

112TH CONGRESS
1ST SESSION

S. 1358

To amend the Family and Medical Leave Act of 1993 to provide leave because of the death of a son or daughter.

IN THE SENATE OF THE UNITED STATES

JULY 13, 2011

Mr. TESTER 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 provide leave because of the death of a son or daughter.

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 “Parental Bereavement
5 Act of 2011”.

6 **SEC. 2. FAMILY LEAVE BECAUSE OF THE DEATH OF A SON**
7 **OR DAUGHTER.**

8 (a) FAMILY LEAVE.—

9 (1) ENTITLEMENT TO LEAVE.—Section
10 102(a)(1) of the Family and Medical Leave Act of

1 1993 (29 U.S.C. 2612(a)(1)) is amended by adding
2 at the end the following new subparagraph:

3 “(F) Because of the death of a son or
4 daughter.”.

5 (2) REQUIREMENTS RELATING TO LEAVE.—

6 (A) SCHEDULE.—Section 102(b)(1) of
7 such Act (29 U.S.C. 2612(b)(1)) is amended by
8 inserting after the third sentence the following
9 new sentence: “Leave under subsection
10 (a)(1)(F) shall not be taken by an employee
11 intermittently or on a reduced leave schedule
12 unless the employee and the employer of the
13 employee agree otherwise.”.

14 (B) SUBSTITUTION OF PAID LEAVE.—Sec-
15 tion 102(d)(2)(B) of such Act (29 U.S.C.
16 2612(d)(2)(B)) is amended, in the first sen-
17 tence, by striking “(C) or (D)” and inserting
18 “(C), (D), or (F)”.

19 (C) NOTICE.—Section 102(e) of such Act
20 (29 U.S.C. 2612(e)) is amended by adding at
21 the end the following new paragraph:

22 “(4) NOTICE FOR LEAVE DUE TO DEATH OF A
23 SON OR DAUGHTER.—In any case in which the ne-
24 cessity for leave under subsection (a)(1)(F) is fore-

1 seeable, the employee shall provide such notice to the
2 employer as is reasonable and practicable.”.

3 (D) SPOUSES EMPLOYED BY SAME EM-
4 PLOYER.—Section 102(f)(1)(A) of such Act (29
5 U.S.C. 2612(f)(1)(A)) is amended by striking
6 “subparagraph (A) or (B)” and inserting “sub-
7 paragraph (A), (B), or (F)”.

8 (E) CERTIFICATION REQUIREMENTS.—
9 Section 103 of such Act (29 U.S.C. 2613) is
10 amended by adding at the end the following:

11 “(g) CERTIFICATION RELATED TO THE DEATH OF
12 A SON OR DAUGHTER.—An employer may require that a
13 request for leave under section 102(a)(1)(F) be supported
14 by a certification issued at such time and in such manner
15 as the Secretary may by regulation prescribe. If the Sec-
16 retary issues a regulation requiring such certification, the
17 employee shall provide, in a timely manner, a copy of such
18 certification to the employer.”.

19 (F) FAILURE TO RETURN FROM LEAVE.—
20 Section 104(c) of such Act (29 U.S.C. 2614(c))
21 is amended—

22 (i) in paragraph (2)(B)(i), by insert-
23 ing before the semicolon the following: “,
24 or a death that entitles the employee to
25 leave under section 102(a)(1)(F)”;

1 (ii) in paragraph (3)(A)—

2 (I) in the matter preceding clause
3 (i), by inserting “, or the death,” be-
4 fore “described”;

5 (II) in clause (ii), by striking
6 “or” at the end;

7 (III) by redesignating clause (iii)
8 as clause (iv); and

9 (IV) by inserting after clause (ii)
10 the following:

11 “(iii) a certification that meets such
12 requirements as the Secretary may by reg-
13 ulation prescribe, in the case of an em-
14 ployee unable to return to work because of
15 a death specified in section 102(a)(1)(F);
16 or”.

17 (G) EMPLOYEES OF LOCAL EDUCATIONAL
18 AGENCIES.—Section 108 of such Act (29
19 U.S.C. 2618) is amended—

20 (i) in subsection (c)—

21 (I) in paragraph (1)—

22 (aa) in the matter preceding
23 subparagraph (A), by inserting
24 after “medical treatment” the
25 following: “, or under section

1 102(a)(1)(F) that is foresee-
2 able,”; and

3 (bb) in subparagraph (A),
4 by inserting after “to exceed” the
5 following: “(except in the case of
6 leave under section
7 102(a)(1)(F))”; and

8 (II) in paragraph (2), by striking
9 “section 102(e)(2)” and inserting
10 “paragraphs (2) and (4) of section
11 102(e), as applicable”; and

12 (ii) in subsection (d), in paragraph (2)
13 and (3), by striking “or (C)” each place it
14 appears and inserting “(C), or (F)”.

15 (b) FAMILY LEAVE FOR CIVIL SERVICE EMPLOY-
16 EES.—

17 (1) ENTITLEMENT TO LEAVE.—Section
18 6382(a)(1) of title 5, United States Code, is amend-
19 ed by adding at the end the following:

20 “(F) Because of the death of a son or daugh-
21 ter.”.

22 (2) REQUIREMENTS RELATING TO LEAVE.—

23 (A) SCHEDULE.—Section 6382(b)(1) of
24 such title is amended by inserting after the
25 third sentence the following new sentence:

1 “Leave under subsection (a)(1)(F) shall not be
2 taken by an employee intermittently or on a re-
3 duced leave schedule unless the employee and
4 the employing agency of the employee agree
5 otherwise.”.

6 (B) SUBSTITUTION OF PAID LEAVE.—Sec-
7 tion 6382(d) of such title is amended, in the
8 first sentence, by striking “or (E)” and insert-
9 ing “(E), or (F)”.

10 (C) NOTICE.—Section 6382(e) of such title
11 is amended by adding at the end the following
12 new paragraph:

13 “(4) In any case in which the necessity for leave
14 under subsection (a)(1)(F) is foreseeable, the employee
15 shall provide such notice to the employing agency as is
16 reasonable and practicable.”.

17 (D) CERTIFICATION REQUIREMENTS.—
18 Section 6383 of such title is amended by adding
19 at the end the following:

20 “(g) An employing agency may require that a request
21 for leave under section 6382(a)(1)(F) be supported by a
22 certification issued at such time and in such manner as
23 the Office of Personnel Management may by regulation
24 prescribe. If the Office issues a regulation requiring such

1 certification, the employee shall provide, in a timely man-
2 ner, a copy of such certification to the employer.”.

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