

116TH CONGRESS
2D SESSION

H. R. 6442

To provide Americans with paid sick time and paid leave so that they can address their own health needs and the health needs of their families.

IN THE HOUSE OF REPRESENTATIVES

APRIL 3, 2020

Ms. DELAURO (for herself, Ms. PRESSLEY, Ms. SPEIER, Ms. HAALAND, Mr. RUSH, Ms. PINGREE, Mr. LARSON of Connecticut, Ms. JUDY CHU of California, Mr. LOWENTHAL, Ms. FUDGE, Ms. DELBENE, Mrs. BEATTY, Ms. KAPTUR, Ms. JAYAPAL, Mr. GREEN of Texas, Ms. GARCIA of Texas, Ms. WASSERMAN SCHULTZ, Mr. RYAN, Ms. SCHAKOWSKY, Ms. DEAN, Mr. GARCÍA of Illinois, Mr. ESPAILLAT, Ms. NORTON, Ms. SEWELL of Alabama, Ms. OMAR, Mr. HIGGINS of New York, Mr. POCAN, Mr. KHANNA, Ms. BONAMICI, Mrs. NAPOLITANO, Mrs. HAYES, Mr. LANGEVIN, Mr. COURTNEY, Ms. FRANKEL, Ms. CASTOR of Florida, Mr. CARSON of Indiana, Ms. OCASIO-CORTEZ, and Mr. TED LIEU of California) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committees on Ways and Means, Oversight and Reform, House Administration, and the Judiciary, 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 provide Americans with paid sick time and paid leave 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Providing Americans
3 Insured Days of Leave Act of 2020”.

4 **TITLE I—DISPLACEMENT OF**
5 **THE LEAVE PROVISIONS OF**
6 **THE FAMILIES FIRST**
7 **CORONAVIRUS RESPONSE**
8 **ACT**

9 **SEC. 101. REPEALS OF PORTIONS OF THE FAMILIES FIRST**
10 **CORONAVIRUS RESPONSE ACT.**

11 (a) AFTER ENACTMENT.—If this Act is enacted after
12 the Families First Coronavirus Response Act is enacted,
13 divisions C, E, and G of that Act are repealed, and all
14 amendments made by those divisions shall be considered
15 to have no force and effect.

16 (b) BEFORE ENACTMENT.—If this Act is enacted be-
17 fore the Families First Coronavirus Response Act is en-
18 acted, effective 1 day after the date of enactment of that
19 Act, divisions C, E, and G of that Act are repealed, and
20 all amendments made by those divisions shall be consid-
21 ered to have no force and effect.

1 **TITLE II—IMMEDIATE REIM-**
2 **BURSEMENT OF EMPLOYERS**
3 **FOR PAID SICK DAYS AND**
4 **PAID LEAVE FOR PUBLIC**
5 **HEALTH EMERGENCIES**

6 **SEC. 201. IMMEDIATE REIMBURSEMENT OF EMPLOYERS**
7 **FOR PAID SICK DAYS AND PAID LEAVE FOR**
8 **PUBLIC HEALTH EMERGENCIES.**

9 (a) IN GENERAL.—

10 (1) REIMBURSEMENT.—An employer of a cov-
11 ered individual who uses paid sick time or emer-
12 gency paid leave under title III during a public
13 health emergency shall be reimbursed by the Sec-
14 retary of the Treasury out of the Treasury of the
15 United States for the wages paid to the covered indi-
16 vidual for the period during which the covered indi-
17 vidual used the paid sick time or emergency paid
18 leave.

19 (2) PROCESS.—

20 (A) INFORMATION.—To be eligible to re-
21 ceive such reimbursement, the employer shall
22 submit to the Secretary of Labor an affidavit
23 that attests that the employer provided such
24 paid sick time or emergency paid leave, and re-
25 lated records showing the period of and wages

1 associated with the paid sick time or emergency
2 paid leave.

3 (B) DETERMINATION.—The Secretary
4 shall review the information in the affidavit and
5 records and come to a determination regarding
6 the validity of such information within 5 busi-
7 ness days after receipt. If the Secretary does
8 not make a determination within the 5-busi-
9 ness-day period, on the sixth business day after
10 receipt of such information the Secretary shall
11 be deemed to have determined the information
12 to be valid.

13 (C) REIMBURSEMENT.—Upon the Sec-
14 retary's determination that the information is
15 valid and that the employer provided an amount
16 of such paid sick time or emergency paid leave
17 to a covered individual, the Secretary shall
18 transmit the determination, affidavit, and
19 records to the Secretary of the Treasury, and
20 the Secretary of the Treasury shall provide
21 timely reimbursement out of the Treasury of
22 the United States. The Secretary of the Treas-
23 ury shall provide that reimbursement not later
24 than 2 business days after receipt of the deter-
25 mination from the Secretary of Labor.

1 (b) FRAUD.—The Secretary of Labor and the Sec-
 2 retary of the Treasury shall both have authority to inves-
 3 tigate fraud under this section and to seek recovery of
 4 fraudulently obtained funds and related penalties in any
 5 court of competent jurisdiction.

6 (c) APPLICATION.—

7 (1) IN GENERAL.—Except as provided for in
 8 paragraph (2), this section shall apply to all paid
 9 sick time and emergency paid leave provided by em-
 10 ployers under title III during calendar year 2020
 11 and calendar year 2021.

12 (2) FUTURE APPLICATION TO ADDITIONAL PAID
 13 SICK TIME.—This section shall apply to all addi-
 14 tional paid sick time provided by employers under
 15 title III during any calendar year.

16 **TITLE III—PAID SICK DAYS AND** 17 **PAID LEAVE FOR PUBLIC** 18 **HEALTH EMERGENCIES**

19 **SEC. 301. DEFINITIONS.**

20 In title II and this title:

21 (1) CHILD.—The term “child” means a biologi-
 22 cal, foster, or adopted child, a stepchild, a child of
 23 a domestic partner, a legal ward, or a child of a per-
 24 son standing in loco parentis.

1 (2) COVERED INDIVIDUAL.—The term “covered
2 individual” means an individual who is—

3 (A) an employee; or

4 (B) an individual performing any services
5 or labor for remuneration for an employer, re-
6 gardless of whether the individual is classified
7 as an independent contractor by the employer.

8 (3) DOMESTIC PARTNER.—

9 (A) IN GENERAL.—The term “domestic
10 partner”, with respect to an individual, means
11 another individual with whom the individual is
12 in a committed relationship.

13 (B) COMMITTED RELATIONSHIP DE-
14 FINED.—The term “committed relationship”
15 means a relationship between 2 individuals,
16 each at least 18 years of age, in which each in-
17 dividual is the other individual’s sole domestic
18 partner and both individuals share responsi-
19 bility for a significant measure of each other’s
20 common welfare. The term includes any such
21 relationship between 2 individuals, including in-
22 dividuals of the same sex, that is granted legal
23 recognition by a State or political subdivision of
24 a State as a marriage or analogous relationship,
25 including a civil union or domestic partnership.

1 (4) DOMESTIC VIOLENCE.—The term “domestic
2 violence” has the meaning given the term in section
3 40002(a) of the Violence Against Women Act of
4 1994 (34 U.S.C. 12291(a)), except that the ref-
5 erence in such section to the term “jurisdiction re-
6 ceiving grant monies” shall be deemed to mean the
7 jurisdiction in which the victim lives or the jurisdic-
8 tion in which the employer involved is located. Such
9 term also includes dating violence, as that term is
10 defined in such section.

11 (5) EMPLOYEE.—The term “employee” means
12 an individual who is—

13 (A)(i) an employee, as defined in section
14 3(e) of the Fair Labor Standards Act of 1938
15 (29 U.S.C. 203(e)), who is not covered under
16 subparagraph (E), except that a reference in
17 such section to an employer shall be considered
18 to be a reference to an employer described in
19 clauses (i)(I) and (ii) of paragraph (6)(A); or

20 (ii) an employee of the Government Ac-
21 countability Office;

22 (B) a State employee described in section
23 304(a) of the Government Employee Rights Act
24 of 1991 (42 U.S.C. 2000e–16c(a));

1 (C) a covered employee, as defined in sec-
2 tion 101 of the Congressional Accountability
3 Act of 1995 (2 U.S.C. 1301), other than an ap-
4 plicant for employment;

5 (D) a covered employee, as defined in sec-
6 tion 411(c) of title 3, United States Code; or

7 (E) a Federal officer or employee covered
8 under subchapter V of chapter 63 of title 5,
9 United States Code, or any other individual oc-
10 cupying a position in the civil service (as that
11 term is defined in section 2102(1) of title 5,
12 United States Code).

13 (6) EMPLOYER.—

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

16 (i)(I) a covered employer, as defined
17 in subparagraph (B), who is not covered
18 under subclause (V);

19 (II) an entity employing a State em-
20 ployee described in section 304(a) of the
21 Government Employee Rights Act of 1991;

22 (III) an employing office, as defined
23 in section 101 of the Congressional Ac-
24 countability Act of 1995;

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

4 (V) an employing agency covered
5 under subchapter V of chapter 63 of title
6 5, United States Code; and

7 (ii) engaged in commerce (including
8 government), or an industry or activity af-
9 fecting commerce (including government),
10 as defined in subparagraph (B)(iii).

11 (B) COVERED EMPLOYER.—

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

14 (I) means any person engaged in
15 commerce or in any industry or activ-
16 ity affecting commerce who employs
17 one or more employees;

18 (II) includes—

19 (aa) any person who acts di-
20 rectly or indirectly in the interest
21 of (within the meaning of section
22 3(d) of the Fair Labor Standards
23 Act of 1938 (29 U.S.C. 203(d)))
24 an employer in relation to any of

1 the employees of such employer;
2 and

3 (bb) any successor in inter-
4 est of an employer;

5 (III) includes any “public agen-
6 cy”, as defined in section 3(x) of the
7 Fair Labor Standards Act of 1938
8 (29 U.S.C. 203(x)); and

9 (IV) includes the Government
10 Accountability Office.

11 (ii) PUBLIC AGENCY.—For purposes
12 of subclause (III) or (IV) of clause (i), a
13 public agency shall be considered to be a
14 person engaged in commerce or in an in-
15 dustry or activity affecting commerce.

16 (iii) DEFINITIONS.—For purposes of
17 this subparagraph:

18 (I) COMMERCE.—The terms
19 “commerce” and “industry or activity
20 affecting commerce” mean any activ-
21 ity, business, or industry in commerce
22 or in which a labor dispute would
23 hinder or obstruct commerce or the
24 free flow of commerce, and include
25 “commerce” and any “industry affect-

1 ing commerce”, as defined in para-
2 graphs (1) and (3) of section 501 of
3 the Labor Management Relations Act,
4 1947 (29 U.S.C. 142 (1) and (3)).

5 (II) EMPLOYEE.—The term “em-
6 ployee” has the same meaning given
7 such term in section 3(e) of the Fair
8 Labor Standards Act of 1938 (29
9 U.S.C. 203(e)).

10 (III) PERSON.—The term “per-
11 son” has the same meaning given
12 such term in section 3(a) of the Fair
13 Labor Standards Act of 1938 (29
14 U.S.C. 203(a)).

15 (C) PREDECESSORS.—Any reference in
16 this paragraph to an employer shall include a
17 reference to any predecessor of such employer.

18 (7) EMPLOYMENT BENEFITS.—The term “em-
19 ployment benefits” means all benefits provided or
20 made available to covered individuals by an em-
21 ployer, including group life insurance, health insur-
22 ance, disability insurance, sick leave, annual leave,
23 educational benefits, and pensions, regardless of
24 whether such benefits are provided by a practice or
25 written policy of an employer or through an “em-

1 ployee benefit plan”, as defined in section 3(3) of
2 the Employee Retirement Income Security Act of
3 1974 (29 U.S.C. 1002(3)).

4 (8) FLSA TERMS.—The terms “employ” and
5 “State” have the meanings given the terms in sec-
6 tion 3 of the Fair Labor Standards Act of 1938 (29
7 U.S.C. 203).

8 (9) HEALTH CARE PROVIDER.—The term
9 “health care provider” means a provider who—

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

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

17 (B) is not employed by an employer for
18 whom the provider issues certification under
19 this title.

20 (10) PAID SICK TIME.—The term “paid sick
21 time” means an increment of compensated leave
22 that—

23 (A) can be—

24 (i) earned by a covered individual for
25 use during an absence from employment or

1 work for a reason described in any para-
2 graph of section 302(b); or

3 (ii) provided by an employer during a
4 public health emergency for use during an
5 absence from employment or work for a
6 reason described in any paragraph of sec-
7 tion 302(b); and

8 (B) is compensated at a rate that is not
9 less than the greatest of—

10 (i) the covered individual's regular
11 rate of pay;

12 (ii) the minimum wage rate provided
13 for in section 6(a)(1) of the Fair Labor
14 Standards Act of 1938 (29 U.S.C.
15 206(a)(1)); or

16 (iii) the minimum wage rate provided
17 for in the applicable State or local law for
18 the State or locality in which the covered
19 individual is employed or works.

20 (11) PARENT.—The term “parent” means a bi-
21 ological, foster, or adoptive parent of a covered indi-
22 vidual, a stepparent of a covered individual, a par-
23 ent-in-law of a covered individual, a parent of a do-
24 mestic partner of a covered individual, or a legal
25 guardian or other person who stood in loco parentis

1 to a covered individual when the covered individual
2 was a child.

3 (12) PUBLIC HEALTH EMERGENCY.—The term
4 “public health emergency” means—

5 (A) a public health emergency—

6 (i) declared by the Secretary of
7 Health and Human Services for a jurisdic-
8 tion, or by a State or local public health
9 official with authority to declare such an
10 emergency for the State or jurisdiction
11 within the State; and

12 (ii) due to a public health condition
13 that is—

14 (I) emergent and acute; and

15 (II) not a longstanding, chronic
16 public health condition; and

17 (B) an emergency with respect to
18 coronavirus, as defined in section 506 of the
19 Coronavirus Preparedness and Response Sup-
20 plemental Appropriations Act, 2020 (Public
21 Law 116–123), declared by a Federal, State, or
22 local public official.

23 (13) SECRETARY.—The term “Secretary”
24 means the Secretary of Labor.

1 (14) SEXUAL ASSAULT.—The term “sexual as-
2 sault” has the meaning given the term in section
3 40002(a) of the Violence Against Women Act of
4 1994 (34 U.S.C. 12291(a)).

5 (15) SPOUSE.—The term “spouse”, with re-
6 spect to a covered individual, has the meaning given
7 such term by the marriage laws of the State in
8 which the marriage was celebrated.

9 (16) STALKING.—The term “stalking” has the
10 meaning given the term in section 40002(a) of the
11 Violence Against Women Act of 1994 (34 U.S.C.
12 12291(a)).

13 (17) STATE.—The term “State” has the mean-
14 ing given the term in section 3 of the Fair Labor
15 Standards Act of 1938 (29 U.S.C. 203).

16 (18) VICTIM SERVICES ORGANIZATION.—The
17 term “victim services organization” means a non-
18 profit, nongovernmental organization that provides
19 assistance to victims of domestic violence, sexual as-
20 sault, or stalking or advocates for such victims, in-
21 cluding a rape crisis center, an organization carrying
22 out a domestic violence, sexual assault, or stalking
23 prevention or treatment program, an organization
24 operating a shelter or providing counseling services,

1 or a legal services organization or other organization
2 providing assistance through the legal process.

3 (19) WORK.—The term “work” means to be
4 employed or to be engaged in providing labor or
5 services for an employer.

6 **SEC. 302. PAID SICK TIME AND EMERGENCY PAID LEAVE.**

7 (a) EARNING OF PAID SICK TIME.—

8 (1) IN GENERAL.—

9 (A) EARNING.—Subject to subsection (c)
10 and paragraph (2), an employer shall provide
11 each covered individual employed by or working
12 for the employer not less than 1 hour of earned
13 paid sick time for every 30 hours worked, to be
14 used as described in subsection (b).

15 (B) LIMIT.—An employer shall not be re-
16 quired to permit a covered individual to earn,
17 under this subsection, more than 56 hours of
18 paid sick time in a year, unless the employer
19 chooses to set a higher limit.

20 (2) EXEMPT EMPLOYEES.—

21 (A) IN GENERAL.—Except as provided in
22 paragraph (3), for purposes of this subsection,
23 an employee who is exempt from overtime re-
24 quirements under section 13(a)(1) of the Fair
25 Labor Standards Act of 1938 (29 U.S.C.

1 213(a)(1)) shall be assumed to work 40 hours
2 in each workweek.

3 (B) SHORTER NORMAL WORKWEEK.—If
4 the normal workweek of such an employee is
5 less than 40 hours, the employee shall earn
6 paid sick time under this subsection based upon
7 that normal workweek.

8 (3) DATES FOR BEGINNING TO EARN PAID SICK
9 TIME AND USE.—

10 (A) IN GENERAL.—Covered individuals
11 shall begin to earn paid sick time under this
12 subsection at the commencement of their em-
13 ployment or work. A covered individual shall be
14 entitled to use the earned paid sick time begin-
15 ning on the 60th calendar day following com-
16 mencement of the covered individual's employ-
17 ment or work. After that 60th calendar day, the
18 covered individual may use the paid sick time
19 as the time is earned. An employer may, at the
20 discretion of the employer, loan paid sick time
21 to a covered individual for use by such covered
22 individual in advance of the covered individual
23 earning such sick time as provided in this sub-
24 section and may permit use before the 60th day
25 of employment or work.

1 (B) PUBLIC HEALTH EMERGENCY.—Sub-
2 paragraph (A) shall not apply with respect to
3 additional paid sick time provided under sub-
4 section (c). In the event of a public health
5 emergency, a covered individual may imme-
6 diately use the accrued or additional paid sick
7 time described in subsection (c), regardless of
8 how long the covered individual has been em-
9 ployed by or working for an employer.

10 (4) CARRYOVER.—

11 (A) IN GENERAL.—Except as provided in
12 subparagraph (B), paid sick time earned under
13 this subsection shall carry over from 1 year to
14 the next.

15 (B) CONSTRUCTION.—This subsection
16 shall not be construed to require an employer to
17 permit a covered individual to earn more than
18 56 hours of earned paid sick time at a given
19 time.

20 (5) EMPLOYERS WITH EXISTING POLICIES.—

21 Any employer with a paid leave policy who makes
22 available an amount of paid leave that is sufficient
23 to meet the requirements of this subsection and that
24 may be used for the same purposes and under the
25 same conditions as the purposes and conditions out-

1 lined in subsection (b) shall not be required to per-
2 mit a covered individual to earn more paid sick time
3 under this subsection.

4 (6) CONSTRUCTION.—Nothing in this section
5 shall be construed as requiring financial or other re-
6 imbursement to a covered individual from an em-
7 ployer upon the covered individual's termination,
8 resignation, retirement, or other separation from
9 employment or work for paid sick time that has not
10 been used.

11 (7) REINSTATEMENT.—If a covered individual
12 is separated from employment or work with an em-
13 ployer and is rehired or reengaged for work, within
14 12 months after that separation, by the same em-
15 ployer, the employer shall reinstate the covered indi-
16 vidual's previously earned paid sick time under this
17 subsection. The covered individual shall be entitled
18 to use the earned paid sick time and earn more paid
19 sick time at the recommencement of employment or
20 work with the employer.

21 (8) PROHIBITION.—An employer may not re-
22 quire, as a condition of providing paid sick time
23 under this title, that the covered individual involved
24 search for or find a replacement covered individual

1 to cover the hours during which the covered indi-
2 vidual is using paid sick time.

3 (9) SCHEDULING.—A covered individual shall
4 make a reasonable effort to schedule a period of ac-
5 crued paid sick time under this subsection in a man-
6 ner that does not unduly disrupt the operations of
7 the employer.

8 (b) USES.—Paid sick time or emergency paid leave
9 under this section may be used by a covered individual
10 for any of the following:

11 (1) An absence resulting from a physical or
12 mental illness, injury, or medical condition of the
13 covered individual.

14 (2) An absence resulting from obtaining profes-
15 sional medical diagnosis or care, or preventive med-
16 ical care, for the covered individual.

17 (3) An absence resulting from the closure of a
18 covered individual's place of employment or work by
19 order of a Federal or State public official with juris-
20 diction, or at the employer's discretion, due to a
21 public health emergency.

22 (4) An absence because a Federal or State pub-
23 lic official with jurisdiction or a health care provider
24 has determined, or the covered individual has inde-
25 pendently determined, that the covered individual's

1 presence in the community may jeopardize the
2 health of others because of the covered individual's
3 exposure to a communicable disease during a public
4 health emergency or the exhibition of symptoms of
5 a communicable disease during a public health emer-
6 gency, regardless of whether the covered individual
7 has actually contracted the communicable disease.

8 (5) An absence for the purpose of caring for a
9 child, a parent, a spouse, a domestic partner, or any
10 other individual related by blood or affinity whose
11 close association with the covered individual is the
12 equivalent of a family relationship—

13 (A) who has any of the conditions or needs
14 for diagnosis or care described in paragraph
15 (4);

16 (B) who is a child, if the child's school or
17 place of care has been closed by order of a Fed-
18 eral or State public official with jurisdiction or
19 at the discretion of the school or place of care
20 due to a public health emergency, including if
21 a school or entity operating the place of care is
22 physically closed but is providing education or
23 care to the child remotely; or

24 (C) because a Federal or State public offi-
25 cial with jurisdiction or a health care provider

1 has determined that the presence in the com-
2 munity of the person receiving care may jeop-
3 ardize the health of others because of the per-
4 son's exposure to a communicable disease dur-
5 ing a public health emergency, regardless of
6 whether the person has actually contracted the
7 communicable disease.

8 (6) An absence for the purpose of caring for a
9 child, a parent, a spouse, a domestic partner, or any
10 other individual related by blood or affinity whose
11 close association with the covered individual is the
12 equivalent of a family relationship—

13 (A) who has any of the conditions or needs
14 for diagnosis or care described in paragraph (1)
15 or (2);

16 (B) who is a child, if the covered individual
17 is required to attend a school meeting or a
18 meeting at a place where the child is receiving
19 care necessitated by the child's health condition
20 or disability; or

21 (C) who is otherwise in need of care.

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

24 (A) seek medical attention for the covered
25 individual or the covered individual's child, par-

ent, spouse, domestic partner, or an individual related to the covered individual as described in paragraph (6), to recover from physical or psychological injury or disability caused by domestic violence, sexual assault, or stalking;

(B) obtain or assist a related person described in paragraph (6) in obtaining services from a victim services organization;

(C) obtain or assist a related person described in paragraph (6) in obtaining psychological or other counseling;

(D) seek relocation; or

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

(c) ADDITIONAL PAID SICK TIME FOR PUBLIC HEALTH EMERGENCY.—

(1) ADDITIONAL PAID SICK TIME.—On the date of a declaration of a public health emergency, an employer in the jurisdiction involved shall provide each covered individual of the employer in that jurisdiction with additional paid sick time, in addition to any amount of paid sick time accrued by the covered

1 individual under subsection (a) (including paid leave
2 referred to in subsection (a)(5)).

3 (2) AMOUNT OF PAID SICK TIME.—In receiving
4 additional paid sick time under paragraph (1), the
5 covered individual shall receive—

6 (A) for a full-time salaried covered indi-
7 vidual, a specified amount of paid sick time
8 that is sufficient to provide the covered indi-
9 vidual with 14 continuous days away from work
10 without a reduction in pay; and

11 (B) subject to paragraph (3), for a part-
12 time, hourly, or piece-rate covered individual, a
13 specified amount of paid sick time equal to the
14 number of hours that the covered individual
15 was scheduled to work or, if not so scheduled,
16 regularly works in a 14-day period.

17 (3) VARYING SCHEDULE HOURS CALCULA-
18 TION.—

19 (A) IN GENERAL.—In the case of a part-
20 time, hourly, or piece-rate covered individual de-
21 scribed in paragraph (2)(B) whose schedule
22 varies from week to week to such an extent that
23 an employer is unable to determine with cer-
24 tainty the number of hours the covered indi-
25 vidual regularly works, the employer shall use

1 the rules specified in subparagraph (B) to cal-
2 culate the amount of additional paid sick time
3 that the covered individual shall receive under
4 paragraph (2)(B).

5 (B) SPECIAL CALCULATION RULES.—The
6 employer shall calculate that amount as—

7 (i) subject to clause (ii), a number
8 equal to the average number of hours that
9 the covered individual was scheduled to
10 work per 14-day period over the 6-month
11 period ending on the date on which the
12 covered individual takes such additional
13 paid sick time, including hours for which
14 the covered individual took leave of any
15 type; or

16 (ii) if the covered individual did not
17 work over such 6-month period, the rea-
18 sonable expectation of the covered indi-
19 vidual at the time of hiring or engagement
20 of the average number of hours per 14-day
21 period that the covered individual would
22 regularly be scheduled to work.

23 (4) GUIDELINES.—Not later than 5 days after
24 the date of the enactment of this Act, the Secretary
25 of Labor shall issue guidelines to assist employers in

1 calculating the amount of additional paid sick time
2 that a covered individual shall receive under this
3 subsection.

4 (5) USE OF LEAVE.—The additional sick time
5 and accrued sick time described in this subsection
6 shall be available for immediate use by the covered
7 individual for the purposes described in any para-
8 graph of subsection (b) beginning on the date a pub-
9 lic health emergency is declared, regardless of how
10 long the covered individual has been employed by or
11 working for an employer.

12 (6) PERIODS.—A covered individual may take
13 the additional sick time on the schedule that meets
14 the covered individual’s needs, consistent with sub-
15 section (b), including taking the additional sick time
16 intermittently or on a reduced leave schedule, and
17 an employer may not require a covered individual to
18 take the additional sick time in a single period or on
19 any other schedule specified by the employer.

20 (d) EMERGENCY PAID LEAVE FOR PUBLIC HEALTH
21 EMERGENCY.—

22 (1) IN GENERAL.—Subject to section 401, dur-
23 ing a public health emergency, an employer in the
24 jurisdiction involved shall provide each covered indi-
25 vidual of the employer in that jurisdiction with

1 emergency paid leave, in addition to any amount of
 2 paid sick time accrued by the covered individual
 3 under subsection (a) (including paid leave referred
 4 to in subsection (a)(5)) and in addition to additional
 5 paid sick time under subsection (c).

6 (2) AMOUNT OF PAID LEAVE.—In receiving
 7 emergency paid leave under paragraph (1), the cov-
 8 ered individual shall receive 12 weeks of such paid
 9 leave.

10 (3) AMOUNT OF BENEFIT.—In receiving emer-
 11 gency paid leave under paragraph (1), the covered
 12 individual shall be compensated at a rate that is not
 13 less than the greatest of—

14 (A) two-thirds of the covered individual's
 15 regular rate of pay;

16 (B) the minimum wage rate provided for in
 17 section 6(a)(1) of the Fair Labor Standards
 18 Act of 1938 (29 U.S.C. 206(a)(1)); or

19 (C) the minimum wage rate provided for in
 20 the applicable State or local law for the State
 21 or locality in which the covered individual is
 22 employed or working.

23 (4) USE OF LEAVE.—The emergency paid leave
 24 described in this subsection shall be available for im-
 25 mediate use by the covered individual for the pur-

1 poses described in any paragraph of subsection (b),
2 and for qualified caregiving, as defined in section
3 402 and in a manner such that section 404(j) shall
4 apply, beginning on the date a public health emer-
5 gency is declared, regardless of how long the covered
6 individual has been employed by or working for an
7 employer.

8 (5) PERIODS.—A covered individual may take
9 the emergency paid leave on the schedule that meets
10 the covered individual’s needs, consistent with sub-
11 section (b) and section 402, including taking the
12 emergency paid leave intermittently or on a reduced
13 leave schedule, and an employer may not require a
14 covered individual to take the emergency paid leave
15 in a single period or on any other schedule specified
16 by the employer.

17 (6) SEQUENCING.—During a public health
18 emergency, a covered individual may first use the
19 additional sick time for the purposes described in
20 any paragraph of subsection (b). The covered indi-
21 vidual may then use the emergency paid leave during
22 a public health emergency. A covered individual may
23 elect to use accrued sick time before additional sick
24 time or emergency paid leave. An employer may not
25 require a covered individual to use accrued sick time

1 or any other paid leave provided by the employer to
2 the covered individual, before using additional sick
3 time or emergency paid leave.

4 (7) CONSTRUCTION.—Nothing in this section
5 shall be construed as requiring financial or other re-
6 imbursement to a covered individual from an em-
7 ployer upon the covered individual's termination,
8 resignation, retirement, or other separation from
9 employment or work for emergency paid leave that
10 has not been used.

11 (8) PROHIBITION.—An employer may not re-
12 quire, as a condition of providing emergency paid
13 leave under this title, that the covered individual in-
14 volved search for or find a replacement covered indi-
15 vidual to cover the hours during which the covered
16 individual is using emergency paid leave.

17 (e) PROCEDURES.—

18 (1) IN GENERAL.—Paid sick time and emer-
19 gency paid leave shall be provided upon the oral or
20 written request of a covered individual. Such request
21 shall—

22 (A) include the expected duration of the
23 period of such time or leave;

24 (B) in a case in which the need for such
25 period of time is foreseeable at least 7 days in

1 advance of such period, be provided at least 7
2 days in advance of such period; and

3 (C) otherwise, be provided as soon as prac-
4 ticable after the covered individual is aware of
5 the need for such period.

6 (2) CERTIFICATION IN GENERAL.—

7 (A) PROVISION.—

8 (i) IN GENERAL.—Subject to subpara-
9 graphs (C) and (D), an employer may re-
10 quire that a request for paid sick time
11 under this section for a purpose described
12 in paragraph (1), (2), or (6) of subsection
13 (b) be supported by a certification issued
14 by the health care provider of the covered
15 individual or of an individual described in
16 subsection (b)(6), as appropriate, if the pe-
17 riod of such time covers more than 3 con-
18 secutive workdays.

19 (ii) TIMELINESS.—The covered indi-
20 vidual shall provide a copy of such certifi-
21 cation to the employer in a timely manner,
22 not later than 30 days after the first day
23 of the period of time. The employer shall
24 not delay the commencement of the period

1 of time on the basis that the employer has
2 not yet received the certification.

3 (B) SUFFICIENT CERTIFICATION.—

4 (i) IN GENERAL.—A certification pro-
5 vided under subparagraph (A) shall be suf-
6 ficient if it states—

7 (I) the date on which the period
8 of time will be needed;

9 (II) the probable duration of the
10 period of time;

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

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

20 (bb) for purposes of such time
21 under subsection (b)(2), the dates on
22 which testing for a medical diagnosis
23 or care is expected to be given and the
24 duration of such testing or care; and

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

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

17 (C) PUBLIC HEALTH EMERGENCIES.—No
18 certification or other documentation may be re-
19 quired under this title by an employer during
20 any public health emergency.

21 (D) REGULATIONS.—Regulations pre-
22 scribed under section 311 shall specify the man-
23 ner in which a covered individual who does not
24 have health insurance shall provide a certifi-
25 cation for purposes of this paragraph.

1 (E) CONFIDENTIALITY AND NONDISCLO-
2 SURE.—

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

12 (ii) HEALTH INFORMATION
13 RECORDS.—If an employer possesses
14 health information about a covered indi-
15 vidual or a covered individual’s child, par-
16 ent, spouse, domestic partner, or an indi-
17 vidual related to the covered individual as
18 described in subsection (b)(6), such infor-
19 mation shall—

20 (I) be maintained on a separate
21 form and in a separate file from other
22 personnel information;

23 (II) be treated as a confidential
24 medical record; and

1 (III) not be disclosed except to
2 the affected covered individual or with
3 the permission of the affected covered
4 individual.

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

7 (A) IN GENERAL.—An employer may re-
8 quire that a request for paid sick time for a
9 purpose described in subsection (b)(7) be sup-
10 ported by any one of the following forms of doc-
11 umentation, but the employer may not specify
12 the particular form of documentation to be pro-
13 vided:

14 (i) A police report indicating that the
15 covered individual, or a member of the cov-
16 ered individual's family described in sub-
17 section (b)(7), was a victim of domestic vi-
18 olence, sexual assault, or stalking.

19 (ii) A court order protecting or sepa-
20 rating the covered individual or a member
21 of the covered individual's family described
22 in subsection (b)(7) from the perpetrator
23 of an act of domestic violence, sexual as-
24 sault, or stalking, or other evidence from
25 the court or prosecuting attorney that the

1 covered individual or a member of the cov-
2 ered individual's family described in sub-
3 section (b)(7) has appeared in court or is
4 scheduled to appear in court in a pro-
5 ceeding related to domestic violence, sexual
6 assault, or stalking.

7 (iii) Other documentation signed by a
8 covered individual or volunteer working for
9 a victim services organization, an attorney,
10 a police officer, a medical professional, a
11 social worker, an antiviolence counselor, or
12 a member of the clergy, affirming that the
13 covered individual or a member of the cov-
14 ered individual's family described in sub-
15 section (b)(7) is a victim of domestic vio-
16 lence, sexual assault, or stalking.

17 (B) REQUIREMENTS.—The requirements
18 of paragraph (2) shall apply to certifications
19 under this paragraph, except that—

20 (i) subclauses (III) and (IV) of sub-
21 paragraph (B)(i) and subparagraph (B)(ii)
22 of such paragraph shall not apply;

23 (ii) the certification shall state the
24 reason that the leave is required with the
25 facts to be disclosed limited to the min-

1 imum necessary to establish a need for the
2 covered individual to be absent from work,
3 and the covered individual shall not be re-
4 quired to explain the details of the domes-
5 tic violence, sexual assault, or stalking in-
6 volved; and

7 (iii) with respect to confidentiality
8 under subparagraph (E) of such para-
9 graph, any information provided to the em-
10 ployer under this paragraph shall be con-
11 fidential, except to the extent that any dis-
12 closure of such information is—

13 (I) requested or consented to in
14 writing by the covered individual; or

15 (II) otherwise required by appli-
16 cable Federal or State law.

17 (f) RESTORATION TO POSITION.—The provisions of
18 section 104(a) of the Family and Medical Leave Act of
19 1993 (29 U.S.C. 2614(a)) or section 6384 of title 5,
20 United States Code, as the case may be, shall apply to
21 a covered individual taking accrued or additional paid sick
22 time, or emergency paid leave, under this title, and to the
23 employer of the covered individual. Such provisions shall
24 be enforced in accordance with this title.

1 (g) MAINTENANCE OF HEALTH BENEFITS.—The
 2 provisions of section 104(c)(1) of the Family and Medical
 3 Leave Act of 1993 (29 U.S.C. 2614(c)(1)) shall apply to
 4 a covered individual taking accrued or additional paid sick
 5 time, or emergency paid leave, under this title, and to the
 6 employer of the covered individual. Such provisions shall
 7 be enforced in accordance with this title.

8 (h) NO EFFECT ON ELIGIBILITY FOR SUPPLE-
 9 MENTAL SECURITY INCOME.—Any paid sick time or emer-
 10 gency paid leave provided to a covered individual under
 11 this title shall not be regarded as income or resources for
 12 any month, for purposes of determining the eligibility of
 13 the recipient (or the recipient’s spouse or family) for bene-
 14 fits or assistance, or the amount or extent of benefits or
 15 assistance, under the supplemental security income pro-
 16 gram established under title XVI of the Social Security
 17 Act (42 U.S.C. 1381 et seq.).

18 **SEC. 303. EMPLOYMENT UNDER MULTIEMPLOYER COLLEC-**
 19 **TIVE BARGAINING AGREEMENTS.**

20 (a) EMPLOYERS.—An employer signatory to a multi-
 21 employer collective bargaining agreement may, consistent
 22 with its bargaining obligations and its collective bar-
 23 gaining agreement, fulfill its obligations under this title
 24 by making contributions to a multiemployer fund, plan,
 25 or program based on the hours of paid sick time, and of

1 emergency paid leave, each of its employees is entitled to
2 under this title while working under the multiemployer col-
3 lective bargaining agreement, provided that the fund, plan,
4 or program enables employees to secure pay from such
5 fund, plan, or program based on the hours the employees
6 have worked under the multiemployer collective bargaining
7 agreement and for the amount of time and uses specified
8 under this title.

9 (b) EMPLOYEES.—Employees who work under a mul-
10 tiemployer collective bargaining agreement into which
11 their employers make contributions as provided in sub-
12 section (a) may secure pay from such fund, plan, or pro-
13 gram based on hours the employees have worked under
14 the multiemployer collective bargaining agreement for the
15 amount of time and uses specified under this title.

16 **SEC. 304. NOTICE REQUIREMENT.**

17 (a) IN GENERAL.—Each employer shall notify each
18 covered individual and include in any covered individual
19 handbook the information described in paragraphs (1)
20 through (4). Each employer shall post and keep posted
21 a notice, to be prepared or approved in accordance with
22 procedures specified in regulations prescribed under sec-
23 tion 311, setting forth excerpts from, or summaries of,
24 the pertinent provisions of this title including—

1 (1) information describing paid sick time and
2 paid emergency leave available to covered individuals
3 under this title;

4 (2) information pertaining to the filing of an
5 action under this title;

6 (3) the details of the notice requirement for a
7 foreseeable period of time under section
8 302(e)(1)(B); and

9 (4) information that describes—

10 (A) the protections that a covered indi-
11 vidual has in exercising rights under this title;
12 and

13 (B) how the covered individual can contact
14 the Secretary (or other appropriate authority as
15 described in section 306) if any of the rights
16 are violated.

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

19 (1) in conspicuous places on the premises of the
20 employer, where notices to covered individuals (in-
21 cluding applicants) are customarily posted; or

22 (2) in covered individual handbooks.

23 (c) MODEL NOTICE.—Not later than 5 days after the
24 date of enactment of this Act, the Secretary of Labor shall

1 make publicly available a model notice that meets the re-
2 quirements of subsection (a).

3 (d) VIOLATION; PENALTY.—Any employer who will-
4 fully violates the posting requirements of this section shall
5 be subject to a civil fine in an amount not to exceed \$100
6 for each separate offense.

7 **SEC. 305. PROHIBITED ACTS.**

8 (a) INTERFERENCE WITH RIGHTS.—

9 (1) EXERCISE OF RIGHTS.—It shall be unlawful
10 for any employer to interfere with, restrain, or deny
11 the exercise of, or the attempt to exercise, any right
12 provided under this title, including—

13 (A) discharging or discriminating against
14 (including retaliating against) any individual,
15 including a job applicant, for exercising, or at-
16 tempting to exercise, any right provided under
17 this title;

18 (B) using the taking of paid sick time or
19 emergency paid leave under this title as a nega-
20 tive factor in an employment action or work-re-
21 lated action, such as hiring, promotion, reduc-
22 ing hours or number of shifts, or a disciplinary
23 action; or

1 (C) counting the paid sick time or emer-
2 gency paid leave under a no-fault attendance
3 policy or any other absence control policy.

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

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

14 (1) has filed an action, or has instituted or
15 caused to be instituted any proceeding, under or re-
16 lated to this title;

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

20 (3) has testified, or is about to testify, in any
21 inquiry or proceeding relating to any right provided
22 under this title.

23 (c) CONSTRUCTION.—Nothing in this section shall be
24 construed to state or imply that the scope of the activities
25 prohibited by section 105 of the Family and Medical Leave

1 Act of 1993 (29 U.S.C. 2615) is less than the scope of
2 the activities prohibited by this section.

3 **SEC. 306. ENFORCEMENT AUTHORITY.**

4 (a) IN GENERAL.—

5 (1) DEFINITION.—In this subsection—

6 (A) the term “employee” means an em-
7 ployee described in subparagraph (A) or (B) of
8 section 301(5) or a corresponding covered indi-
9 vidual; and

10 (B) the term “employer” means an em-
11 ployer described in subclause (I) or (II) of sec-
12 tion 301(6)(A)(i).

13 (2) INVESTIGATIVE AUTHORITY.—

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

23 (B) OBLIGATION TO KEEP AND PRESERVE
24 RECORDS.—An employer shall make, keep, and
25 preserve records pertaining to compliance with

1 this title in accordance with section 11(c) of the
2 Fair Labor Standards Act of 1938 (29 U.S.C.
3 211(c)) and in accordance with regulations pre-
4 scribed by the Secretary.

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

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

22 (3) CIVIL ACTION BY EMPLOYEES OR INDIVID-
23 UALS.—

24 (A) RIGHT OF ACTION.—An action to re-
25 cover the damages or equitable relief prescribed

1 in subparagraph (C) may be maintained against
2 any employer in any Federal or State court of
3 competent jurisdiction by one or more employ-
4 ees or individuals or their representative for
5 and on behalf of—

6 (i) the employees or individuals; or

7 (ii) the employees or individuals and
8 others similarly situated.

9 (B) NO WAIVER.—In such an action
10 brought by one or more employees or individ-
11 uals or their representative for and on behalf of
12 the persons described in clause (i) or (ii) of sub-
13 paragraph (A), to enforce the rights in this
14 title, no court of competent jurisdiction may
15 grant an employer's motion to compel arbitra-
16 tion, under chapter 1 of title 9, United States
17 Code, or any analogous State arbitration stat-
18 ute, of the claims involved. An employee's right
19 to bring an action on behalf of similarly situ-
20 ated employees to enforce such rights may not
21 be subject to any private agreement that pur-
22 ports to require the employees to pursue claims
23 on an individual basis.

24 (C) LIABILITY.—Any employer who vio-
25 lates section 305 (including a violation relating

1 to rights provided under section 302) shall be
2 liable to any employee or individual affected—

3 (i) for damages equal to—

4 (I) the amount of—

5 (aa) any wages, salary, em-
6 ployment benefits, or other com-
7 pensation denied or lost by rea-
8 son of the violation; or

9 (bb) in a case in which
10 wages, salary, employment bene-
11 fits, or other compensation have
12 not been denied or lost, any ac-
13 tual monetary losses sustained as
14 a direct result of the violation up
15 to a sum equal to 56 hours of
16 wages or salary for the employee
17 or individual, or the specified pe-
18 riod described in subsection
19 (c)(2) or (d)(2) of section 302, or
20 a combination of those hours and
21 that period, as the case may be;

22 (II) the interest on the amount
23 described in subclause (I) calculated
24 at the prevailing rate; and

1 (III) an additional amount as liq-
 2 uidated damages; and

3 (ii) for such equitable relief as may be
 4 appropriate, including employment, rein-
 5 statement, and promotion.

6 (D) FEES AND COSTS.—The court in an
 7 action under this paragraph shall, in addition to
 8 any judgment awarded to the plaintiff, allow a
 9 reasonable attorney’s fee, reasonable expert wit-
 10 ness fees, and other costs of the action to be
 11 paid by the defendant.

12 (4) ACTION BY THE SECRETARY.—

13 (A) ADMINISTRATIVE ACTION.—The Sec-
 14 retary shall receive, investigate, and attempt to
 15 resolve complaints of violations of section 305
 16 (including a violation relating to rights provided
 17 under section 302) in the same manner that the
 18 Secretary receives, investigates, and attempts to
 19 resolve complaints of violations of sections 6
 20 and 7 of the Fair Labor Standards Act of 1938
 21 (29 U.S.C. 206 and 207).

22 (B) CIVIL ACTION.—The Secretary may
 23 bring an action in any court of competent juris-
 24 diction to recover the damages described in
 25 paragraph (3)(C)(i).

1 (C) SUMS RECOVERED.—Any sums recov-
2 ered by the Secretary pursuant to subparagraph
3 (B) shall be held in a special deposit account
4 and shall be paid, on order of the Secretary, di-
5 rectly to each employee or individual affected.
6 Any such sums not paid to an employee or indi-
7 vidual affected because of inability to do so
8 within a period of 3 years shall be deposited
9 into the Treasury of the United States as mis-
10 cellaneous receipts.

11 (5) LIMITATION.—

12 (A) IN GENERAL.—Except as provided in
13 subparagraph (B), an action may be brought
14 under paragraph (3), (4), or (6) not later than
15 2 years after the date of the last event consti-
16 tuting the alleged violation for which the action
17 is brought.

18 (B) WILLFUL VIOLATION.—In the case of
19 an action brought for a willful violation of sec-
20 tion 305 (including a willful violation relating to
21 rights provided under section 302), such action
22 may be brought within 3 years of the date of
23 the last event constituting the alleged violation
24 for which such action is brought.

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

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

10 (A) to restrain violations of section 305
11 (including a violation relating to rights provided
12 under section 302), including the restraint of
13 any withholding of payment of wages, salary,
14 employment benefits, or other compensation,
15 plus interest, found by the court to be due to
16 employees or individuals eligible under this title;
17 or

18 (B) to award such other equitable relief as
19 may be appropriate, including employment, re-
20 instatement, and promotion.

21 (7) SOLICITOR OF LABOR.—The Solicitor of
22 Labor may appear for and represent the Secretary
23 on any litigation brought under paragraph (4) or
24 (6).

1 (8) GOVERNMENT ACCOUNTABILITY OFFICE.—

2 Notwithstanding any other provision of this sub-
3 section, in the case of the Government Account-
4 ability Office, the authority of the Secretary of
5 Labor under this subsection shall be exercised by the
6 Comptroller General of the United States.

7 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-
8 COUNTABILITY ACT OF 1995.—The powers, remedies, and
9 procedures provided in the Congressional Accountability
10 Act of 1995 (2 U.S.C. 1301 et seq.) including section
11 401(d) of such Act (2 U.S.C. 1401(d)), to the Board (as
12 defined in section 101 of that Act (2 U.S.C. 1301)), the
13 corresponding Federal agency described in that section
14 401(d), or any person, alleging a violation of subsection
15 (a)(1) of section 202 of that Act (2 U.S.C. 1312) shall
16 be the powers, remedies, and procedures this title provides
17 to that Board, the corresponding Federal agency, or any
18 person, alleging an unlawful employment practice in viola-
19 tion of this title against an employee described in section
20 301(5)(C) or a corresponding covered individual.

21 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE
22 3, UNITED STATES CODE.—The powers, remedies, and
23 procedures provided in chapter 5 of title 3, United States
24 Code, to the President, the Merit Systems Protection
25 Board, or any person, alleging a violation of section

1 412(a)(1) of that title, shall be the powers, remedies, and
 2 procedures this title provides to the President, that Board,
 3 or any person, respectively, alleging an unlawful employ-
 4 ment practice in violation of this title against an employee
 5 described in section 301(5)(D) or a corresponding covered
 6 individual.

7 (d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE
 8 5, UNITED STATES CODE.—The powers, remedies, and
 9 procedures provided in title 5, United States Code, to an
 10 employing agency, provided in chapter 12 of that title to
 11 the Merit Systems Protection Board, or provided in that
 12 title to any person, alleging a violation of chapter 63 of
 13 that title shall be the powers, remedies, and procedures
 14 this title provides to that agency, that Board, or any per-
 15 son, respectively, alleging an unlawful employment prac-
 16 tice in violation of this title against an employee described
 17 in section 301(5)(E) or a corresponding covered indi-
 18 vidual.

19 (e) REMEDIES FOR STATE EMPLOYEES.—

20 (1) WAIVER OF SOVEREIGN IMMUNITY.—A
 21 State’s receipt or use of Federal financial assistance
 22 for any program or activity of a State shall con-
 23 stitute a waiver of sovereign immunity, under the
 24 11th Amendment to the Constitution or otherwise,
 25 to a suit brought by a covered individual of that pro-

1 gram or activity under this title for equitable, legal,
2 or other relief authorized under this title.

3 (2) OFFICIAL CAPACITY.—An official of a State
4 may be sued in the official capacity of the official by
5 any covered individual who has complied with the
6 procedures under subsection (a)(3), for injunctive re-
7 lief that is authorized under this title. In such a suit
8 the court may award to the prevailing party those
9 costs authorized by section 722 of the Revised Stat-
10 utes (42 U.S.C. 1988).

11 (3) APPLICABILITY.—With respect to a par-
12 ticular program or activity, paragraph (1) applies to
13 conduct occurring on or after the day, after the date
14 of enactment of this Act, on which a State first re-
15 ceives or uses Federal financial assistance for that
16 program or activity.

17 (4) DEFINITION OF PROGRAM OR ACTIVITY.—In
18 this subsection, the term “program or activity” has
19 the meaning given the term in section 606 of the
20 Civil Rights Act of 1964 (42 U.S.C. 2000d–4a).

21 **SEC. 307. EDUCATION AND OUTREACH.**

22 The Secretary may conduct a public awareness cam-
23 paign to educate and inform the public of the require-
24 ments for paid sick time and paid emergency leave re-
25 quired by this title.

1 **SEC. 308. EFFECT ON OTHER LAWS.**

2 (a) FEDERAL AND STATE ANTIDISCRIMINATION
3 LAWS.—Nothing in this title shall be construed to modify
4 or affect any Federal or State law prohibiting discrimina-
5 tion on the basis of race, religion, color, national origin,
6 sex, age, disability, sexual orientation, gender identity,
7 marital status, familial status, or any other protected sta-
8 tus.

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

16 **SEC. 309. EFFECT ON EXISTING EMPLOYMENT BENEFITS.**

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

23 (b) LESS PROTECTIVE.—The rights established for
24 covered individuals under this title shall not be diminished
25 by any contract, collective bargaining agreement, or any
26 employment benefit program or plan.

1 **SEC. 310. ENCOURAGEMENT OF MORE GENEROUS LEAVE**
2 **POLICIES.**

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

7 **SEC. 311. REGULATIONS.**

8 (a) IN GENERAL.—

9 (1) AUTHORITY.—Except as provided in para-
10 graph (2) and subject to subsection (e), not later
11 than 180 days after the date of enactment of this
12 Act, the Secretary shall prescribe such regulations
13 as are necessary to carry out this title with respect
14 to employees described in subparagraph (A) or (B)
15 of section 301(5), corresponding covered individuals,
16 and other individuals affected by employers de-
17 scribed in subclause (I) or (II) of section
18 301(6)(A)(i).

19 (2) GOVERNMENT ACCOUNTABILITY OFFICE.—
20 Subject to subsection (e), the Comptroller General of
21 the United States shall prescribe the regulations
22 with respect to employees of the Government Ac-
23 countability Office, corresponding covered individ-
24 uals, and other individuals affected by the Comp-
25 troller General of the United States.

1 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-
2 COUNTABILITY ACT OF 1995.—

3 (1) AUTHORITY.—Subject to subsection (e), not
4 later than 90 days after the Secretary prescribes
5 regulations under subsection (a), the Board of Di-
6 rectors of the Office of Congressional Workplace
7 Rights shall prescribe (in accordance with section
8 304 of the Congressional Accountability Act of 1995
9 (2 U.S.C. 1384)) and the corresponding Federal
10 agency described in section 401(d) of such Act (2
11 U.S.C. 1401(d)) shall prescribe such regulations as
12 are necessary to carry out this title with respect to
13 employees described in section 301(5)(C), cor-
14 responding covered individuals, and other individuals
15 affected by employers described in section
16 301(6)(A)(i)(III).

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

1 mentation of the rights and protections involved
2 under this section.

3 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE
4 3, UNITED STATES CODE.—

5 (1) AUTHORITY.—Subject to subsection (e), not
6 later than 90 days after the Secretary prescribes
7 regulations under subsection (a), the President (or
8 the designee of the President) shall prescribe such
9 regulations as are necessary to carry out this title
10 with respect to employees described in section
11 301(5)(D), corresponding covered individuals, and
12 other individuals affected by employers described in
13 section 301(6)(A)(i)(IV).

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 title except insofar as the
18 President (or designee) may determine, for good
19 cause shown and stated together with the regula-
20 tions prescribed under paragraph (1), that a modi-
21 fication of such regulations would be more effective
22 for the implementation of the rights and protections
23 involved under this section.

24 (d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE
25 5, UNITED STATES CODE.—

1 (1) AUTHORITY.—Subject to subsection (e), not
2 later than 90 days after the Secretary prescribes
3 regulations under subsection (a), the Director of the
4 Office of Personnel Management shall prescribe such
5 regulations as are necessary to carry out this title
6 with respect to employees described in section
7 301(5)(E), corresponding covered individuals, and
8 other individuals affected by employers described in
9 section 301(6)(A)(i)(V).

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

20 (e) IMMEDIATE COMPLIANCE BY EMPLOYERS.—The
21 rights and responsibilities specified in this title shall apply
22 to employers on the first Sunday following enactment of
23 this Act and employers shall comply on such date, without
24 regard to whether regulations have been prescribed under
25 this section.

1 **SEC. 312. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated to carry out
3 title II and this title such sums as may be necessary for
4 fiscal year 2020 and each subsequent fiscal year.

5 **SEC. 313. EFFECTIVE DATES.**

6 (a) IN GENERAL.—Titles I through III take effect
7 on the date of enactment of this Act.

8 (b) PREVIOUS DECLARATIONS.—If a public health
9 emergency was declared before and remains in effect on
10 the date of enactment of this Act, for purposes of titles
11 I through III (and in particular section 302(c) of this Act)
12 the public health emergency shall be considered to have
13 been declared on the date of enactment of this Act, includ-
14 ing an emergency described in section 301(12)(B).

15 **TITLE IV—FAMILY AND MEDICAL**
16 **LEAVE INSURANCE BENEFITS**

17 **SEC. 401. SUNSET.**

18 On December 31, 2021, subsection (d) of section 302
19 is repealed.

20 **SEC. 402. DEFINITIONS.**

21 In this title, the following definitions apply:

22 (1) CAREGIVING DAY.—The term “caregiving
23 day” means, with respect to an individual, a cal-
24 endar day in which the individual engaged in quali-
25 fied caregiving.

1 (2) COMMISSIONER.—The term “Commis-
2 sioner” means the Commissioner of Social Security.

3 (3) DEPUTY COMMISSIONER.—The term “Dep-
4 uty Commissioner” means the Deputy Commissioner
5 who heads the Office of Paid Family and Medical
6 Leave established under section 403(a).

7 (4) ELIGIBLE INDIVIDUAL.—The term “eligible
8 individual” means an individual who is entitled to a
9 benefit under section 404 for a particular month,
10 upon filing an application for such benefit for such
11 month.

12 (5) INITIAL WAITING PERIOD.—The term “ini-
13 tial waiting period” means a period beginning with
14 the first caregiving day of an individual occurring
15 during the individual’s benefit period and ending
16 after the earlier of—

17 (A) the fifth caregiving day of the indi-
18 vidual occurring during the benefit period; or

19 (B) the month preceding the first month in
20 the benefit period during which occur not less
21 than 15 caregiving days of the individual.

22 (6) QUALIFIED CAREGIVING.—The term “quali-
23 fied caregiving” means any activity engaged in by an
24 individual, other than regular employment, for a rea-
25 son for which an eligible employee would be entitled

1 to leave under subparagraphs (A) through (E) of
2 paragraph (1) of section 102(a) of the Family and
3 Medical Leave Act of 1993 (29 U.S.C. 2612(a)).

4 (7) SELF-EMPLOYMENT INCOME.—The term
5 “self-employment income” has the same meaning as
6 such term in section 211(b) of such Act (42 U.S.C.
7 411(b)).

8 (8) STATE.—The term “State” means any
9 State of the United States or the District of Colum-
10 bia or any territory or possession of the United
11 States.

12 (9) WAGES.—The term “wages”, except as such
13 term is used in subsection (h)(2) of section 404, has
14 the same meaning as such term in section 209 of the
15 Social Security Act (42 U.S.C. 409).

16 (10) 60-DAY LIMITATION PERIOD.—The term
17 “60-day limitation period” means a period—

18 (A) beginning with the first caregiving day
19 of an individual occurring during the individ-
20 ual’s benefit period and after the expiration of
21 the individual’s 5-day waiting period, if applica-
22 ble; and

23 (B) ending with the 60th caregiving day of
24 the individual occurring during the benefit pe-

1 riod and after the expiration of the 5-day wait-
2 ing period,
3 disregarding any caregiving day of the individual oc-
4 curring during any month in the benefit period after
5 the first 20 caregiving days of the individual occur-
6 ring during such month.

7 **SEC. 403. OFFICE OF PAID FAMILY AND MEDICAL LEAVE.**

8 (a) ESTABLISHMENT OF OFFICE.—There is estab-
9 lished within the Social Security Administration an office
10 to be known as the Office of Paid Family and Medical
11 Leave. The Office shall be headed by a Deputy Commis-
12 sioner who shall be appointed by the Commissioner.

13 (b) RESPONSIBILITIES OF DEPUTY COMMIS-
14 SIONER.—The Commissioner, acting through the Deputy
15 Commissioner, shall be responsible for—

16 (1) hiring personnel and making employment
17 decisions with regard to such personnel;

18 (2) issuing such regulations as may be nec-
19 essary to carry out the purposes of this title;

20 (3) entering into cooperative agreements with
21 other agencies and departments to ensure the effi-
22 ciency of the administration of the program;

23 (4) determining eligibility for family and med-
24 ical leave insurance benefits under section 404;

1 (5) determining benefit amounts for each
2 month of such eligibility and making timely pay-
3 ments of such benefits to entitled individuals in ac-
4 cordance with such section;

5 (6) establishing and maintaining a system of
6 records relating to the administration of such sec-
7 tion;

8 (7) preventing fraud and abuse relating to such
9 benefits;

10 (8) providing information on request regarding
11 eligibility requirements, the claims process, benefit
12 amounts, maximum benefits payable, notice require-
13 ments, nondiscrimination rights, confidentiality, co-
14 ordination of leave under this title and other laws,
15 collective bargaining agreements, and employer poli-
16 cies;

17 (9) annually providing employers a notice in-
18 forming employees of the availability of such bene-
19 fits;

20 (10) annually making available to the public a
21 report that includes the number of individuals who
22 received such benefits, the purposes for which such
23 benefits were received, and an analysis of utilization
24 rates of such benefits by gender, race, ethnicity, and
25 income levels; and

1 (11) tailoring culturally and linguistically com-
2 petent education and outreach toward increasing uti-
3 lization rates of benefits under such section.

4 (c) AVAILABILITY OF DATA.—The Commissioner
5 shall make available to the Deputy Commissioner such
6 data as the Commissioner determines necessary to enable
7 the Deputy Commissioner to effectively carry out the re-
8 sponsibilities described in subsection (b).

9 **SEC. 404. FAMILY AND MEDICAL LEAVE INSURANCE BEN-**
10 **EFIT PAYMENTS.**

11 (a) IN GENERAL.—Every individual who—

12 (1) is insured for disability insurance benefits
13 (as determined under section 223(c) of the Social
14 Security Act (42 U.S.C. 423(c))) at the time such
15 individual's application is filed;

16 (2) has earned income from employment during
17 the 12 months prior to the month in which the ap-
18 plication is filed;

19 (3) has filed an application for a family and
20 medical leave insurance benefit in accordance with
21 subsection (d); and

22 (4) was engaged in qualified caregiving, or an-
23 ticipates being so engaged, during the period that
24 begins 90 days before the date on which such appli-
25 cation is filed or within 30 days after such date,

1 shall be entitled to such a benefit for each month in the
2 benefit period specified in subsection (c), not to exceed 60
3 caregiving days per benefit period.

4 (b) BENEFIT AMOUNT.—

5 (1) IN GENERAL.—Except as otherwise pro-
6 vided in this subsection, the benefit amount to which
7 an individual is entitled under this section for a
8 month shall be an amount equal to the greater of—

9 (A) the lesser of $\frac{1}{18}$ of the wages and self-
10 employment income of the individual for the
11 calendar year in which such wages and self-em-
12 ployment income are the highest among the
13 most recent three calendar years, or the max-
14 imum benefit amount determined under para-
15 graph (2); or

16 (B) the minimum benefit amount deter-
17 mined under paragraph (2),
18 multiplied by the quotient (not greater than 1) ob-
19 tained by dividing the number of caregiving days of
20 the individual in such month by 20.

21 (2) ANNUAL INCREASE OF MAXIMUM AND MIN-
22 IMUM BENEFIT AMOUNTS.—

23 (A) For individuals who initially become el-
24 igible for family and medical leave insurance
25 benefits in calendar year 2022, the maximum

1 monthly benefit amount and the minimum
2 monthly benefit amount shall be \$4,000 and
3 \$580, respectively.

4 (B) For individuals who initially become el-
5 igible for family and medical leave insurance
6 benefits in any calendar year after calendar
7 year 2022 the maximum benefit amount and
8 the minimum benefit amount shall be, respec-
9 tively, the product of the corresponding amount
10 determined with respect to calendar year 2022
11 and the quotient obtained by dividing—

12 (i) the national average wage index
13 (as defined in section 209(k)(1) of the So-
14 cial Security Act (42 U.S.C. 409(k)(1)))
15 for the second calendar year preceding the
16 calendar year for which the determination
17 is made, by

18 (ii) the national average wage index
19 (as so defined) for 2020.

20 (3) LIMITATIONS ON BENEFITS PAID.—

21 (A) NONPAYABLE WAITING PERIOD.—Any
22 calendar day during an individual's benefit pe-
23 riod which occurs before the expiration of an
24 initial waiting period shall not be taken into ac-

1 count under this subsection as a caregiving day
2 of the individual.

3 (B) LIMITATION ON TOTAL BENEFITS
4 PAID.—Any calendar day during an individual's
5 benefit period which occurs after the expiration
6 of a 60-day limitation period shall not be taken
7 into account under this subsection as a
8 caregiving day of the individual.

9 (4) REDUCTION IN BENEFIT AMOUNT ON AC-
10 COUNT OF RECEIPT OF CERTAIN BENEFITS.—A ben-
11 efit under this section for a month shall be reduced
12 by the amount, if any, in certain benefits (as deter-
13 mined under regulations issued by the Commis-
14 sioner) as may be otherwise received by an indi-
15 vidual. For purposes of the preceding sentence, cer-
16 tain benefits include—

17 (A) periodic benefits on account of such in-
18 dividual's total or partial disability under a
19 workmen's compensation law or plan of the
20 United States or a State; and

21 (B) periodic benefits on account of an indi-
22 vidual's employment status under an unemploy-
23 ment law or plan of the United States or a
24 State.

1 (5) COORDINATION OF BENEFIT AMOUNT WITH
2 CERTAIN STATE BENEFITS.—A benefit received
3 under this section shall be coordinated, in a manner
4 determined by regulations issued by the Commis-
5 sioner, with the periodic benefits received from tem-
6 porary disability insurance or family leave insurance
7 programs under any law or plan of a State, a polit-
8 ical subdivision (as that term is used in section
9 218(b)(2) of the Social Security Act (42 U.S.C.
10 418(b)(2))), or an instrumentality of two or more
11 States (as that term is used in section 218(g) of
12 such Act (42 U.S.C. 418(g))).

13 (c) BENEFIT PERIOD.—

14 (1) IN GENERAL.—Except as provided in para-
15 graph (2), the benefit period specified in this sub-
16 section shall begin on the 1st day of the 1st month
17 in which the individual meets the criteria specified in
18 paragraphs (1), (2), and (3) of subsection (a), and
19 shall end on the date that is 365 days after the 1st
20 day of the benefit period.

21 (2) RETROACTIVE BENEFITS.—In the case of
22 an application for benefits under this section for
23 qualified caregiving in which the individual was en-
24 gaged at any time during the 90-day period pre-
25 ceding the date on which such application is sub-

1 mitted, the benefit period specified in this subsection
2 shall begin on the later of—

3 (A) the 1st day of the 1st month in which
4 the individual engaged in such qualified
5 caregiving; or

6 (B) the 1st day of the 1st month that be-
7 gins during such 90-day period,
8 and shall end on the date that is 365 days after the
9 1st day of the benefit period.

10 (d) APPLICATION.—An application for a family and
11 medical leave insurance benefit shall include—

12 (1) a statement that the individual was engaged
13 in qualified caregiving, or anticipates being so en-
14 gaged, during the period that begins 90 days before
15 the date on which the application is submitted or
16 within 30 days after such date;

17 (2) if the qualified caregiving described in the
18 statement in paragraph (1) is engaged in by the in-
19 dividual because of a serious health condition of the
20 individual or a relative of the individual, a certifi-
21 cation, issued by the health care provider treating
22 such serious health condition, that affirms the infor-
23 mation specified in paragraph (1) and contains such
24 information as the Commissioner shall specify in
25 regulations, which shall be no more than the infor-

1 mation that is required to be stated under section
2 103(b) of the Family and Medical Leave Act of
3 1993 (29 U.S.C. 2613(b));

4 (3) if such qualified caregiving is engaged in by
5 the individual for any other authorized reason, a cer-
6 tification, issued by a relevant authority determined
7 under regulations issued by the Commissioner, that
8 affirms the circumstances giving rise to such reason;
9 and

10 (4) an attestation from the applicant that his or
11 her employer has been provided with written notice
12 of the individual's intention to take family or med-
13 ical leave, if the individual has an employer, or to
14 the Commissioner in all other cases.

15 (e) INELIGIBILITY; DISQUALIFICATION.—

16 (1) INELIGIBILITY FOR BENEFIT.—An indi-
17 vidual shall be ineligible for a benefit under this sec-
18 tion for any month for which the individual is enti-
19 tled to—

20 (A) disability insurance benefits under sec-
21 tion 223 of the Social Security Act (42 U.S.C.
22 423) or a similar permanent disability program
23 under any law or plan of a State or political
24 subdivision or instrumentality of a State (as

1 such terms are used in section 218 of the Social
2 Security Act (42 U.S.C. 418));

3 (B) monthly insurance benefits under sec-
4 tion 202 of such Act (42 U.S.C. 402) based on
5 such individual's disability (as defined in sec-
6 tion 223(d) of such Act (42 U.S.C. 423(d))); or

7 (C) benefits under title XVI of such Act
8 (42 U.S.C. 1381 et seq.) based on such individ-
9 ual's status as a disabled individual (as deter-
10 mined under section 1614 of such Act (42
11 U.S.C. 1382c)).

12 (2) DISQUALIFICATION.—An individual who has
13 been convicted of a violation under section 208 of
14 the Social Security Act (42 U.S.C. 408) or who has
15 been found to have used false statements to secure
16 benefits under this section, shall be ineligible for
17 benefits under this section for a 1-year period fol-
18 lowing the date of such conviction.

19 (f) REVIEW OF ELIGIBILITY AND BENEFIT PAYMENT
20 DETERMINATIONS.—

21 (1) ELIGIBILITY DETERMINATIONS.—

22 (A) IN GENERAL.—The Commissioner
23 shall provide notice to an individual applying
24 for benefits under this section of the initial de-
25 termination of eligibility for such benefits, and

1 the estimated benefit amount for a month in
2 which one caregiving day of the individual oc-
3 curs, as soon as practicable after the applica-
4 tion is received.

5 (B) REVIEW.—An individual may request
6 review of an initial adverse determination with
7 respect to such application at any time before
8 the end of the 20-day period that begins on the
9 date notice of such determination is received,
10 except that such 20-day period may be extended
11 for good cause. As soon as practicable after the
12 individual requests review of the determination,
13 the Commissioner shall provide notice to the in-
14 dividual of a final determination of eligibility
15 for benefits under this section.

16 (2) BENEFIT PAYMENT DETERMINATIONS.—

17 (A) IN GENERAL.—The Commissioner
18 shall make any monthly benefit payment to an
19 individual claiming benefits for a month under
20 this section, or provide notice of the reason
21 such payment will not be made if the Commis-
22 sioner determines that the individual is not en-
23 titled to payment for such month, not later
24 than 20 days after the individual's monthly
25 benefit claim report for such month is received.

1 Such monthly report shall be filed with the
2 Commissioner not later than 15 days after the
3 end of each month.

4 (B) REVIEW.—If the Commissioner deter-
5 mines that payment will not be made to an in-
6 dividual for a month, or if the Commissioner
7 determines that payment shall be made based
8 on a number of caregiving days in the month
9 inconsistent with the number of caregiving days
10 in the monthly benefit claim report of the indi-
11 vidual for such month, the individual may re-
12 quest review of such determination at any time
13 before the end of the 20-day period that begins
14 on the date notice of such determination is re-
15 ceived, except that such 20-day period may be
16 extended for good cause. Not later than 20 days
17 after the individual requests review of the deter-
18 mination, the Commissioner shall provide notice
19 to the individual of a final determination of
20 payment for such month, and shall make pay-
21 ment to the individual of any additional amount
22 not included in the initial payment to the indi-
23 vidual for such month to which the Commis-
24 sioner determines the individual is entitled.

1 (3) BURDEN OF PROOF.—An application for
2 benefits under this section and a monthly benefit
3 claim report of an individual shall each be presumed
4 to be true and accurate, unless the Commissioner
5 demonstrates by a preponderance of the evidence
6 that information contained in the application is
7 false.

8 (4) DEFINITION OF MONTHLY BENEFIT CLAIM
9 REPORT.—For purposes of this subsection, the term
10 “monthly benefit claim report” means, with respect
11 to an individual for a month, the individual’s report
12 to the Commissioner of the number of caregiving
13 days of the individual in such month, which shall be
14 filed no later than 15 days after the end of each
15 month.

16 (5) REVIEW.—All final determinations of the
17 Commissioner under this subsection shall be review-
18 able according to the procedures set out in section
19 205 of the Social Security Act (42 U.S.C. 405).

20 (g) RELATIONSHIP WITH STATE LAW; EMPLOYER
21 BENEFITS.—

22 (1) IN GENERAL.—This section does not pre-
23 empt or supercede any provision of State or local
24 law that authorizes a State or local municipality to

1 provide paid family and medical leave benefits simi-
2 lar to the benefits provided under this section.

3 (2) GREATER BENEFITS ALLOWED.—Nothing
4 in this title shall be construed to diminish the obli-
5 gation of an employer to comply with any contract,
6 collective bargaining agreement, or any employment
7 benefit program or plan that provides greater paid
8 leave or other leave rights to employees than the
9 rights established under this title.

10 (h) PROHIBITED ACTS; ENFORCEMENT.—

11 (1) IN GENERAL.—It shall be unlawful for any
12 person to discharge or in any other manner discrimi-
13 nate against an individual because the individual has
14 applied for, indicated an intent to apply for, or re-
15 ceived family and medical leave insurance benefits.

16 (2) CIVIL ACTION BY AN INDIVIDUAL.—

17 (A) LIABILITY.—Any person who violates
18 paragraph (1) shall be liable to any individual
19 employed by such person who is affected by the
20 violation—

21 (i) for damages equal to the sum of—

22 (I) the amount of—

23 (aa) any wages, salary, em-
24 ployment benefits, or other com-
25 pensation denied or lost to such

1 individual by reason of the viola-
2 tion; or

3 (bb) in a case in which
4 wages, salary, employment bene-
5 fits, or other compensation have
6 not been denied or lost to the in-
7 dividual, any actual monetary
8 losses sustained by the individual
9 as a direct result of the violation,
10 such as the cost of providing
11 care, up to a sum equal to 60
12 calendar days of wages or salary
13 for the individual;

14 (II) the interest on the amount
15 described in subclause (I) calculated
16 at the prevailing rate; and

17 (III) an additional amount as liq-
18 uidated damages equal to the sum of
19 the amount described in subclause (I)
20 and the interest described in sub-
21 clause (II), except that if a person
22 who has violated paragraph (1) proves
23 to the satisfaction of the court that
24 the act or omission which violated
25 paragraph (1) was in good faith and

1 that the person had reasonable
2 grounds for believing that the act or
3 omission was not a violation of para-
4 graph (1), such court may, in the dis-
5 cretion of the court, reduce the
6 amount of the liability to the amount
7 and interest determined under sub-
8 clauses (I) and (II), respectively; and
9 (ii) for such equitable relief as may be
10 appropriate, including employment, rein-
11 statement, and promotion.

12 (B) RIGHT OF ACTION.—An action to re-
13 cover the damages or equitable relief prescribed
14 in subparagraph (A) may be maintained against
15 any person in any Federal or State court of
16 competent jurisdiction by any individual for and
17 on behalf of—

- 18 (i) the individual; or
19 (ii) the individual and other individ-
20 uals similarly situated.

21 (C) FEES AND COSTS.—The court in such
22 an action shall, in addition to any judgment
23 awarded to the plaintiff, allow a reasonable at-
24 torney's fee, reasonable expert witness fees, and

1 other costs of the action to be paid by the de-
 2 fendant.

3 (D) LIMITATIONS.—The right provided by
 4 subparagraph (B) to bring an action by or on
 5 behalf of any individual shall terminate—

6 (i) on the filing of a complaint by the
 7 Commissioner in an action under para-
 8 graph (5) in which restraint is sought of
 9 any further delay in the payment of the
 10 amount described in subparagraph (A)(I)
 11 to such individual by the person respon-
 12 sible under subparagraph (A) for the pay-
 13 ment; or

14 (ii) on the filing of a complaint by the
 15 Commissioner in an action under para-
 16 graph (3) in which a recovery is sought of
 17 the damages described in subparagraph
 18 (A)(I) owing to an individual by a person
 19 liable under subparagraph (A),

20 unless the action described in clause (i) or (ii)
 21 is dismissed without prejudice on motion of the
 22 Commissioner.

23 (3) ACTION BY THE COMMISSIONER.—

24 (A) CIVIL ACTION.—The Commissioner
 25 may bring an action in any court of competent

jurisdiction to recover the damages described in paragraph (2)(A)(I).

(B) SUMS RECOVERED.—Any sums recovered by the Commissioner pursuant to subparagraph (A) shall be held in a special deposit account and shall be paid, on order of the Commissioner, directly to each individual affected. Any such sums not paid to an individual because of inability to do so within a period of 3 years shall be deposited into the Federal Family and Medical Leave Insurance Trust Fund.

(4) LIMITATION.—

(A) IN GENERAL.—An action may be brought under this subsection not later than 3 years after the date of the last event constituting the alleged violation for which the action is brought.

(B) COMMENCEMENT.—An action brought by the Commissioner under this subsection shall be considered to be commenced on the date when the complaint is filed.

(5) ACTION FOR INJUNCTION BY COMMISSIONER.—The district courts of the United States shall have jurisdiction, for cause shown, in an action brought by the Commissioner—

1 (A) to restrain violations of paragraph (1),
 2 including the restraint of any withholding of
 3 payment of wages, salary, employment benefits,
 4 or other compensation, plus interest, found by
 5 the court to be due to an individual; or

6 (B) to award such other equitable relief as
 7 may be appropriate, including employment, re-
 8 instatement, and promotion.

9 (i) SPECIAL RULE FOR RAILROAD EMPLOYEES.—For
 10 purposes of subsection (a)(1), an individual shall be
 11 deemed to be insured for disability insurance benefits if
 12 the individual would be so insured if the individual's serv-
 13 ice as an employee (as defined in the section 1(b) of the
 14 Railroad Retirement Act of 1974) after December 31,
 15 1936, were included within the meaning of the term “em-
 16 ployment” for purposes of title II of the Social Security
 17 Act (42 U.S.C. 401 et seq.).

18 (j) DETERMINATION OF WHETHER AN ACTIVITY
 19 CONSTITUTES QUALIFIED CAREGIVING.—

20 (1) IN GENERAL.—For purposes of determining
 21 whether an activity engaged in by an individual con-
 22 stitutes qualified caregiving under this section—

23 (A) the term “spouse” (as used in section
 24 102(a) of the Family and Medical Leave Act

1 (29 U.S.C. 2612(a))) includes the individual's
2 domestic partner; and

3 (B) the term “son or daughter” (as used
4 in such section) includes a son or daughter (as
5 defined in section 101 of such Act) of the indi-
6 vidual's domestic partner.

7 (2) DOMESTIC PARTNER.—

8 (A) IN GENERAL.—For purposes of para-
9 graph (1), the term “domestic partner”, with
10 respect to an individual, means another indi-
11 vidual with whom the individual is in a com-
12 mitted relationship.

13 (B) COMMITTED RELATIONSHIP DE-
14 FINED.—The term “committed relationship”
15 means a relationship between two individuals
16 (each at least 18 years of age) in which each
17 individual is the other individual's sole domestic
18 partner and both individuals share responsi-
19 bility for a significant measure of each other's
20 common welfare. The term includes any such
21 relationship between two individuals, including
22 individuals of the same sex, that is granted
23 legal recognition by a State or political subdivi-
24 sion of a State as a marriage or analogous rela-

1 tionship, including a civil union or domestic
2 partnership.

3 (k) **APPLICABILITY OF CERTAIN SOCIAL SECURITY**
4 **ACT PROVISIONS.**—The provisions of sections 204, 205,
5 206, and 208 of the Social Security Act shall apply to
6 benefit payments authorized by and paid out pursuant to
7 this section in the same way that such provisions apply
8 to benefit payments authorized by and paid out pursuant
9 to title II of such Act.

10 (l) **EFFECTIVE DATE FOR APPLICATIONS.**—Applica-
11 tions described in this section may be filed after January
12 1, 2022.

13 **SEC. 405. ESTABLISHMENT OF FAMILY AND MEDICAL**
14 **LEAVE INSURANCE TRUST FUND.**

15 (a) **IN GENERAL.**—There is hereby created on the
16 books of the Treasury of the United States a trust fund
17 to be known as the “Federal Family and Medical Leave
18 Insurance Trust Fund”. The Federal Family and Medical
19 Leave Insurance Trust Fund shall consist of such gifts
20 and bequests as may be made as provided in section
21 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1))
22 and such amounts as may be appropriated to, or deposited
23 in, the Federal Family and Medical Leave Insurance
24 Trust Fund as provided in this section.

25 (b) **AUTHORIZATION OF APPROPRIATIONS.**—

1 (1) IN GENERAL.—There is authorized to be
2 appropriated to the Federal Family and Medical
3 Leave Insurance Trust Fund out of moneys in the
4 Treasury not otherwise appropriated—

5 (A) for the first three fiscal years begin-
6 ning after January 1, 2021, such sums as may
7 be necessary for the Commissioner to admin-
8 ister the office established under section 403
9 and pay the benefits under section 404;

10 (B) 100 percent of the taxes imposed by
11 sections 3101(c) and 3111(c) of the Internal
12 Revenue Code of 1986 with respect to wages
13 (as defined in section 3121 of such Code) re-
14 ported to the Secretary of the Treasury pursu-
15 ant to subtitle F of such Code, as determined
16 by the Secretary of the Treasury by applying
17 the applicable rate of tax under such sections to
18 such wages;

19 (C) 100 percent of the taxes imposed by
20 section 1401(c) of such Code with respect to
21 self-employment income (as defined in section
22 1402 of such Code) reported to the Secretary of
23 the Treasury on tax returns under subtitle F of
24 such Code, as determined by the Secretary of
25 the Treasury by applying the applicable rate of

1 tax under such section to such self-employment
2 income; and

3 (D) 100 percent of the taxes imposed by
4 sections 3201(c), 3211(c), and 3221(c) of such
5 Code with respect to compensation (as defined
6 in section 3231 of such Code) reported to the
7 Secretary of the Treasury on tax returns under
8 subtitle F of such Code, as determined by the
9 Secretary of the Treasury by applying the ap-
10 plicable rate of tax under such sections to such
11 compensation.

12 (2) REPAYMENT OF INITIAL APPROPRIATION.—

13 Amounts appropriated pursuant to subparagraph
14 (A) of paragraph (1) shall be repaid to the Treasury
15 of the United States not later than 10 years after
16 the first appropriation is made pursuant to such
17 subparagraph.

18 (3) TRANSFER TO TRUST FUND.—The amounts

19 described in paragraph (2) shall be transferred from
20 time to time from the general fund in the Treasury
21 to the Federal Family and Medical Leave Insurance
22 Trust Fund, such amounts to be determined on the
23 basis of estimates by the Secretary of the Treasury
24 of the taxes, specified in such paragraph, paid to or
25 deposited into the Treasury. Proper adjustments

1 shall be made in amounts subsequently transferred
2 to the extent prior estimates were inconsistent with
3 the taxes specified in such paragraph.

4 (c) MANAGEMENT OF TRUST FUND.—The provisions
5 of subsections (c), (d), (e), (f), (i), and (m) of section 201
6 of the Social Security Act (42 U.S.C. 401) shall apply with
7 respect to the Federal Family and Medical Leave Insur-
8 ance Trust Fund in the same manner as such provisions
9 apply to the Federal Old-Age and Survivors Insurance
10 Trust Fund and the Disability Insurance Trust Fund.

11 (d) BENEFITS PAID FROM TRUST FUND.—Benefit
12 payments required to be made under section 404 shall be
13 made only from the Federal Family and Medical Leave
14 Insurance Trust Fund.

15 (e) ADMINISTRATION.—There are authorized to be
16 made available for expenditure, out of the Federal Family
17 and Medical Leave Insurance Trust Fund, such sums as
18 may be necessary to pay the costs of the administration
19 of section 404, including start-up costs, technical assist-
20 ance, outreach, education, evaluation, and reporting.

21 (f) PROHIBITION.—No funds from the Social Secu-
22 rity Trust Fund or appropriated to the Social Security Ad-
23 ministration to administer Social Security programs may
24 be used for Federal Family and Medical Leave Insurance
25 benefits or administration set forth under this title.

1 **SEC. 406. INTERNAL REVENUE CODE PROVISIONS.**

2 (a) IN GENERAL.—

3 (1) EMPLOYEE CONTRIBUTION.—Section 3101
4 of the Internal Revenue Code of 1986 is amended—

5 (A) by redesignating subsection (c) as sub-
6 section (d); and

7 (B) by inserting after subsection (b) the
8 following:

9 “(c) FAMILY AND MEDICAL LEAVE INSURANCE.—

10 “(1) IN GENERAL.—In addition to other taxes,
11 there is hereby imposed on the income of every indi-
12 vidual a tax equal to the applicable percentage of the
13 wages (as defined in section 3121(a)) received by the
14 individual with respect to employment (as defined in
15 section 3121(b)).

16 “(2) APPLICABLE PERCENTAGE.—For purposes
17 of paragraph (1), the term ‘applicable percentage’
18 means 0.2 percent in the case of wages received in
19 any calendar year.”.

20 (2) EMPLOYER CONTRIBUTION.—Section 3111
21 of such Code is amended—

22 (A) by redesignating subsection (c) as sub-
23 section (d); and

24 (B) by inserting after subsection (b) the
25 following:

26 “(c) FAMILY AND MEDICAL LEAVE INSURANCE.—

1 “(1) IN GENERAL.—In addition to other taxes,
 2 there is hereby imposed on every employer an excise
 3 tax, with respect to having individuals in his employ,
 4 equal to the applicable percentage of the wages (as
 5 defined in section 3121(a)) paid by the employer
 6 with respect to employment (as defined in section
 7 3121(b)).

8 “(2) APPLICABLE PERCENTAGE.—For purposes
 9 of paragraph (1), the term ‘applicable percentage’
 10 means 0.2 percent in the case of wages paid in any
 11 calendar year.”.

12 (3) SELF-EMPLOYMENT INCOME CONTRIBU-
 13 TION.—

14 (A) IN GENERAL.—Section 1401 of such
 15 Code is amended—

16 (i) by redesignating subsection (c) as
 17 subsection (d); and

18 (ii) by inserting after subsection (b)
 19 the following:

20 “(c) FAMILY AND MEDICAL LEAVE INSURANCE.—

21 “(1) IN GENERAL.—In addition to other taxes,
 22 there is hereby imposed for each taxable year, on the
 23 self-employment income of every individual, a tax
 24 equal to the applicable percentage of the amount of
 25 the self-employment income for such taxable year.

1 “(2) APPLICABLE PERCENTAGE.—For purposes
 2 of paragraph (1), the term ‘applicable percentage’
 3 means 0.4 percent in the case of self-employment in-
 4 come in any taxable year.”.

5 (B) EXCLUSION OF CERTAIN NET EARN-
 6 INGS FROM SELF-EMPLOYMENT.—Section
 7 1402(b)(1) of such Code is amended by striking
 8 “tax imposed by section 1401(a)” and inserting
 9 “taxes imposed by subsections (a) and (c) of
 10 section 1401”.

11 (b) RAILROAD RETIREMENT TAX ACT.—

12 (1) EMPLOYEE CONTRIBUTION.—Section 3201
 13 of such Code is amended—

14 (A) by redesignating subsection (c) as sub-
 15 section (d); and

16 (B) by inserting after subsection (b) the
 17 following:

18 “(c) FAMILY AND MEDICAL LEAVE INSURANCE.—

19 “(1) IN GENERAL.—In addition to other taxes,
 20 there is hereby imposed on the income of each em-
 21 ployee a tax equal to the applicable percentage of
 22 the compensation received during any calendar year
 23 by such employee for services rendered by such em-
 24 ployee.

1 “(2) APPLICABLE PERCENTAGE.—For purposes
 2 of paragraph (1), the term ‘applicable percentage’
 3 means 0.2 percent in the case of compensation re-
 4 ceived in any calendar year.”.

5 (2) EMPLOYEE REPRESENTATIVE CONTRIBU-
 6 TION.—Section 3211 of such Code is amended—

7 (A) by redesignating subsection (c) as sub-
 8 section (d); and

9 (B) by inserting after subsection (b) the
 10 following:

11 “(c) FAMILY AND MEDICAL LEAVE INSURANCE.—

12 “(1) IN GENERAL.—In addition to other taxes,
 13 there is hereby imposed on the income of each em-
 14 ployee representative a tax equal to the applicable
 15 percentage of the compensation received during any
 16 calendar year by such employee representative for
 17 services rendered by such employee representative.

18 “(2) APPLICABLE PERCENTAGE.—For purposes
 19 of paragraph (1), the term ‘applicable percentage’
 20 means 0.2 percent in the case of compensation re-
 21 ceived in any calendar year.”.

22 (3) EMPLOYER CONTRIBUTION.—Section 3221
 23 of such Code is amended—

24 (A) by redesignating subsection (c) as sub-
 25 section (d); and

1 (B) by inserting after subsection (b) the
 2 following:

3 “(c) FAMILY AND MEDICAL LEAVE INSURANCE.—

4 “(1) IN GENERAL.—In addition to other taxes,
 5 there is hereby imposed on every employer an excise
 6 tax, with respect to having individuals in his employ,
 7 equal to the applicable percentage of the compensa-
 8 tion paid during any calendar year by such employer
 9 for services rendered to such employer.

10 “(2) APPLICABLE PERCENTAGE.—For purposes
 11 of paragraph (1), the term ‘applicable percentage’
 12 means 0.2 percent in the case of compensation paid
 13 in any calendar year.”.

14 (c) CONFORMING AMENDMENTS.—

15 (1) Section 6413(c) of the Internal Revenue
 16 Code of 1986 is amended—

17 (A) in paragraph (1)—

18 (i) by inserting “, section 3101(c),”
 19 after “by section 3101(a)”; and

20 (ii) by striking “both” and inserting
 21 “each”; and

22 (B) in paragraph (2), by inserting “or
 23 3101(c)” after “3101(a)” each place it appears.

24 (2) Section 15(a) of the Railroad Retirement
 25 Act of 1974 (45 U.S.C. 231n(a)) is amended by in-

1 serting “(other than sections 3201(c), 3211(c), and
2 3221(c))” before the period at the end.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on May 1, 2022.

5 **SEC. 407. REGULATIONS.**

6 The Commissioner, in consultation with the Secretary
7 of Labor, shall prescribe regulations necessary to carry out
8 this title. In developing such regulations, the Commis-
9 sioner shall consider the input from a volunteer advisory
10 body comprised of not more than 15 individuals, including
11 experts in the relevant subject matter and officials charged
12 with implementing State paid family and medical leave in-
13 surance programs. The Commissioner shall take such pro-
14 grams into account when proposing regulations. Such indi-
15 viduals shall be appointed as follows:

16 (1) Five individuals to be appointed by the
17 President.

18 (2) Three individuals to be appointed by the
19 majority leader of the Senate.

20 (3) Two individuals to be appointed by the mi-
21 nority leader of the Senate.

22 (4) Three individuals to be appointed by the
23 Speaker of the House of Representatives.

24 (5) Two individuals to be appointed by the mi-
25 nority leader of the House of Representatives.

1 **SEC. 408. GAO STUDY.**

2 Not later than 3 years after the date of enactment
3 of this Act, the Comptroller General shall submit to Con-
4 gress a report on family and medical leave insurance bene-
5 fits paid under section 404 for any month during the 1-
6 year period beginning on January 1, 2022. The report
7 shall include the following:

8 (1) An identification of the total number of ap-
9 plications for such benefits filed for any month dur-
10 ing such 1-year period, and the average number of
11 days occurring in the period beginning on the date
12 on which such an application is received and ending
13 on the date on which the initial determination of eli-
14 gibility with respect to the application is made.

15 (2) An identification of the total number of re-
16 quests for review of an initial adverse determination
17 of eligibility for such benefits made during such 1-
18 year period, and the average number of days occur-
19 ring in the period beginning on the date on which
20 such review is requested and ending on the date on
21 which the final determination of eligibility with re-
22 spect to such review is made.

23 (3) An identification of the total number of
24 monthly benefit claim reports for such benefits filed
25 during such 1-year period, and the average number
26 of days occurring in the period beginning on the

1 date on which such a claim report is received and
2 ending on the date on which the initial determina-
3 tion of eligibility with respect to the claim report is
4 made.

5 (4) An identification of the total number of re-
6 quests for review of an initial adverse determination
7 relating to a monthly benefit claim report for such
8 benefits made during such 1-year period, and the av-
9 erage number of days occurring in the period begin-
10 ning on the date on which such review is requested
11 and ending on the date on which the final deter-
12 mination of eligibility with respect to such review is
13 made.

14 (5) An identification of any excessive delay in
15 any of the periods described in paragraphs (1)
16 through (4), and a description of the causes for such
17 delay.

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