

118TH CONGRESS  
1ST SESSION

# S. 35

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.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 24 (legislative day, JANUARY 3), 2023

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

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## 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 2023”.

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; and

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 2023.

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