

116TH CONGRESS
2D SESSION

H. R. 6220

To amend the Family and Medical Leave Act of 1993 to provide for leave with respect to a public health emergency, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 2020

Mr. SCOTT of Virginia (for himself, Ms. ADAMS, Mr. TAKANO, and Mrs. LEE of Nevada) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committees on Oversight and Reform, and House Administration, 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

A BILL

To amend the Family and Medical Leave Act of 1993 to provide for leave with respect to a public health emergency, 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 “Emergency Family and
5 Medical Leave Expansion Act”.

1 **SEC. 2. AMENDMENTS TO THE FAMILY AND MEDICAL**
2 **LEAVE ACT OF 1993.**

3 (a) PUBLIC HEALTH EMERGENCY LEAVE.—Section
4 102(a)(1) of the Family and Medical Leave Act of 1993
5 (29 U.S.C. 2612(a)(1)) is amended by adding at the end
6 the following:

7 “(F) During the 2-year period beginning
8 on the date of the enactment of the Emergency
9 Family and Medical Leave Expansion Act, be-
10 cause of a qualifying need related to a public
11 health emergency in accordance with section
12 110.”.

13 (b) REQUIREMENTS.—Title I of the Family and Med-
14 ical Leave Act of 1993 (29 U.S.C. 2611 et seq.) is amend-
15 ed by adding at the end the following:

16 **“SEC. 110. PUBLIC HEALTH EMERGENCY LEAVE.**

17 “(a) DEFINITIONS.—The following shall apply with
18 respect to leave under section 102(a)(1)(F):

19 “(1) APPLICATION OF CERTAIN TERMS.—The
20 definitions in section 101 shall apply, except as fol-
21 lows:

22 “(A) ELIGIBLE EMPLOYEE.—In lieu of the
23 definition in section 101(4)(A), the term ‘eligi-
24 ble employee’ means an employee who has been
25 employed for at least 30 days by the employer

1 with respect to whom leave is requested under
2 section 102(a)(1)(F).

3 “(B) EMPLOYER THRESHOLD.—Section
4 101(4)(A)(i) shall be applied by substituting ‘1
5 or more employees’ for ‘50 or more employees
6 for each working day during each of 20 or more
7 calendar workweeks in the current or preceding
8 calendar year’.

9 “(C) PARENT.—In lieu of the definition in
10 section 101(7), the term ‘parent’, with respect
11 to an employee, means any of the following:

12 “(i) A biological, foster, or adoptive
13 parent of the employee.

14 “(ii) A stepparent of the employee.

15 “(iii) A parent-in-law of the employee.

16 “(iv) A parent of a domestic partner
17 of the employee.

18 “(v) A legal guardian or other person
19 who stood in loco parentis to an employee
20 when the employee was a child.

21 “(2) ADDITIONAL DEFINITIONS.—In addition to
22 the definitions described in paragraph (1), the fol-
23 lowing definitions shall apply with respect to leave
24 under section 102(a)(1)(F):

1 “(A) QUALIFYING NEED RELATED TO A
2 PUBLIC HEALTH EMERGENCY.—The term
3 ‘qualifying need related to a public health emer-
4 gency’, with respect to leave, means the em-
5 ployee has a need for leave for one of the fol-
6 lowing:

7 “(i) To comply with a recommenda-
8 tion or order by a public official having ju-
9 risdiction or a health care provider on the
10 basis that—

11 “(I) the physical presence of the
12 employee on the job would jeopardize
13 the health of others because of—

14 “(aa) the exposure of the
15 employee to coronavirus; or

16 “(bb) exhibition of symp-
17 toms of coronavirus by the em-
18 ployee; and

19 “(II) the employee is unable to
20 both perform the functions of the po-
21 sition of such employee and comply
22 with such recommendation or order.

23 “(ii) To care for a family member of
24 an eligible employee with respect to whom
25 a public official having jurisdiction or a

1 health care provider makes a determina-
2 tion that the presence of the family mem-
3 ber in the community would jeopardize the
4 health of other individuals in the commu-
5 nity because of—

6 “(I) the exposure of such family
7 member to coronavirus; or

8 “(II) exhibition of symptoms of
9 coronavirus by such family member.

10 “(iii) To care for the son or daughter
11 of such employee if the school or place of
12 care has been closed, or the child care pro-
13 vider of such son or daughter is unavail-
14 able, due to a public health emergency.

15 “(B) PUBLIC HEALTH EMERGENCY.—The
16 term ‘public health emergency’ means an emer-
17 gency with respect to coronavirus declared by a
18 Federal, State, or local authority.

19 “(C) CHILD CARE PROVIDER.—The term
20 ‘child care provider’ means a provider who re-
21 ceives compensation for providing child care
22 services on a regular basis, including an ‘eligible
23 child care provider’ (as defined in section 658P
24 of the Child Care and Development Block
25 Grant Act of 1990 (42 U.S.C. 9858n)).

1 “(D) CORONAVIRUS.—The term ‘coronavi-
2 rus’ has the meaning given the term in section
3 506 of the Coronavirus Preparedness and Re-
4 sponse Supplemental Appropriations Act, 2020.

5 “(E) SCHOOL.—The term ‘school’ means
6 an ‘elementary school’ or ‘secondary school’ as
7 such terms are defined in section 8101 of the
8 Elementary and Secondary Education Act of
9 1965 (20 U.S.C. 7801).

10 “(F) FAMILY.—The term ‘family member’,
11 with respect to an employee, means any of the
12 following:

13 “(i) A parent of the employee.

14 “(ii) A spouse of the employee.

15 “(iii) A sibling of the employee.

16 “(iv) Next of kin of the employee or
17 a person for whom the employee is next of
18 kin.

19 “(v) A son or daughter of the em-
20 ployee.

21 “(vi) A grandparent or grandchild of
22 the employee.

23 “(b) LEAVE TAKEN INTERMITTENTLY OR ON A RE-
24 DUCED WORK SCHEDULE.—

1 “(1) IN GENERAL.—Subject to paragraph (2),
2 leave taken under section 102(a)(1)(F) may not be
3 taken intermittently or on a reduced work schedule.

4 “(2) CARE FOR SON OR DAUGHTER.—Para-
5 graph (1) shall not apply with respect to leave taken
6 for the purpose described in subsection (a)(2)(A)(iii)
7 if the son or daughter of the employee with respect
8 to whom the subsection applies has not been exposed
9 to coronavirus.

10 “(c) RELATIONSHIP TO PAID LEAVE.—

11 “(1) IN GENERAL.—An employee may elect to
12 substitute any of the accrued vacation leave, per-
13 sonal leave, or medical or sick leave for leave under
14 section 102(a)(1)(F) in accordance with section
15 102(d)(2)(B).

16 “(2) EMPLOYER REQUIREMENT.—An employer
17 may not require an employee to substitute any leave
18 as described in paragraph (1) for leave under section
19 102(a)(1)(F).

20 “(d) NOTICE.—In any case where the necessity for
21 leave under section 102(a)(1)(F) for the purpose described
22 in subsection (a)(2)(A)(iii) is foreseeable, an employee
23 shall provide the employer with such notice of leave as is
24 practicable.

25 “(e) CERTIFICATION.—

1 “(1) IN GENERAL.—An employer may require
2 that a request for leave under section 102(a)(1)(F)
3 be supported by documentation described in para-
4 graph (2). An employer may not require such docu-
5 mentation until not later than 3 weeks after the date
6 on which the employee takes such leave.

7 “(2) SUFFICIENT CERTIFICATION.—The fol-
8 lowing documentation shall be sufficient certifi-
9 cation:

10 “(A) With respect to leave taken for the
11 purposes described in clause (i) or (ii) of sub-
12 section (a)(2)(A)—

13 “(i) a recommendation or order from
14 a public official having jurisdiction or a
15 health care provider that the relevant indi-
16 vidual has symptoms of coronavirus or
17 should be quarantined; or

18 “(ii) documentation or evidence that
19 the relevant individual has been exposed to
20 coronavirus.

21 “(B) With respect to leave taken for the
22 purposes described in clause (iii) of subsection
23 (a)(2)(A), notice from the school, place of care,
24 or child care provider of the son or daughter of
25 the employee of closure or unavailability.

1 “(f) RESTORATION TO POSITION.—

2 “(1) IN GENERAL.—Section 104(a)(1) shall not
3 apply with respect to an employee of an employer
4 who employs fewer than 25 employees if the condi-
5 tions described in paragraph (2) are met.

6 “(2) CONDITIONS.—The conditions described in
7 this paragraph are the following:

8 “(A) The employee takes leave under sec-
9 tion 102(a)(1)(F).

10 “(B) The position held by the employee
11 when the leave commenced does not exist due to
12 economic conditions or other changes in oper-
13 ating conditions of the employer—

14 “(i) that affect employment; and

15 “(ii) are caused by a public health
16 emergency during the period of leave.

17 “(C) The employer makes reasonable ef-
18 forts to restore the employee to a position
19 equivalent to the position the employee held
20 when the leave commenced, with equivalent em-
21 ployment benefits, pay, and other terms and
22 conditions of employment.

23 “(D) If the reasonable efforts of the em-
24 ployer under subparagraph (C) fail, the em-
25 ployer makes reasonable efforts during the pe-

1 riod described in paragraph (3) to contact the
2 employee if an equivalent position described in
3 subparagraph (C) becomes available.

4 “(3) CONTACT PERIOD.—The period described
5 under this paragraph is the 1-year period beginning
6 on the earlier of—

7 “(A) the date on which the qualifying need
8 related to a public health emergency concludes;
9 or

10 “(B) the date that is 12 weeks after the
11 date on which the employee’s leave under sec-
12 tion 102(a)(1)(F) commences.”.

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