

107TH CONGRESS
2D SESSION

S. 3141

To amend the Family and Medical Leave Act of 1993 to expand the scope of the Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 17, 2002

Mr. DODD (for himself, Mr. KENNEDY, Mrs. MURRAY, Mrs. BOXER, Mr. INOUE, Mr. AKAKA, and Mr. CORZINE) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Family and Medical Leave Act of 1993 to expand the scope of the Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Family and Medical
5 Leave Expansion Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) Since the enactment of the Family and
9 Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.),

1 more than 35,000,000 Americans have taken leave
2 for family or medical reasons.

3 (2) Of those taking leave under the Family and
4 Medical Leave Act of 1993, 52 percent took the
5 leave for their own serious health conditions, and 26
6 percent took the leave to care for a new child or for
7 maternity disability reasons.

8 (3) While the leave provided by the Family and
9 Medical Leave Act of 1993 has proven to be a crit-
10 ical resource for millions of Americans, too many
11 people are left behind because the Act provides only
12 unpaid leave.

13 (4) According to a 2000 Department of Labor
14 survey—

15 (A) 3,500,000 Americans needed family
16 and medical leave but could not afford to take
17 time off without pay;

18 (B) nearly four-fifths (78 percent) of those
19 surveyed who needed the leave but did not take
20 it said they could not afford unpaid leave;

21 (C) nine percent of those taking family and
22 medical leave and receiving less than full pay
23 during their longest period of the leave had to
24 go on public assistance to cover their lost
25 wages; and

1 (D) seventy-three percent of those taking
2 family and medical leave had incomes above
3 \$30,000.

4 (5) In 1970, only 27 percent of mothers with
5 infants under age 1 were in the labor force.

6 (6) In 1999, nearly 60 percent of mothers with
7 infants under age 1 were working.

8 (7) Worldwide, 128 countries of the 172 re-
9 sponding to an International Social Security Asso-
10 ciation survey in 1999 provided at least some paid
11 and job protected maternity leave, and, on average,
12 provided 16 weeks of basic paid maternity leave. In
13 some countries, paid maternity leave is mandatory
14 and in others it is voluntary.

15 (8) A European Union directive mandating 14
16 weeks of paid maternity leave was adopted as a
17 health and safety measure in 1992.

18 (9) Among the 29 Organization for Economic
19 Cooperation and Development (OECD) countries,
20 the most advanced industrialized countries, the aver-
21 age period of childbirth-related leave (including ma-
22 ternity, paternity, and parental leaves) is 44 weeks
23 (10 months) with additional time provided in some
24 countries for leave to care for a sick child. In those

1 countries, the average duration of paid childbirth-re-
 2 lated leave is 36 weeks.

3 (10) In more than half of the OECD countries
 4 (16 countries), the cash benefit provided while on
 5 the paid childbirth-related leave replaces between 70
 6 and 100 percent of prior wages.

7 (11) Among the OECD countries, adoptive
 8 mothers and adoptive parents are increasingly eligi-
 9 ble for the paid childbirth-related leave.

10 **TITLE I—FAMILY INCOME TO RE-**
 11 **SPOND TO SIGNIFICANT**
 12 **TRANSITIONS**

13 **SEC. 101. SHORT TITLE.**

14 This title may be cited as the “Family Income to Re-
 15 spond to Significant Transitions Insurance Act”.

16 **SEC. 102. PURPOSES.**

17 The purposes of this title are—

18 (1) to establish a demonstration program that
 19 supports the efforts of States and political subdivi-
 20 sions to provide partial or full wage replacement,
 21 often referred to as FIRST insurance, to new par-
 22 ents so that the new parents are able to spend time
 23 with a new infant or newly adopted child, and to
 24 other employees; and

1 (2) to learn about the most effective mecha-
2 nisms for providing the wage replacement assistance.

3 **SEC. 103. DEFINITIONS.**

4 In this title:

5 (1) EMPLOYER; SON OR DAUGHTER; STATE.—
6 The terms “employer”, “son or daughter”, and
7 “State” have the meanings given the terms in sec-
8 tion 101 of the Family and Medical Leave Act of
9 1993 (29 U.S.C. 2611).

10 (2) SECRETARY.—The term “Secretary” means
11 the Secretary of Labor, acting after consultation
12 with the Secretary of Health and Human Services.

13 **SEC. 104. DEMONSTRATION PROJECTS.**

14 (a) GRANTS.—

15 (1) IN GENERAL.—The Secretary shall make
16 grants to eligible entities to pay for the Federal
17 share of the cost of carrying out projects that assist
18 families by providing, through various mechanisms,
19 wage replacement for eligible individuals who are re-
20 sponding to—

21 (A) caregiving needs resulting from the
22 birth or adoption of a son or daughter; or

23 (B) other family caregiving needs.

24 (2) PERIODS.—The Secretary shall make the
25 grants for periods of 5 years.

1 (b) ELIGIBLE ENTITIES.—To be eligible to receive a
2 grant under this section, an entity shall be a State or polit-
3 ical subdivision of a State.

4 (c) USE OF FUNDS.—

5 (1) IN GENERAL.—An entity that receives a
6 grant under this section may use the funds made
7 available through the grant to provide partial or full
8 wage replacement as described in subsection (a) to
9 eligible individuals—

10 (A) directly;

11 (B) through an insurance program, such
12 as a State temporary disability insurance pro-
13 gram or the State unemployment compensation
14 benefit program;

15 (C) through a private disability or other
16 insurance plan, or another mechanism provided
17 by a private employer; or

18 (D) through another mechanism.

19 (2) PERIOD.—In carrying out a project under
20 this section, the entity shall provide partial or full
21 wage replacement to eligible individuals for not less
22 than 6 weeks during a period of leave, or an absence
23 from employment, described in subsection (d)(2),
24 during any 12-month period. Wage replacement
25 available to an individual under this paragraph shall

1 be in addition to any compensation from annual or
2 sick leave that the individual may elect to use during
3 a period of leave, or an absence from employment,
4 described in subsection (d)(2), during any 12-month
5 period.

6 (3) ADMINISTRATIVE COSTS.—No entity may
7 use more than 10 percent of the total funds made
8 available through the grant during the 5-year period
9 of the grant to pay for the administrative costs re-
10 lating to a project described in subsection (a).

11 (d) ELIGIBLE INDIVIDUALS.—To be eligible to re-
12 ceive wage replacement under subsection (a), an individual
13 shall—

14 (1) meet such eligibility criteria as the eligible
15 entity providing the wage replacement may specify
16 in an application described in subsection (e); and

17 (2) be—

18 (A) an individual who is taking leave,
19 under the Family and Medical Leave Act of
20 1993 (29 U.S.C. 2601 et seq.), other Federal,
21 State, or local law, or a private plan, for a rea-
22 son described in subparagraph (A) or (B) of
23 section 102(a)(1) of the Family and Medical
24 Leave Act of 1993 (29 U.S.C. 2612(a)(1));

1 (B) at the option of the eligible entity, an
2 individual who—

3 (i) is taking leave, under that Act,
4 other Federal, State, or local law, or a pri-
5 vate plan, for a reason described in sub-
6 paragraph (C), (D), (E), or (F) of section
7 102(a)(1) of the Family and Medical
8 Leave Act of 1993 (29 U.S.C. 2612(a)(1));
9 or

10 (ii) leaves employment, and has an ab-
11 sence from employment, because the indi-
12 vidual has elected to care for a son or
13 daughter under age 1; or

14 (C) at the option of the eligible entity, an
15 individual who has an absence from employ-
16 ment and has other characteristics specified by
17 the eligible entity in an application described in
18 subsection (e).

19 (e) APPLICATION.—To be eligible to receive a grant
20 under this section, an entity shall submit an application
21 to the Secretary, at such time, in such manner, and con-
22 taining such information as the Secretary may require, in-
23 cluding, at a minimum—

24 (1) a plan for the project to be carried out with
25 the grant;

1 (2) information demonstrating that the appli-
2 cant consulted representatives of employers and em-
3 ployees, including labor organizations, in developing
4 the plan;

5 (3) estimates of the costs and benefits of the
6 project;

7 (4)(A) information on the number and type of
8 families to be covered by the project, and the extent
9 of such coverage in the area served under the grant;
10 and

11 (B) information on any criteria or characteris-
12 tics that the entity will use to determine whether an
13 individual is eligible for wage replacement under
14 subsection (a), as described in paragraphs (1) and
15 (2)(C) of subsection (d);

16 (5) if the project will expand on State and pri-
17 vate systems of wage replacement for eligible indi-
18 viduals, information on the manner in which the
19 project will expand on the systems;

20 (6) information demonstrating the manner in
21 which the wage replacement assistance provided
22 through the project will assist families in which an
23 individual takes leave or is absent from employment
24 as described in subsection (d)(2); and

1 (7) an assurance that the applicant will partici-
2 pate in efforts to evaluate the effectiveness of the
3 project.

4 (f) SELECTION CRITERIA.—In selecting entities to re-
5 ceive grants for projects under this section, the Secretary
6 shall—

7 (1) take into consideration—

8 (A) the scope of the proposed projects;

9 (B) the cost-effectiveness, feasibility, and
10 financial soundness of the proposed projects;

11 (C) the extent to which the proposed
12 projects would expand access to wage replace-
13 ment in response to family caregiving needs,
14 particularly for low-wage employees, in the area
15 served by the grant; and

16 (D) the benefits that would be offered to
17 families and children through the proposed
18 projects; and

19 (2) to the extent feasible, select entities pro-
20 posing projects that utilize diverse mechanisms, in-
21 cluding expansion of State unemployment compensa-
22 tion benefit programs, and establishment or expan-
23 sion of State temporary disability insurance pro-
24 grams, to provide the wage replacement.

25 (g) FEDERAL SHARE.—

1 (1) IN GENERAL.—The Federal share of the
2 cost described in subsection (a) shall be—

3 (A) 50 percent for the first year of the
4 grant period;

5 (B) 40 percent for the second year of that
6 period;

7 (C) 30 percent for the third year of that
8 period; and

9 (D) 20 percent for each subsequent year.

10 (2) NON-FEDERAL SHARE.—The non-Federal
11 share of the cost may be in cash or in kind, fairly
12 evaluated, including plant, equipment, and services
13 and may be provided from State, local, or private
14 sources, or Federal sources other than this title.

15 (h) SUPPLEMENT NOT SUPPLANT.—Funds appro-
16 priated pursuant to the authority of this title shall be used
17 to supplement and not supplant other Federal, State, and
18 local public funds and private funds expended to provide
19 wage replacement.

20 (i) EFFECT ON EXISTING RIGHTS.—Nothing in this
21 title shall be construed to supersede, preempt, or otherwise
22 infringe on the provisions of any collective bargaining
23 agreement or any employment benefit program or plan
24 that provides greater rights to employees than the rights
25 established under this title.

1 **SEC. 105. NOTIFICATION.**

2 An eligible entity that provides partial or full wage
3 replacement to an eligible individual under this title shall
4 notify (in a form and manner prescribed by the Sec-
5 retary)—

6 (1) the employer of the individual of the
7 amount of the wage replacement provided; and

8 (2) the individual and the employer of the indi-
9 vidual that the employer shall count an appropriate
10 period of leave, calculated under section 102(g) of
11 the Family and Medical Leave Act of 1993 (29
12 U.S.C. 2612(g)), as added by section 108, against
13 the total amount of leave (if any) to which the em-
14 ployee is entitled under section 102(a)(1) of that Act
15 (29 U.S.C. 2612(a)(1)).

16 **SEC. 106. EVALUATIONS AND REPORTS.**

17 (a) AVAILABLE FUNDS.—The Secretary shall use not
18 more than 2 percent of the funds made available under
19 section 107 to carry out this section.

20 (b) EVALUATIONS.—The Secretary shall, directly or
21 by contract, evaluate the effectiveness of projects carried
22 out with grants made under section 104, including con-
23 ducting—

24 (1) research relating to the projects, including
25 research comparing—

1 (A) the scope of the projects, including the
2 type of insurance or other wage replacement
3 mechanism used, the method of financing used,
4 the eligibility requirements, the level of the
5 wage replacement benefit provided (such as the
6 percentage of salary replaced), and the length
7 of the benefit provided, for the projects;

8 (B) the utilization of the projects, includ-
9 ing the characteristics of individuals who ben-
10 efit from the projects, particularly low-wage
11 workers, and factors that determine the ability
12 of eligible individuals to obtain wage replace-
13 ment through the projects; and

14 (C) the costs of and savings achieved by
15 the projects, including the cost-effectiveness of
16 the projects and their benefits for children and
17 families;

18 (2) analysis of the overall need for wage re-
19 placement; and

20 (3) analysis of the impact of the projects on the
21 overall availability of wage replacement.

22 (c) REPORTS.—

23 (1) INITIAL REPORT.—Not later than 3 years
24 after the beginning of the grant period for the first
25 grant made under section 104, the Secretary shall

1 prepare and submit to Congress a report that con-
2 tains information resulting from the evaluations con-
3 ducted under subsection (b).

4 (2) SUBSEQUENT REPORTS.—Not later than 4
5 years after the beginning of that grant period, and
6 annually thereafter, the Secretary shall prepare and
7 submit to Congress a report that contains—

8 (A) information resulting from the evalua-
9 tions conducted under subsection (b); and

10 (B) usage data for the demonstration
11 projects, for the most recent year for which the
12 data are available.

13 **SEC. 107. AUTHORIZATION OF APPROPRIATIONS.**

14 There are authorized to be appropriated to carry out
15 this title \$400,000,000 for fiscal year 2003 and such sums
16 as may be necessary for each subsequent fiscal year.

17 **SEC. 108. TECHNICAL AND CONFORMING AMENDMENTS.**

18 (a) IN GENERAL.—Section 102 of the Family and
19 Medical Leave Act of 1993 (29 U.S.C. 2612) is amended
20 by adding at the end the following:

21 “(g) RELATIONSHIP TO FIRST INSURANCE.—

22 “(1) FULL WAGE REPLACEMENT.—If an eligible
23 entity provides full wage replacement to an employee
24 for a period under title I of the Family and Medical
25 Leave Expansion Act, the employee’s employer shall

1 count an amount of leave, equal to that period,
2 against the total amount of leave (if any) to which
3 the employee is entitled under subsection (a)(1).

4 “(2) PARTIAL WAGE REPLACEMENT.—If an eli-
5 gible entity provides partial wage replacement to an
6 employee for a period under title I of the Family
7 and Medical Leave Expansion Act, the employee’s
8 employer shall—

9 “(A) total the amount of partial wage re-
10 placement provided for that period;

11 “(B) convert the total into a corresponding
12 amount of full wage replacement provided for a
13 proportionately reduced period; and

14 “(C) count an amount of leave, equal to
15 the period described in subparagraph (B),
16 against the total amount of leave (if any) to
17 which the employee is entitled under subsection
18 (a)(1).”.

19 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
20 Section 102(d)(2) of the Family and Medical Leave Act
21 of 1993 (29 U.S.C. 2612(d)(2)) is amended by striking
22 “for leave” and inserting “for any unpaid leave”.

1 **TITLE II—FAMILY FRIENDLY**
 2 **WORKPLACES**

3 **SEC. 201. SHORT TITLE.**

4 This title may be cited as the “Family and Medical
 5 Leave Fairness Act of 2002”.

6 **SEC. 202. COVERAGE OF EMPLOYEES.**

7 Paragraphs (2)(B)(ii) and (4)(A)(i) of section 101 of
 8 the Family and Medical Leave Act of 1993 (29 U.S.C.
 9 2611(2)(B)(ii) and (4)(A)(i)) are amended by striking
 10 “50” each place it appears and inserting “25”.

11 **TITLE III—EMPLOYMENT PRO-**
 12 **TECTION FOR BATTERED**
 13 **WOMEN**

14 **SEC. 301. ENTITLEMENT TO LEAVE FOR ADDRESSING DO-**
 15 **MESTIC VIOLENCE FOR NON-FEDERAL EM-**
 16 **PLOYEES.**

17 (a) DEFINITIONS.—Section 101 of the Family and
 18 Medical Leave Act of 1993 (29 U.S.C. 2611) is amended
 19 by adding at the end the following:

20 “(14) ADDRESSING DOMESTIC VIOLENCE AND
 21 ITS EFFECTS.—The term ‘addressing domestic vio-

22 lence and its effects’ means—
 23 “(A) being unable to attend or perform
 24 work due to an incident of domestic violence;

1 “(B) seeking medical attention for or re-
2 covering from injuries caused by domestic vio-
3 lence;

4 “(C) seeking legal assistance or remedies,
5 including communicating with the police or an
6 attorney, or participating in any legal pro-
7 ceeding, related to domestic violence;

8 “(D) obtaining services from a domestic vi-
9 olence shelter or program or rape crisis center
10 as a result of domestic violence;

11 “(E) obtaining psychological counseling re-
12 lated to experiences of domestic violence;

13 “(F) participating in safety planning and
14 other actions to increase safety from future do-
15 mestic violence, including temporary or perma-
16 nent relocation; and

17 “(G) participating in any other activity ne-
18 cessitated by domestic violence that must be un-
19 dertaken during the hours of employment in-
20 volved.

21 “(15) DOMESTIC VIOLENCE.—The term ‘domes-
22 tic violence’ means domestic violence, and dating vio-
23 lence, as such terms are defined in section 2105 of
24 the Omnibus Crime Control and Safe Streets Act of
25 1968 (42 U.S.C. 3796hh-4).”.

1 (b) LEAVE REQUIREMENT.—Section 102 of the Fam-
2 ily and Medical Leave Act of 1993 (29 U.S.C. 2612) is
3 amended—

4 (1) in subsection (a)(1), by adding at the end
5 the following:

6 “(E) In order to care for the son, daugh-
7 ter, or parent of the employee, if such son,
8 daughter, or parent is addressing domestic vio-
9 lence and its effects.

10 “(F) Because the employee is addressing
11 domestic violence and its effects, which make
12 the employee unable to perform the functions of
13 the position of such employee.”;

14 (2) in subsection (b), by adding at the end the
15 following:

16 “(3) DOMESTIC VIOLENCE.—Leave under sub-
17 paragraph (E) or (F) of subsection (a)(1) may be
18 taken by an eligible employee intermittently or on a
19 reduced leave schedule. The taking of leave intermit-
20 tently or on a reduced leave schedule pursuant to
21 this paragraph shall not result in a reduction in the
22 total amount of leave to which the employee is enti-
23 tled under subsection (a) beyond the amount of leave
24 actually taken.”; and

1 (3) in subsection (d)(2)(B), by striking “(C) or
2 (D)” and inserting “(C), (D), (E), or (F)”.

3 (c) CERTIFICATION.—Section 103 of the Family and
4 Medical Leave Act of 1993 (29 U.S.C. 2613) is amend-
5 ed—

6 (1) in the title of the section, by inserting be-
7 fore the period the following: “; **CONFIDEN-**
8 **TIALITY**”; and

9 (2) by adding at the end the following:

10 “(f) DOMESTIC VIOLENCE.—In determining if an em-
11 ployee meets the requirements of subparagraph (E) or (F)
12 of section 102(a)(1), the employer of an employee may re-
13 quire the employee to provide—

14 “(1) a written statement describing the domes-
15 tic violence and its effects;

16 “(2) documentation of the domestic violence in-
17 volved, such as a police or court record, or docu-
18 mentation from a shelter worker, an employee of a
19 domestic violence program, an attorney, a member
20 of the clergy, or a medical or other professional,
21 from whom the employee has sought assistance in
22 addressing domestic violence and its effects; or

23 “(3) other corroborating evidence, such as a
24 statement from any other individual with knowledge
25 of the circumstances that provide the basis for the

1 claim of domestic violence, or physical evidence of
 2 domestic violence, such as a photograph, torn or
 3 bloody clothing, or any other damaged property.

4 “(g) CONFIDENTIALITY.—All evidence provided to
 5 the employer under subsection (f) of domestic violence ex-
 6 perience by an employee or the son, daughter, or parent
 7 of an employee, including a statement of an employee, any
 8 other documentation or corroborating evidence, and the
 9 fact that an employee has requested leave for the purpose
 10 of addressing, or caring for a son, daughter, or parent who
 11 is addressing, domestic violence and its effects, shall be
 12 retained in the strictest confidence by the employer, except
 13 to the extent that disclosure is requested, or consented to,
 14 by the employee for the purpose of—

15 “(1) protecting the safety of the employee or a
 16 family member or co-worker of the employee; or

17 “(2) assisting in documenting domestic violence
 18 for a court or agency.”.

19 **SEC. 302. ENTITLEMENT TO LEAVE FOR ADDRESSING DO-**
 20 **MESTIC VIOLENCE FOR FEDERAL EMPLOY-**
 21 **EES.**

22 (a) DEFINITIONS.—Section 6381 of title 5, United
 23 States Code, is amended—

24 (1) at the end of paragraph (5), by striking
 25 “and”;

1 (2) in paragraph (6), by striking the period and
2 inserting a semicolon; and

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

4 “(7) the term ‘addressing domestic violence and
5 its effects’ has the meaning given the term in section
6 101 of the Family and Medical Leave Act of 1993
7 (29 U.S.C. 2611); and

8 “(8) the term ‘domestic violence’ means domes-
9 tic violence, and dating violence, as such terms are
10 defined in section 2105 of the Omnibus Crime Con-
11 trol and Safe Streets Act of 1968 (42 U.S.C.
12 3796hh-4).”.

13 (b) LEAVE REQUIREMENT.—Section 6382 of title 5,
14 United States Code, is amended—

15 (1) in subsection (a)(1), by adding at the end
16 the following:

17 “(E) In order to care for the son, daughter, or
18 parent of the employee, if such son, daughter, or
19 parent is addressing domestic violence and its ef-
20 fects.

21 “(F) Because the employee is addressing do-
22 mestic violence and its effects, which make the em-
23 ployee unable to perform the functions of the posi-
24 tion of such employee.”;

1 (2) in subsection (b), by adding at the end the
2 following:

3 “(3) DOMESTIC VIOLENCE.—Leave under sub-
4 paragraph (E) or (F) of subsection (a)(1) may be
5 taken by an employee intermittently or on a reduced
6 leave schedule. The taking of leave intermittently or
7 on a reduced leave schedule pursuant to this para-
8 graph shall not result in a reduction in the total
9 amount of leave to which the employee is entitled
10 under subsection (a) beyond the amount of leave ac-
11 tually taken.”; and

12 (3) in subsection (d), by striking “(C), or (D)”
13 and inserting “(C), (D), (E), or (F)”.

14 (c) CERTIFICATION.—Section 6383 of title 5, United
15 States Code, is amended—

16 (1) in the title of the section, by adding at the
17 end the following: “; **confidentiality**”; and

18 (2) by adding at the end the following:

19 “(f) In determining if an employee meets the require-
20 ments of subparagraph (E) or (F) of section 6382(a)(1),
21 the employing agency of an employee may require the em-
22 ployee to provide—

23 “(1) a written statement describing the domes-
24 tic violence and its effects;

1 “(2) documentation of the domestic violence in-
2 volved, such as a police or court record, or docu-
3 mentation from a shelter worker, an employee of a
4 domestic violence program, an attorney, a member
5 of the clergy, or a medical or other professional,
6 from whom the employee has sought assistance in
7 addressing domestic violence and its effects; or

8 “(3) other corroborating evidence, such as a
9 statement from any other individual with knowledge
10 of the circumstances that provide the basis for the
11 claim of domestic violence, or physical evidence of
12 domestic violence, such as a photograph, torn or
13 bloody clothing, or other damaged property.

14 “(g) All evidence provided to the employing agency
15 under subsection (f) of domestic violence experienced by
16 an employee or the son, daughter, or parent of an em-
17 ployee, including a statement of an employee, any other
18 documentation or corroborating evidence, and the fact
19 that an employee has requested leave for the purpose of
20 addressing, or caring for a son, daughter, or parent who
21 is addressing, domestic violence and its effects, shall be
22 retained in the strictest confidence by the employing agen-
23 cy, except to the extent that disclosure is requested, or
24 consented to, by the employee for the purpose of—

1 “(1) protecting the safety of the employee or a
2 family member or co-worker of the employee; or

3 “(2) assisting in documenting domestic violence
4 for a court or agency.”.

5 **SEC. 303. EXISTING LEAVE USABLE FOR DOMESTIC VIO-**
6 **LENCE.**

7 (a) DEFINITIONS.—In this section:

8 (1) ADDRESSING DOMESTIC VIOLENCE AND ITS
9 EFFECTS.—The term “addressing domestic violence
10 and its effects” has the meaning given the term in
11 section 101 of the Family and Medical Leave Act of
12 1993 (29 U.S.C. 2611), as amended in section
13 301(a).

14 (2) EMPLOYEE.—The term “employee” means
15 any person employed by an employer. In the case of
16 an individual employed by a public agency, such
17 term means an individual employed as described in
18 section 3(e) of the Fair Labor Standards Act of
19 1938 (29 U.S.C. 203(e)).

20 (3) EMPLOYER.—The term “employer”—

21 (A) means any person engaged in com-
22 merce or in any industry or activity affecting
23 commerce who employs individuals, if such per-
24 son is also subject to the Family and Medical
25 Leave Act of 1993 (29 U.S.C. 2601 et seq.) or

1 to any provision of a State or local law, collec-
2 tive bargaining agreement, or employment bene-
3 fits program or plan, addressing paid or unpaid
4 leave from employment (including family, med-
5 ical, sick, annual, personal, or similar leave);
6 and

7 (B) includes any person acting directly or
8 indirectly in the interest of an employer in rela-
9 tion to any employee, and includes a public
10 agency, who is subject to a law, agreement, pro-
11 gram, or plan described in subparagraph (A),
12 but does not include any labor organization
13 (other than when acting as an employer) or
14 anyone acting in the capacity of officer or agent
15 of such labor organization.

16 (4) EMPLOYMENT BENEFITS.—The term “em-
17 ployment benefits” has the meaning given the term
18 in section 101 of the Family and Medical Leave Act
19 of 1993 (29 U.S.C. 2611).

20 (5) PARENT; SON OR DAUGHTER.—The terms
21 “parent” and “son or daughter” have the meanings
22 given the terms in section 101 of the Family and
23 Medical Leave Act of 1993 (29 U.S.C. 2611).

24 (6) PUBLIC AGENCY.—The term “public agen-
25 cy” has the meaning given the term in section 3 of

1 the Fair Labor Standards Act of 1938 (29 U.S.C.
2 203).

3 (b) USE OF EXISTING LEAVE.—An employee who is
4 entitled to take paid or unpaid leave (including family,
5 medical, sick, annual, personal, or similar leave) from em-
6 ployment, pursuant to State or local law, a collective bar-
7 gaining agreement, or an employment benefits program or
8 plan, shall be permitted to use such leave for the purpose
9 of addressing domestic violence and its effects, or for the
10 purpose of caring for a son or daughter or parent of the
11 employee, if such son or daughter or parent is addressing
12 domestic violence and its effects.

13 (c) CERTIFICATION.—In determining whether an em-
14 ployee qualifies to use leave as described in subsection (b),
15 an employer may require a written statement, documenta-
16 tion of domestic violence, or corroborating evidence con-
17 sistent with section 103(f) of the Family and Medical
18 Leave Act of 1993 (29 U.S.C. 2613(f)), as amended by
19 section 301(c).

20 (d) CONFIDENTIALITY.—All evidence provided to the
21 employer under subsection (c) of domestic violence experi-
22 enced by an employee or the son or daughter or parent
23 of the employee, including a statement of an employee,
24 any other documentation or corroborating evidence, and
25 the fact that an employee has requested leave for the pur-

1 pose of addressing, or caring for a son or daughter or par-
 2 ent who is addressing, domestic violence and its effects,
 3 shall be retained in the strictest confidence by the em-
 4 ployer, except to the extent that disclosure is requested,
 5 or consented to, by the employee for the purpose of—

6 (1) protecting the safety of the employee or a
 7 family member or co-worker of the employee; or

8 (2) assisting in documenting domestic violence
 9 for a court or agency.

10 (e) PROHIBITED ACTS.—

11 (1) INTERFERENCE WITH RIGHTS.—

12 (A) EXERCISE OF RIGHTS.—It shall be un-
 13 lawful for any employer to interfere with, re-
 14 strain, or deny the exercise of or the attempt to
 15 exercise, any right provided under this section.

16 (B) DISCRIMINATION.—It shall be unlaw-
 17 ful for any employer to discharge or in any
 18 other manner discriminate against an individual
 19 for opposing any practice made unlawful by this
 20 section.

21 (2) INTERFERENCE WITH PROCEEDINGS OR IN-
 22 QUIRIES.—It shall be unlawful for any person to dis-
 23 charge or in any other manner discriminate against
 24 any individual because such individual—

1 (A) has filed any charge, or had instituted
2 or caused to be instituted any proceeding,
3 under or related to this section;

4 (B) has given, or is about to give, any in-
5 formation in connection with any inquiry or
6 proceeding relating to any right provided under
7 this section; or

8 (C) has testified, or is about to testify, in
9 any inquiry or proceeding relating to any right
10 provided under this section.

11 (f) ENFORCEMENT.—

12 (1) PUBLIC ENFORCEMENT.—The Secretary of
13 Labor shall have the powers set forth in subsections
14 (b), (c), (d), and (e) of section 107 of the Family
15 and Medical Leave Act of 1993 (29 U.S.C. 2617)
16 for the purpose of public agency enforcement of any
17 alleged violation of subsection (e) against any em-
18 ployer.

19 (2) PRIVATE ENFORCEMENT.—The remedies
20 and procedures set forth in section 107(a) of the
21 Family and Medical Leave Act of 1993 (29 U.S.C.
22 2617(a)) shall be the remedies and procedures pur-
23 suant to which an employee may initiate a legal ac-
24 tion against an employer for alleged violations of
25 subsection (e).

1 (3) REFERENCES.—For purposes of paragraph
2 (1) and (2), references in section 107 of the Family
3 and Medical Leave Act of 1993 (29 U.S.C. 2617) to
4 section 105 of such Act (29 U.S.C. 2615) shall be
5 considered to be references to subsection (e).

6 (4) EMPLOYER LIABILITY UNDER OTHER
7 LAWS.—Nothing in this section shall be construed to
8 limit the liability of an employer to an employee for
9 harm suffered relating to the employee’s experience
10 of domestic violence pursuant to any other Federal
11 or State law, including a law providing for a legal
12 remedy.

13 **TITLE IV—FEDERAL EMPLOYEES**
14 **PAID PARENTAL LEAVE**

15 **SEC. 401. SHORT TITLE.**

16 This title may be cited as the “Federal Employees
17 Paid Parental Leave Act of 2002”.

18 **SEC. 402. DEMONSTRATION PROJECT.**

19 Subchapter V of chapter 63 of title 5, United States
20 Code, is amended—

21 (1) by redesignating section 6387 as section
22 6388; and

23 (2) by inserting after section 6386 the fol-
24 lowing:

1 **“§ 6387. Paid leave demonstration project**

2 “(a) The Office of Personnel Management may,
3 through an agreement or contract with 1 or more employ-
4 ing agencies described in subsection (b), conduct under
5 section 4703 a demonstration project that assists families
6 by providing paid leave for eligible individuals who are re-
7 sponding to—

8 “(1) caregiving needs resulting from the birth
9 or adoption of a son or daughter; or

10 “(2) other family caregiving needs.

11 “(b) In carrying out a project under this section, an
12 employing agency of 1 or more employees shall provide
13 partial or full paid leave to eligible individuals for not less
14 than 6 weeks during a period of leave, or an absence from
15 employment, described in subsection (c)(2), during any
16 12-month period. Paid leave available to an individual
17 under this subsection shall be in addition to any annual
18 or sick leave that the individual may elect to use during
19 a period of leave, or an absence from employment, de-
20 scribed in subsection (c)(2), during any 12-month period.

21 “(c) To be eligible to receive paid leave under sub-
22 section (a), an individual shall—

23 “(1) be an employee who meets such eligibility
24 criteria as the Office of Personnel Management may
25 specify in a plan described in section 4703(b); and

26 “(2) be—

1 “(A) an individual who is taking leave,
2 under this subchapter, or other Federal law, for
3 a reason described in subparagraph (A) or (B)
4 of section 6382(a)(1);

5 “(B) at the option of the Office of Per-
6 sonnel Management, an individual who—

7 “(i) is taking leave, under this sub-
8 chapter, or other Federal law, for a reason
9 described in subparagraph (C), (D), (E),
10 or (F) of section 6382(a)(1); or

11 “(ii) leaves employment, and has an
12 absence from employment, because the in-
13 dividual has elected to care for a son or
14 daughter under age 1; or

15 “(C) at the option of the Office of Per-
16 sonnel Management, an individual who has an
17 absence from employment and has other char-
18 acteristics specified by the Office of Personnel
19 Management in a plan described in section
20 4703(b).

21 “(d) An employing agency that provides partial or
22 full paid leave to an eligible individual under this section
23 shall notify (in a form and manner prescribed by the Of-
24 fice of Personnel Management) the individual that the em-
25 ploying agency shall count an appropriate period of leave,

1 calculated under section 6382(f), against the total amount
2 of leave (if any) to which the employee is entitled under
3 section 6382(a)(1).

4 “(e)(1) A demonstration project conducted under this
5 section shall not be counted toward the 10-project limit
6 established in section 4703(d)(2).

7 “(2) The Office of Personnel Management may pro-
8 vide a waiver for the demonstration project in accordance
9 with section 4703, except that section 4703(c)(1) shall not
10 apply to such a waiver.

11 “(f)(1) There are authorized to be appropriated to
12 carry out this section \$400,000,000 for fiscal year 2003
13 and such sums as may be necessary for each subsequent
14 fiscal year.

15 “(2) Funds appropriated under paragraph (1) may
16 be allocated as described in section 4704.”.

17 **SEC. 403. TECHNICAL AND CONFORMING AMENDMENTS.**

18 (a) IN GENERAL.—Section 6382 of title 5, United
19 States Code, is amended by adding at the end the fol-
20 lowing:

21 “(f)(1) If an employing agency provides an amount
22 of full paid leave to an employee for a period under section
23 6387, the employing agency shall count an amount of
24 leave, equal to that period, against the total amount of

1 leave (if any) to which the employee is entitled under sub-
2 section (a)(1).

3 “(2) If an employing agency provides an amount of
4 partial paid leave to an employee for a period under sec-
5 tion 6387, the employing agency shall—

6 “(A) total the amount of partial paid leave
7 provided for that period;

8 “(B) convert the total into a corresponding
9 amount of full paid leave provided for a propor-
10 tionately reduced period; and

11 “(C) count an amount of leave, equal to
12 the period described in subparagraph (B),
13 against the total amount of leave (if any) to
14 which the employee is entitled under subsection
15 (a)(1).”.

16 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
17 Section 6382 of title 5, United States Code, is amended—

18 (1) in subsection (c), by striking “(d),” and in-
19 serting “(d) or section 6387,”; and

20 (2) in subsection (d), by inserting “any unpaid”
21 after “substitute for”.

22 (c) TABLE OF SECTIONS.—The table of sections for
23 chapter 63 of title 5, United States Code, is amended by
24 striking the item relating to section 6387 and inserting
25 the following:

“6387. Paid leave demonstration project.
“6388. Regulations.”.

1 SEC. 404. EFFECTIVE DATE.

2 The amendments made by this title shall not be effec-
3 tive with respect to any birth or placement occurring be-
4 fore the end of the 6-month period beginning on the date
5 of enactment of this Act.

○