) or
10 (B) of section 6382(a)(1) of title 5, United States Code,
11 or to substitute such leave in a manner described in sub-
12 section (d)(2) of section 6382 of such title (as added by
13 section 2), any service by such employee on covered active
14 duty (as defined in section 6381(7) of such title) shall be
15 counted as service as an employee for purposes of deter-
16 mining whether the employee has completed 12 months
17 of service as an employee.

18 (c) CONGRESSIONAL EMPLOYEES.—For purposes of
19 determining the eligibility of a covered employee (as such
20 term is defined in section 101(3) of the Congressional Ac-
21 countability Act of 1995 (2 U.S.C. 1301(3))) who is a
22 member of the National Guard or Reserves to take leave
23 under subparagraph (A) or (B) of section 102(a)(1) of the
24 Family and Medical Leave Act of 1993 (29 U.S.C.
25 2612(a)(1)) (pursuant to section 202(a)(1) of the Con-

gressional Accountability Act of 1995), or to substitute such leave pursuant to subsection (d) of section 202 of such Act (as added by section 3), any service by such employee on covered active duty (as defined in section 101(14) of the Family and Medical Leave Act of 1993) shall be counted as time during which such employee has been employed in an employing office for purposes of section 202(a)(2)(B) of the Congressional Accountability Act of 1995.

(d) GAO AND LIBRARY OF CONGRESS EMPLOYEES.—For purposes of determining the eligibility of an employee of the Government Accountability Office or Library of Congress who is a member of the National Guard or Reserves to take leave under subparagraph (A) or (B) of section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1)), or to substitute such leave pursuant to paragraph (3) of section 102(d) of such Act (as added by section 4), any service by such employee on covered active duty (as defined in section 101(14) of such Act) shall be counted as time during which such employee has been employed for purposes of section 101(2)(A) of such Act.

SEC. 6. GAO REPORT.

Not later than 5 years after the date of enactment of this Act, the Comptroller General of the United States

1 shall submit to Congress a report on the implementation
2 of this Act and the amendments made by this Act, which
3 shall include—

4 (1) statistical information about the number of
5 days of paid and unpaid parental leave used by em-
6 ployees covered by this Act or an amendment made
7 by this Act according to race, ethnicity, gender, and
8 pay level; and

9 (2) an evaluation of the effect of this Act and
10 the amendments made by this Act on the recruit-
11 ment and retention of such employees.

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