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To permit employees to request changes to their work schedules without fear of retaliation and to ensure that employers consider these requests, and to require employers to provide more predictable and stable schedules for employees in certain occupations with evidence of unpredictable and unstable scheduling practices that negatively affect employees, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 19, 2023

Ms. WARREN (for herself, Mr. SANDERS, Mr. VAN HOLLEN, Ms. KLOBUCHAR, Mr. MERKLEY, Mr. WHITEHOUSE, Mr. DURBIN, Mr. FETTERMAN, Mr. BLUMENTHAL, Ms. BALDWIN, Mr. MURPHY, Ms. DUCKWORTH, Mr. CASEY, Mr. CARDIN, Mrs. MURRAY, Mr. BOOKER, Mr. WELCH, Ms. HIRONO, Mr. REED, and Mr. PADILLA) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To permit employees to request changes to their work schedules without fear of retaliation and to ensure that employers consider these requests, and to require employers to provide more predictable and stable schedules for employees in certain occupations with evidence of unpredictable and unstable scheduling practices that negatively affect employees, 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,*

1 **SECTION 1. SHORT TITLE; FINDINGS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Schedules That Work Act”.

4 (b) FINDINGS.—Congress finds the following:

5 (1) The vast majority of the United States
6 workforce today is juggling responsibilities at home
7 and at work. Women are primary breadwinners or
8 co-breadwinners in $\frac{2}{3}$ of families with children in
9 the United States.

10 (2) Despite the dual responsibilities of today’s
11 workforce, many workers have little notice of their
12 work schedules and lack the ability to make changes
13 to the work hours in such schedules, which under-
14 mines their ability to accommodate family respon-
15 sibilities.

16 (3)(A) Mothers working in low-paid jobs are
17 more likely to be the primary or sole breadwinner for
18 their families than mothers working in higher-paid
19 jobs. For example, nearly 7 in 10 mothers in the $\frac{1}{5}$
20 of households in the United States with the lowest
21 incomes bring home all or most of their families’ in-
22 come, compared to less than $\frac{1}{3}$ of their counterparts
23 in the highest-income quintile.

24 (B) At the same time, low-paid workers often
25 have the least control over their work hours and face
26 the most unpredictable schedules. In some indus-

1 tries, “just-in-time” scheduling practices, which base
2 workers’ schedules on perceived consumer demand to
3 minimize labor costs, are particularly common. Em-
4 ployers using these practices often post work sched-
5 ules with little notice, vary work hours widely from
6 week to week, cancel shifts at the last minute, and
7 schedule employees for “on call” shifts (requiring an
8 employee to call in to work to find out whether the
9 employee will have to work later that day) or
10 “clopening” shifts (requiring an employee to work a
11 closing shift at night followed by an opening shift a
12 few hours later). For example, national survey data
13 show that—

14 (i) about $\frac{2}{3}$ of hourly retail and food serv-
15 ice workers receive their work schedules with
16 less than 2 weeks’ advance notice and about $\frac{1}{3}$
17 receive their schedule with less than 1 week’s
18 notice;

19 (ii) more than 1 in 5 hourly retail and food
20 service workers have been scheduled for on-call
21 shifts, and more than 1 in 3 have worked
22 “clopening” shifts; and

23 (iii) 65 percent of hourly retail and food
24 service workers would like a more stable and
25 predictable schedule.

1 (4) Unfair work scheduling practices make it
2 difficult for low-paid workers to—

3 (A) provide necessary care for children and
4 other family members, including securing and
5 maintaining stable child care;

6 (B) access and receive needed care for the
7 workers’ own serious health conditions;

8 (C) pursue workforce training;

9 (D) get or keep a second job, which many
10 workers need to make ends meet;

11 (E) plan for and access transportation to
12 reach worksites; and

13 (F) qualify for and maintain eligibility for
14 needed public benefits and work supports, such
15 as child care subsidies and benefits under the
16 supplemental nutrition assistance program, due
17 to fluctuations in income and work hours.

18 (5) Unstable work schedules pre-date the pan-
19 demic and economic recession caused by COVID–19,
20 but the harm of these workplace practices was exac-
21 erbated as millions of workers risked their own
22 health and safety at jobs with few protections, vola-
23 tile schedules, and inadequate hours, in an effort to
24 support themselves and their families. Employers
25 continued to use “just-in-time” scheduling practices

1 throughout the pandemic, even as workers faced ad-
2 ditional caregiving challenges due to school and child
3 care closures and quarantines.

4 (6) A growing body of research demonstrates
5 that unstable and unpredictable work schedules have
6 significant detrimental impacts on sleep quality,
7 mental health, and happiness, and are associated
8 with unstable child care arrangements and negative
9 health and behavioral outcomes for children. And
10 impacts are likely to be the most severe for workers
11 of color and their families, as workers of color are
12 more likely than their White counterparts—even
13 compared to White coworkers at the same com-
14 pany—to experience unstable work schedules. Unsta-
15 ble and unpredictable work schedules—and the
16 work-family conflict they produce—are also associ-
17 ated with higher rates of turnover, which creates
18 further instability for employers and workers. Some
19 examples of the detrimental impacts of unstable and
20 unpredictable work schedules are as follows:

21 (A) Unstable work schedules lead to more
22 household economic strain and time conflicts
23 and undermine the well-being of parents, all of
24 which can negatively impact children’s health
25 and behavior.

1 (B) Workers with the most severe insta-
 2 bility in their work schedules also face the high-
 3 est risk of negative behavior and health out-
 4 comes for their children.

5 (C) The exposure of a parent to on-call
 6 shifts and last-minute shift changes are associ-
 7 ated with more unstable child care arrange-
 8 ments and with the use of siblings to provide
 9 care.

10 (D) Work schedule instability causes more
 11 work-family conflict, which increases the chance
 12 that a worker will be forced to leave his or her
 13 job, and is associated with downward mobility
 14 of the earnings of the worker.

15 (E)(i) Relative to White workers, workers
 16 of color are more likely to—

17 (I) have cancelled shifts;

18 (II) have on-call shifts;

19 (III) be involuntary part-time work-
 20 ers;

21 (IV) have trouble getting time off;

22 and

23 (V) work “clopening” shifts, as de-
 24 scribed in paragraph (3)(B).

1 (ii) The statistics described in clause (i) re-
 2 main true after controlling for demographics,
 3 human capital, worker power, firm segregation,
 4 and discordance with the race or ethnicity of
 5 the worker and the manager. Race gaps in job
 6 quality are greater for women of color.

7 (F) Workers who receive shorter advance
 8 notice, who work on-call shifts, who experience
 9 last-minute shift cancellation and timing
 10 changes, or who have more volatile work hours
 11 are more likely to experience hunger, residential
 12 hardships, and greater overall economic hard-
 13 ship.

14 (7) Unpredictable and unstable work schedules
 15 are common in a wide range of occupations, with
 16 evidence of particular concentration in food service,
 17 retail, cleaning, hospitality, and warehouse occupa-
 18 tions. These occupations are critically important to
 19 the United States economy.

20 (8) Employers that have implemented fair work
 21 scheduling policies that allow workers to have more
 22 control over their work schedules, and provide more
 23 predictable and stable schedules, have experienced
 24 significant benefits, including reductions in absentee-
 25 ism and workforce turnover, and increased worker

1 morale and engagement. For example, when Gap
2 Inc. piloted strategies to make work schedules more
3 stable and predictable for employees, the Gap Inc.
4 stores that implemented these strategies experienced
5 higher productivity and a 7 percent increase in sales,
6 compared to those Gap Inc. stores that did not im-
7 plement these strategies.

8 (9) This Act is a first step in responding to the
9 needs of workers for a voice in the timing of their
10 work hours and for more predictable schedules.

11 **SEC. 2. DEFINITIONS.**

12 In this Act:

13 (1) BONA FIDE BUSINESS REASON.—The term
14 “bona fide business reason” means—

15 (A) the identifiable burden of additional
16 costs to an employer, including the cost of pro-
17 ductivity loss, retraining or hiring employees, or
18 transferring employees from one facility to an-
19 other facility;

20 (B) a significant detrimental effect on the
21 employer’s ability to meet organizational needs
22 or customer demand;

23 (C) a significant inability of the employer,
24 despite best efforts, to reorganize work among

1 existing (as of the date of the reorganization)
2 staff;

3 (D) a significant detrimental effect on
4 business performance;

5 (E) insufficiency of work during the peri-
6 ods an employee proposes to work;

7 (F) the need to balance competing sched-
8 uling requests when it is not possible to grant
9 all such requests without a significant detri-
10 mental effect on the employer's ability to meet
11 organizational needs; or

12 (G) such other reason as may be specified
13 by the Secretary of Labor (or, as applicable, the
14 corresponding administrative officer specified in
15 section 7(e)).

16 (2) CAREER-RELATED EDUCATIONAL OR TRAIN-
17 ING PROGRAM.—The term “career-related edu-
18 cational or training program” means an educational
19 or training program or program of study offered by
20 a public, private, or nonprofit career and technical
21 education school, institution of higher education, or
22 other entity that provides academic education, career
23 and technical education, or training (including reme-
24 dial education or English as a second language, as
25 appropriate), that is a program that leads to a rec-

1 ognized postsecondary credential (as identified under
2 section 122(d) of the Workforce Innovation and Op-
3 portunity Act (29 U.S.C. 3152(d)), and provides ca-
4 reer awareness information. The term includes a
5 program allowable under the Workforce Innovation
6 and Opportunity Act (29 U.S.C. 3101 et seq.), the
7 Carl D. Perkins Career and Technical Education
8 Act of 2006 (20 U.S.C. 2301 et seq.), or the Higher
9 Education Act of 1965 (20 U.S.C. 1001 et seq.),
10 without regard to whether or not the program is
11 funded under the corresponding Act.

12 (3) CAREGIVER.—The term “caregiver” means
13 an individual with the status of being a significant
14 provider of—

15 (A) ongoing care or education, including
16 responsibility for securing the ongoing care or
17 education, of a child; or

18 (B) ongoing care, including responsibility
19 for securing the ongoing care, of—

20 (i) a person with a serious health con-
21 dition who is in a family relationship with
22 the individual; or

23 (ii) a parent of the individual, who is
24 age 65 or older.

1 (4) CHILD.—The term “child” means, regard-
2 less of age, a biological, adopted, or foster child, a
3 stepchild, a child of a domestic partner, a legal
4 ward, or a child of a person standing in loco
5 parentis to that child.

6 (5) COMMERCE TERMS.—The terms “com-
7 merce” and “industry or activity affecting com-
8 merce” have the meanings given the terms in section
9 101 of the Family and Medical Leave Act of 1993
10 (29 U.S.C. 2611).

11 (6) COVERED EMPLOYER.—

12 (A) IN GENERAL.—The term “covered em-
13 ployer”—

14 (i) means any person engaged in com-
15 merce or in any industry or activity affect-
16 ing commerce who employs 15 or more em-
17 ployees (described in paragraph (10)(A));

18 (ii) includes any person who acts, di-
19 rectly or indirectly, in the interest of such
20 an employer to any of the employees (de-
21 scribed in paragraph (10)(A)) of such em-
22 ployer;

23 (iii) includes any successor in interest
24 of such an employer; and

1 (iv) includes an agency described in
2 subparagraph (A)(iii) of section 101(4) of
3 the Family and Medical Leave Act of 1993
4 (29 U.S.C. 2611(4)), to which subpara-
5 graph (B) of such section shall apply.

6 (B) RULE.—For purposes of determining
7 the number of employees who work for a person
8 described in subparagraph (A)(i), all employees
9 (described in paragraph (10)(A)) performing
10 work for compensation on a full-time, part-time,
11 or temporary basis shall be counted, except that
12 if the number of such employees who perform
13 work for such a person for compensation fluctuates,
14 the number may be determined for a
15 calendar year based upon the average number
16 of such employees who performed work for the
17 person for compensation during the preceding
18 calendar year.

19 (C) PERSON.—In this paragraph, the term
20 “person” has the meaning given the term in
21 section 3 of the Fair Labor Standards Act of
22 1938 (29 U.S.C. 203).

23 (7) COVERED SECTOR EMPLOYEE.—The term
24 “covered sector employee” means—

1 (A) a nonexempt employee who is em-
2 ployed in a hospitality establishment, in a ware-
3 house establishment, or in any of the following
4 occupations, as described by the Bureau of
5 Labor Statistics Standard Occupational Classi-
6 fication System (as in effect on the day before
7 the date of enactment of this Act)—

8 (i) retail sales occupations consisting
9 of occupations described in 41–1010 and
10 41–2000, and all subdivisions thereof, of
11 such System, which includes first-line su-
12 pervisors of sales workers, cashiers, gam-
13 bling change persons and booth cashiers,
14 counter and rental clerks, parts sales-
15 persons, and retail salespersons;

16 (ii) food preparation and serving re-
17 lated occupations as described in 35–0000,
18 and all subdivisions thereof, of such Sys-
19 tem, which includes supervisors of food
20 preparation and serving workers, cooks
21 and food preparation workers, food and
22 beverage serving workers, and other food
23 preparation and serving related workers; or

24 (iii) cleaning occupations as described
25 in 37–2011, 37–2012, and 37–2019 of

1 such System, which includes janitors and
2 cleaners, maids and housekeeping cleaners,
3 and building cleaning workers; or

4 (B) a nonexempt employee who is em-
5 ployed in any occupation that is designated by
6 the Secretary under section 9(a)(2)(A) as ap-
7 propriate for coverage under section 4.

8 (8) DOMESTIC PARTNER.—The term “domestic
9 partner” means the individual recognized as being in
10 a relationship with an employee under any domestic
11 partnership, civil union, or similar law of the State
12 or political subdivision of a State in which the em-
13 ployee resides.

14 (9) EMPLOY.—The term “employ” has the
15 meaning given the term in section 3 of the Fair
16 Labor Standards Act of 1938 (29 U.S.C. 203).

17 (10) EMPLOYEE.—The term “employee” means
18 an individual who is—

19 (A) an employee, as defined in section 3(e)
20 of the Fair Labor Standards Act of 1938 (29
21 U.S.C. 203(e)), who is not described in any of
22 subparagraphs (B) through (G);

23 (B) a State employee described in section
24 304(a) of the Government Employee Rights Act
25 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;

7 (E) a Federal officer or employee covered
8 under subchapter V of chapter 63 of title 5,
9 United States Code;

10 (F) an employee of the Library of Con-
11 gress; or

12 (G) an employee of the Government Ac-
13 countability Office.

14 (11) EMPLOYER.—The term “employer” means
15 a person—

16 (A) who is—

17 (i) a covered employer, as defined in
18 paragraph (6), who is not described in any
19 of clauses (ii) through (vii);

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

23 (iii) an employing office, as defined in
24 section 101 of the Congressional Account-
25 ability Act of 1995;

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

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

7 (vi) the Librarian of Congress; or

8 (vii) the Comptroller General of the
9 United States; and

10 (B) who is engaged in commerce (including
11 government), in the production of goods for
12 commerce, or in an enterprise engaged in com-
13 merce (including government) or in the produc-
14 tion of goods for commerce.

15 (12) FAMILY RELATIONSHIP.—The term “fam-
16 ily relationship” means a relationship with—

17 (A) a child, spouse, domestic partner, par-
18 ent, grandchild, grandparent, sibling, or parent
19 of a spouse or domestic partner; or

20 (B) any individual related to the employee
21 involved by blood or affinity, whose close asso-
22 ciation with the employee is the equivalent of a
23 family relationship described in subparagraph
24 (A).

1 (13) GRANDCHILD.—The term “grandchild”
2 means the child of a child.

3 (14) GRANDPARENT.—The term “grandparent”
4 means the parent of a parent.

5 (15) HOSPITALITY ESTABLISHMENT.—The
6 term “hospitality establishment” means a hotel,
7 motel, inn, or similar transient lodging establish-
8 ment.

9 (16) MINIMUM NUMBER OF EXPECTED WORK
10 HOURS.—The term “minimum number of expected
11 work hours” means the minimum number of hours
12 an employee will be assigned to work on a weekly or
13 monthly basis.

14 (17) NONEXEMPT EMPLOYEE.—The term “non-
15 exempt employee” means an employee who is not
16 employed in a bona fide executive, administrative, or
17 professional capacity, as defined for purposes of sec-
18 tion 13(a)(1) of the Fair Labor Standards Act of
19 1938 (29 U.S.C. 213(a)(1)).

20 (18) ON-CALL SHIFT.—The term “on-call shift”
21 means any time during which an employer requires
22 an employee to—

23 (A) be available to work; and

24 (B) contact the employer or the designee
25 of the employer, or wait to be contacted by the

1 employer or designee, to determine whether the
2 employee is required to report to work at that
3 time.

4 (19) PARENT.—The term “parent” means a bi-
5 ological or adoptive parent, a stepparent, or a person
6 who stood in a parental relationship to an employee
7 when the employee was a child.

8 (20) PARENTAL RELATIONSHIP.—The term
9 “parental relationship” means a relationship in
10 which a person assumed the obligations incident to
11 parenthood for a child and discharged those obliga-
12 tions before the child reached adulthood.

13 (21) SECRETARY.—The term “Secretary”
14 means the Secretary of Labor.

15 (22) SERIOUS HEALTH CONDITION.—The term
16 “serious health condition” has the meaning given
17 the term in section 101 of the Family and Medical
18 Leave Act of 1993 (29 U.S.C. 2611).

19 (23) SIBLING.—The term “sibling” means a
20 brother or sister, whether related by half blood,
21 whole blood, or adoption, or as a stepsibling.

22 (24) SPLIT SHIFT.—The term “split shift”
23 means a schedule of daily hours in which the hours
24 worked are not consecutive, except that—

1 (A) a schedule in which the total time out
2 for meals does not exceed one hour shall not be
3 treated as a split shift; and

4 (B) a schedule in which the break in the
5 employee's work shift is requested by the em-
6 ployee shall not be treated as a split shift.

7 (25) SPOUSE.—The term “spouse” means a
8 person with whom an individual entered into—

9 (A) a marriage as defined or recognized
10 under State law in the State in which the mar-
11 riage was entered into; or

12 (B) in the case of a marriage entered into
13 outside of any State, a marriage that is recog-
14 nized in the place where entered into and could
15 have been entered into in at least 1 State.

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

19 (27) WAREHOUSE ESTABLISHMENT.—The term
20 “warehouse establishment” means any business that
21 engages primarily in the storage of goods, wares, or
22 commodities for hire or compensation, and, in con-
23 nection with such storage, may include the loading,
24 packing, sorting, stacking, wrapping, distribution, or
25 delivery of those goods, wares, or commodities.

1 (28) WORK SCHEDULE.—The term “work
2 schedule” means all of an employee’s work shifts
3 and on-call shifts, including specific start and end
4 times for each shift, during a consecutive 7-day pe-
5 riod.

6 (29) WORK SCHEDULE CHANGE.—The term
7 “work schedule change” means any modification to
8 an employee’s work schedule, such as an addition or
9 reduction of hours, cancellation of a shift, or a
10 change in the date or time of a work shift, by an
11 employer.

12 (30) WORK SHIFT.—The term “work shift”
13 means the specific hours of the workday during
14 which an employee works.

15 **SEC. 3. RIGHT TO REQUEST AND RECEIVE A FLEXIBLE,**
16 **PREDICTABLE, OR STABLE WORK SCHEDULE.**

17 (a) RIGHT TO REQUEST.—An employee may request
18 from their employer a change in the terms and conditions
19 of employment as they relate to factors including—

20 (1) the number of hours the employee is re-
21 quired to work or be on call for work;

22 (2) the times when the employee is required to
23 work or be on call for work;

24 (3) the location where the employee is required
25 to work;

1 (4) the amount of notification the employee re-
2 ceives of work schedule assignments; and

3 (5) minimizing fluctuations in the number of
4 hours the employee is scheduled to work on a daily,
5 weekly, or monthly basis.

6 (b) EMPLOYER OBLIGATION TO ENGAGE IN AN
7 INTERACTIVE PROCESS.—

8 (1) IN GENERAL.—If an employee requests a
9 change in the terms and conditions of employment
10 as set forth in subsection (a), the employer shall en-
11 gage in a timely, good-faith interactive process with
12 the employee that includes a discussion of potential
13 schedule changes that would meet the employee’s
14 needs.

15 (2) RESULT.—Such process shall result in—

16 (A) subject to subsections (c) and (d), ei-
17 ther granting or denying the request; and

18 (B) in the event of a denial—

19 (i) considering alternatives to the pro-
20 posed change that might meet the employ-
21 ee’s needs and granting or denying a re-
22 quest for an alternative change in the
23 terms and conditions of employment as set
24 forth in subsection (a); and

1 (ii) stating the reason for denial, in-
2 cluding whether any such reason is a bona
3 fide business reason.

4 (3) INFORMATION.—If information provided by
5 the employee making a request under this section re-
6 quires clarification, the employer shall explain what
7 further information is needed and give the employee
8 reasonable time to produce the information.

9 (c) REQUESTS RELATED TO SERIOUS HEALTH CON-
10 DITION, CAREGIVING, ENROLLMENT IN EDUCATION OR
11 TRAINING, OR A SECOND JOB.—If an employee makes a
12 request for a change in the terms and conditions of em-
13 ployment as set forth in subsection (a), specifying that the
14 request is because of the employee’s serious health condi-
15 tion, the employee’s responsibilities as a caregiver, the em-
16 ployee’s enrollment in a career-related educational or
17 training program, or a reason related to the employee’s
18 second job, the employer shall grant the request, unless
19 the employer has a bona fide business reason for denying
20 the request.

21 (d) OTHER REQUESTS.—If an employee makes a re-
22 quest for a change in the terms and conditions of employ-
23 ment as set forth in subsection (a), for a reason other than
24 those reasons set forth in subsection (c), the employer may
25 deny the request for any reason that is not unlawful. If

1 the employer denies such a request, the employer shall
 2 provide the employee with the reason for the denial, in-
 3 cluding whether any such reason is a bona fide business
 4 reason.

5 **SEC. 4. REQUIREMENTS FOR ADVANCE NOTICE OF WORK**
 6 **SCHEDULES, PREDICTABILITY PAY, AND**
 7 **SPLIT SHIFT PAY FOR COVERED SECTOR EM-**
 8 **PLOYEES.**

9 (a) ADVANCE NOTICE REQUIREMENT.—

10 (1) PROVIDING NOTICE OF WORK SCHED-
 11 ULES.—

12 (A) IN GENERAL.—An employer shall pro-
 13 vide a covered sector employee with the work
 14 schedule of the employee—

15 (i) not less than 14 days before the
 16 first day of such work schedule; or

17 (ii) in the case of a new covered sector
 18 employee on or before the first day of work
 19 of such employee.

20 (B) COMPENSATION FOR FAILURE TO PRO-
 21 VIDE NOTICE OF WORK SCHEDULE.—An em-
 22 ployer that violates subparagraph (A) shall
 23 compensate each affected employee in the
 24 amount of \$75 per day that a work schedule is
 25 not provided in violation of such subparagraph.

1 (C) WORK SCHEDULE CHANGE.—An em-
2 ployer may make a work schedule change for
3 the work schedule of a covered sector employee
4 provided in accordance with subparagraph (A)
5 if—

6 (i) such work schedule change is made
7 not less than 14 days prior to the first day
8 on which the change is to take effect; or

9 (ii) the employer provides predict-
10 ability pay for such change in accordance
11 with subsection (b).

12 (D) MINIMUM EXPECTED WORK HOURS.—

13 (i) IN GENERAL.—An employer shall
14 inform a covered sector employee of an es-
15 timate of the minimum number of expected
16 work hours the employee will be assigned
17 to work per month for the following 12-
18 month period—

19 (I) in the case of a new covered
20 sector employee, on or before the first
21 day of work of such employee; or

22 (II) in the case of a covered sec-
23 tor employee who is employed by the
24 employer on the date of enactment of

1 this Act, not later than 90 days after
2 such date.

3 (ii) UPDATING MINIMUM EXPECTED
4 WORK HOURS.—An employer shall, not less
5 than once each year, provide each covered
6 sector employee an updated estimate of the
7 minimum number of expected work hours
8 the employee will be assigned to work per
9 month for the following 12-month period.
10 Such a revised estimate shall be provided
11 not later than the earlier of (as applica-
12 ble)—

13 (I) 1 year after the date on which
14 the estimate was provided under
15 clause (i) or the most recent update of
16 an estimate was provided under this
17 clause; or

18 (II) the day before the effective
19 date of a significant change to the
20 minimum expected work hours of the
21 employee due to changes in the avail-
22 ability of the employee or to the busi-
23 ness needs of the employer.

24 (2) NOTIFICATIONS IN WRITING.—The notifica-
25 tions required under subparagraphs (A) and (D) of

1 paragraph (1) shall be made to the employee in-
2 volved in writing.

3 (3) SCHEDULE POSTING REQUIREMENT.—

4 (A) IN GENERAL.—An employer shall post
5 a copy of the work schedule of each covered sec-
6 tor employee in a conspicuous place that is
7 readily accessible and visible to all covered sec-
8 tor employees at the workplace. Posting by elec-
9 tronic means accessible to all covered sector em-
10 ployees shall be considered compliance with this
11 subparagraph. At the request of an employee,
12 the employer shall carry out the posting so that
13 the identity of the employee is not readily iden-
14 tifiable from the schedules posted.

15 (B) RIGHT TO DECLINE.—A covered sector
16 employee may decline, without penalty, to work
17 any hours not included in the work schedule
18 posted under subparagraph (A) as work hours
19 for the covered sector employee.

20 (C) CONSENT.—Except as described in
21 subsection (b)(2), if a covered sector employee
22 voluntarily consents to work any hours not
23 posted under subparagraph (A), such consent
24 must be recorded in writing.

1 (4) RULE OF CONSTRUCTION.—Nothing in this
 2 subsection shall be construed to prohibit an em-
 3 ployer from—

4 (A) providing greater advance notice of the
 5 work schedule of a covered sector employee
 6 than is required under this subsection; or

7 (B) using any means, in addition to the
 8 written means required under paragraph (2), of
 9 notifying a covered sector employee of the work
 10 schedule of the employee.

11 (b) PREDICTABILITY PAY FOR WORK SCHEDULE
 12 CHANGES MADE WITH LESS THAN 14 DAYS' NOTICE.—

13 (1) IN GENERAL.—Except as provided in para-
 14 graph (2), for each work schedule change provided
 15 to a covered sector employee that occurs less than
 16 14 days prior to the first day on which the change
 17 is to take effect, the employer of the affected em-
 18 ployee shall be required to provide the affected em-
 19 ployee with pay (referred to in this subsection as
 20 “predictability pay”) at the following rates:

21 (A) The covered sector employee’s regular
 22 rate of pay per hour that the employee works
 23 plus one additional hour at such regular rate
 24 per work schedule change if the employer—

1 (i) adds any hours to the hours the
 2 employee is scheduled to work under sub-
 3 section (a); or

4 (ii) changes the date, time, or location
 5 of the work shift the employee is scheduled
 6 to work under subsection (a) with no loss
 7 of hours.

8 (B) Not less than $\frac{1}{2}$ times the covered sec-
 9 tor employee's regular rate of pay per hour for
 10 any hour that the employee is scheduled to
 11 work under subsection (a) and does not work
 12 due to the employer reducing or canceling such
 13 scheduled hours of work.

14 (2) EXCEPTIONS TO PREDICTABILITY PAY.—An
 15 employer shall not be required to pay predictability
 16 pay under paragraph (1), or to obtain written con-
 17 sent pursuant to subsection (a)(3)(C), under any of
 18 the following circumstances:

19 (A) A covered sector employee requests a
 20 shift change in writing, including through the
 21 use of sick leave, vacation leave, or any other
 22 leave policy offered by the employer.

23 (B) A schedule change is the result of a
 24 mutually agreed upon shift trade or coverage
 25 arrangement between covered sector employees,

1 subject to any policy of the employer regarding
 2 required conditions for employees to exchange
 3 shifts.

4 (C) The employer’s operations cannot
 5 begin or continue due to—

6 (i) a threat to the property of an em-
 7 ployee or the employer;

8 (ii) the failure of a public utility or
 9 the shutdown of public transportation;

10 (iii) a fire, flood, or other natural dis-
 11 aster;

12 (iv) a state of emergency declared by
 13 the President of the United States or by
 14 the governor of the State, or the mayor of
 15 the city, in which the operations are lo-
 16 cated; or

17 (v) a severe weather condition that
 18 poses a threat to employee safety.

19 (c) SPLIT SHIFT PAY REQUIREMENT.—An employer
 20 shall pay a covered sector employee for 1 additional hour
 21 at the employee’s regular rate of pay for each day during
 22 which the employee works a split shift.

23 (d) PAY STUB TRANSPARENCY.—Any pay provided
 24 to an employee pursuant to subsection (a), (b), or (c) (re-
 25 ferred to in this subsection as “additional pay”) shall be

1 included in the employee's regular paycheck. The employer
 2 shall identify, in the corresponding written wage statement
 3 or pay stub, the total number of hours of additional pay
 4 provided for the pay period involved and whether the addi-
 5 tional pay was due to the requirements of subsection (a),
 6 the requirements of subsection (b), or the requirements
 7 of subsection (c).

8 **SEC. 5. RIGHT TO REST BETWEEN WORK SHIFTS.**

9 (a) IN GENERAL.—An employee of a covered em-
 10 ployer may decline, without penalty, to work any work
 11 shift or on-call shift that is scheduled or otherwise oc-
 12 curs—

13 (1) less than 11 hours after the end of the work
 14 shift or on-call shift for the previous day; or

15 (2) during the 11 hours following the end of a
 16 work shift or on-call shift that spanned 2 days.

17 (b) CONSENT.—

18 (1) IN GENERAL.—An employee may consent to
 19 work a shift as described in subsection (a), if the
 20 covered employer obtains the employee's consent in
 21 writing. Such consent may be for each such shift or
 22 for multiple shifts.

23 (2) REVOCATION.—An employee may revoke the
 24 consent provided under paragraph (1), in writing, at
 25 any time during the employment.

1 (c) COMPENSATION.—For each instance that an em-
2 ployee of a covered employer works a shift described in
3 subsection (a), the covered employer shall compensate the
4 employee at 1.5 times the employee’s scheduled rate of pay
5 for the hours worked that are less than 11 hours apart
6 from the hours worked during the previous shift.

7 **SEC. 6. PROHIBITED ACTS.**

8 (a) INTERFERENCE WITH RIGHTS.—It shall be un-
9 lawful for any employer to interfere with, restrain, or deny
10 the exercise or the attempt to exercise, any right provided
11 under section 3, 4, or 5.

12 (b) RETALIATION PROHIBITED.—It shall be unlawful
13 for any employer to discharge, threaten to discharge, de-
14 mote, suspend, reduce work hours of, or take any other
15 adverse employment action against any employee in retal-
16 iation for exercising the rights of an employee under this
17 Act or opposing any practice made unlawful by this Act.
18 For purposes of section 3, such retaliation shall include
19 taking an adverse employment action against any em-
20 ployee on the basis of that employee’s request for a change
21 in work schedule, or because of an employee’s eligibility
22 or perceived eligibility to request or receive a change in
23 the terms and conditions of employment, as described in
24 such section, on the basis of a reason set forth in section
25 3(c).

1 (c) INTERFERENCE WITH PROCEEDINGS OR INQUIR-
 2 IES.—It shall be unlawful for any person to discharge or
 3 in any other manner discriminate against any individual
 4 because such individual—

5 (1) has filed any charge, or has instituted or
 6 caused to be instituted any proceeding, under or re-
 7 lated to this Act;

8 (2) has given or is about to give, any informa-
 9 tion in connection with any inquiry or proceeding re-
 10 lating to any right provided under this Act; or

11 (3) has testified, or is about to testify, in any
 12 inquiry or proceeding relating to any right provided
 13 under this Act.

14 **SEC. 7. REMEDIES AND ENFORCEMENT.**

15 (a) INVESTIGATIVE AUTHORITY.—

16 (1) IN GENERAL.—To ensure compliance with
 17 this Act, or any regulation or order issued under
 18 this Act, the Secretary shall have, subject to para-
 19 graph (3), the investigative authority provided under
 20 section 11(a) of the Fair Labor Standards Act of
 21 1938 (29 U.S.C. 211(a)).

22 (2) OBLIGATION TO KEEP AND PRESERVE
 23 RECORDS.—Each employer shall make, keep, and
 24 preserve records pertaining to compliance with this

1 Act in accordance with regulations issued by the
2 Secretary under section 9.

3 (3) REQUIRED SUBMISSIONS GENERALLY LIM-
4 ITED TO AN ANNUAL BASIS.—The Secretary shall
5 not require, under the authority of this subsection,
6 any employer to submit to the Secretary any books
7 or records more than once during any 12-month pe-
8 riod, unless the Secretary has reasonable cause to
9 believe there may exist a violation of this Act or any
10 regulation or order issued pursuant to this Act, or
11 is investigating a charge pursuant to subsection (c).

12 (4) SUBPOENA POWERS.—For the purposes of
13 any investigation provided for in this section, the
14 Secretary shall have the subpoena authority provided
15 for under section 9 of the Fair Labor Standards Act
16 of 1938 (29 U.S.C. 209).

17 (b) CIVIL ACTION BY EMPLOYEES.—

18 (1) LIABILITY.—

19 (A) IN GENERAL.—Any employer who vio-
20 lates subsection (a) of section 6 (with respect to
21 a right provided under section 3 or 5 or sub-
22 section (a), (b), or (c) of section 4) or sub-
23 section (b) or (c) of such section (each such
24 provision referred to in this section as a “cov-

ered provision”) shall be liable to any employee
affected for—

(i) damages equal to the amount of—

(I) any wages, salary, employment benefits (as defined in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611)), or other compensation denied, lost, or owed to such employee by reason of the violation; or

(II) in a case in which wages, salary, employment benefits (as so defined), or other compensation have not been denied, lost, or owed to the employee, any actual monetary losses sustained by the employee as a direct result of the violation;

(ii) interest on the amount described in clause (i) calculated at the prevailing rate;

(iii) except as described in subparagraph (B), an additional amount as liquidated damages equal to the sum of the amount described in clause (i) and the interest described in clause (ii); and

1 (iv) such equitable relief as may be
 2 appropriate, including employment, rein-
 3 statement, and promotion.

4 (B) EXCEPTION FOR LIQUIDATED DAM-
 5 AGES.—If an employer who has violated a cov-
 6 ered provision proves to the satisfaction of the
 7 court that the act or omission which violated
 8 the covered provision was in good faith and that
 9 the employer had reasonable grounds for believ-
 10 ing that the act or omission was not a violation
 11 of a covered provision, such court may, in the
 12 discretion of the court, waive such liquidated
 13 damages.

14 (2) RIGHT OF ACTION.—An action to recover
 15 the damages, interest, or equitable relief set forth in
 16 paragraph (1) may be maintained against any em-
 17 ployer (including a public agency) in any Federal or
 18 State court of competent jurisdiction by any one or
 19 more employees for and on behalf of—

20 (A) the employees; or

21 (B) the employees and any other employees
 22 similarly situated.

23 (3) FEES AND COSTS.—The court in such an
 24 action shall, in addition to any judgment awarded to
 25 the plaintiff, allow a reasonable attorney's fee, rea-

1 sonable expert witness fees, and other costs of the
2 action to be paid by the defendant.

3 (4) LIMITATIONS.—The right provided by para-
4 graph (2) to bring an action by or on behalf of any
5 employee shall terminate on the filing of a complaint
6 by the Secretary in an action under subsection (c)(4)
7 in which a recovery is sought of the damages, inter-
8 est, or equitable relief described in paragraph (1)(A)
9 owing to an employee by an employer liable under
10 paragraph (1) unless the action described is dis-
11 missed without prejudice on motion of the Secretary.

12 (c) ACTIONS BY THE SECRETARY.—

13 (1) ADMINISTRATIVE ACTION.—The Secretary
14 shall receive, investigate, and attempt to resolve
15 complaints of violations of this Act in the same man-
16 ner that the Secretary receives, investigates, and at-
17 tempts to resolve complaints of violations of sections
18 6 and 7 of the Fair Labor Standards Act of 1938
19 (29 U.S.C. 206 and 207), and may issue an order
20 making determinations, and assessing a civil penalty
21 described in paragraph (3) (in accordance with para-
22 graph (3)), with respect to such an alleged violation.

23 (2) ADMINISTRATIVE REVIEW.—An affected
24 person who takes exception to an order issued under
25 paragraph (1) may request review of and a decision

1 regarding such an order by an administrative law
2 judge. In reviewing the order, the administrative law
3 judge may hold an administrative hearing con-
4 cerning the order, in accordance with the require-
5 ments of sections 554, 556, and 557 of title 5,
6 United States Code. Such hearing shall be conducted
7 expeditiously. If no affected person requests such re-
8 view within 60 days after the order is issued under
9 paragraph (1), the order shall be considered to be a
10 final order that is not subject to judicial review.

11 (3) CIVIL PENALTY.—

12 (A) IN GENERAL.—An employer who will-
13 fully and repeatedly violates—

14 (i) section 4 or 5 shall be subject to
15 a civil penalty in an amount per violation
16 that is not less than \$500 and not more
17 than \$1,000; or

18 (ii) subsection (b) or (c) of section 6
19 shall be subject to a civil penalty in an
20 amount per violation that is not less than
21 \$1,100 and not more than \$5,000.

22 (B) WILLFULLY AND REPEATEDLY.—For
23 purposes of subparagraph (A):

1 (i) REPEATEDLY.—The term “repeat-
 2 edly”, with respect to a violation, means 2
 3 or more such violations.

4 (ii) WILLFULLY.—The term “will-
 5 fully”, with respect to a violation, means
 6 such a violation for which, based on all of
 7 the facts and circumstances surrounding
 8 the violation, an employer—

9 (I) knew that its conduct was
 10 prohibited by, as applicable, section 4
 11 or 5 or subsection (b) or (c) of section
 12 6; or

13 (II) showed reckless disregard for
 14 the requirements of, as applicable,
 15 section 4 or 5 or subsection (b) or (c)
 16 of section 6.

17 (4) CIVIL ACTION.—The Secretary may bring
 18 an action in any court of competent jurisdiction on
 19 behalf of aggrieved employees to—

20 (A) restrain violations of this Act;

21 (B) award such equitable relief as may be
 22 appropriate, including employment, reinstate-
 23 ment, and promotion; and

24 (C) in the case of a violation of a covered
 25 provision, recover the damages and interest de-

1 scribed in clauses (i) through (iii) of subsection
2 (b)(1)(A).

3 (d) LIMITATION.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), an action may be brought under this sec-
6 tion not later than 2 years after the date of the last
7 event constituting the alleged violation for which the
8 action is brought.

9 (2) WILLFUL VIOLATION.—In the case of such
10 action brought for a willful violation of section 6,
11 such action may be brought within 3 years of the
12 date of the last event constituting the alleged viola-
13 tion for which such action is brought.

14 (3) COMMENCEMENT.—In determining when an
15 action is commenced by the Secretary or by an em-
16 ployee under this section for the purposes of this
17 subsection, it shall be considered to be commenced
18 on the date when the complaint is filed.

19 (e) OTHER ADMINISTRATIVE OFFICERS.—

20 (1) BOARD.—In the case of employees described
21 in section 2(10)(C), the authority of the Secretary
22 under this Act shall be exercised by the Board of Di-
23 rectors of the Office of Congressional Workplace
24 Rights.

1 (2) PRESIDENT; MERIT SYSTEMS PROTECTION
2 BOARD.—In the case of employees described in sec-
3 tion 2(10)(D), the authority of the Secretary under
4 this Act shall be exercised by the President and the
5 Merit Systems Protection Board.

6 (3) OFFICE OF PERSONNEL MANAGEMENT.—In
7 the case of employees described in section 2(10)(E),
8 the authority of the Secretary under this Act shall
9 be exercised by the Office of Personnel Management.

10 (4) LIBRARIAN OF CONGRESS.—In the case of
11 employees of the Library of Congress, the authority
12 of the Secretary under this Act shall be exercised by
13 the Librarian of Congress.

14 (5) COMPTROLLER GENERAL.—In the case of
15 employees of the Government Accountability Office,
16 the authority of the Secretary under this Act shall
17 be exercised by the Comptroller General of the
18 United States.

19 **SEC. 8. NOTICE AND POSTING.**

20 (a) IN GENERAL.—Each employer shall post and
21 keep posted, in conspicuous places on the premises of the
22 employer where notices to employees and applicants for
23 employment are customarily posted, a notice, to be pre-
24 pared or approved by the Secretary (or, as applicable, the
25 corresponding administrative officer specified in section

1 7(e)) setting forth excerpts from, or summaries of, the
2 pertinent provisions of this Act and information pertaining
3 to the filing of a complaint under this Act.

4 (b) PENALTY.—Any employer that willfully violates
5 this section may be assessed a civil money penalty not to
6 exceed \$100 for each separate offense.

7 **SEC. 9. REGULATIONS.**

8 (a) SECRETARY OF LABOR.—

9 (1) IN GENERAL.—Except as provided in sub-
10 sections (b) through (f), not later than 180 days
11 after the date of enactment of this Act, the Sec-
12 retary shall issue such regulations as may be nec-
13 essary to implement this Act.

14 (2) REGULATIONS REGARDING ADDITIONAL OC-
15 CUPATIONS TO BE COVERED.—

16 (A) IN GENERAL.—In carrying out para-
17 graph (1), the Secretary shall issue regulations
18 that specify a process the Secretary will follow,
19 in accordance with subparagraph (B), to iden-
20 tify and designate occupations in addition to re-
21 tail, food service, cleaning, hospitality, or ware-
22 house occupations that are appropriate for cov-
23 erage under section 4.

24 (B) CRITERIA.—The regulations under
25 subparagraph (A) shall provide that the Sec-

1 retary shall so designate an additional occupa-
2 tion—

3 (i) in which not less than 10 percent
4 of workers employed in the occupation gen-
5 erally—

6 (I) receive advance notice of their
7 work schedules less than 14 days be-
8 fore the first day of the work sched-
9 ules; or

10 (II) experience fluctuations in the
11 number of hours the employees are
12 scheduled to work on a daily, weekly,
13 or monthly basis; or

14 (ii) for which the Secretary deter-
15 mines such designation is appropriate.

16 (C) DATA REVIEW.—In issuing regulations
17 under subparagraph (A), the Secretary shall
18 specify the process by which the Department of
19 Labor will review data from stakeholders, and
20 data collected or generated by the Department,
21 in designating occupations.

22 (b) BOARD.—

23 (1) IN GENERAL.—Not later than 180 days
24 after the date of enactment of this Act, the Board
25 of Directors of the Office of Congressional Work-

1 place Rights shall issue such regulations as may be
2 necessary to implement this Act with respect to em-
3 ployees described in section 2(10)(C). The proce-
4 dures applicable to regulations of the Board issued
5 for the implementation of the Congressional Ac-
6 countability Act of 1995 (2 U.S.C. 1301 et seq.),
7 prescribed in section 304 of that Act (2 U.S.C.
8 1384), shall be the procedures applicable to regula-
9 tions issued under this subsection.

10 (2) CONSIDERATION.—In prescribing the regu-
11 lations, the Board shall take into consideration the
12 enforcement and remedies provisions concerning the
13 Office, and applicable to rights and protections
14 under the Family and Medical Leave Act of 1993
15 (29 U.S.C. 2601 et seq.), under the Congressional
16 Accountability Act of 1995 (2 U.S.C. 1301 et seq.).

17 (3) MODIFICATIONS.—The regulations issued
18 under paragraph (1) to implement this Act shall be
19 the same as substantive regulations issued by the
20 Secretary to implement this Act, except to the extent
21 that the Board may determine, for good cause
22 shown and stated together with the regulations
23 issued by the Board, that a modification of such
24 substantive regulations would be more effective for
25 the implementation of the rights and protections

1 under this Act with respect to the employees de-
2 scribed in section 2(10)(C).

3 (c) PRESIDENT.—

4 (1) IN GENERAL.—Not later than 180 days
5 after the date of enactment of this Act, the Presi-
6 dent shall issue such regulations as may be nec-
7 essary to implement this Act with respect to employ-
8 ees described in section 2(10)(D).

9 (2) CONSIDERATION.—In prescribing the regu-
10 lations, the President shall take into consideration
11 the enforcement and remedies provisions concerning
12 the President and the Merit Systems Protection
13 Board, and applicable to rights and protections
14 under the Family and Medical Leave Act of 1993,
15 under chapter 5 of title 3, United States Code.

16 (3) MODIFICATIONS.—The regulations issued
17 under paragraph (1) to implement this Act shall be
18 the same as substantive regulations issued by the
19 Secretary to implement this Act, except to the extent
20 that the President may determine, for good cause
21 shown and stated together with the regulations
22 issued by the President, that a modification of such
23 substantive regulations would be more effective for
24 the implementation of the rights and protections

1 under this Act with respect to the employees de-
2 scribed in section 2(10)(D).

3 (d) OFFICE OF PERSONNEL MANAGEMENT.—

4 (1) IN GENERAL.—Not later than 180 days
5 after the date of enactment of this Act, the Office
6 of Personnel Management shall issue such regula-
7 tions as may be necessary to implement this Act
8 with respect to employees described in section
9 2(10)(E).

10 (2) CONSIDERATION.—In prescribing the regu-
11 lations, the Office shall take into consideration the
12 enforcement and remedies provisions concerning the
13 Office under subchapter V of chapter 63 of title 5,
14 United States Code.

15 (3) MODIFICATIONS.—The regulations issued
16 under paragraph (1) to implement this Act shall be
17 the same as substantive regulations issued by the
18 Secretary to implement this Act, except to the extent
19 that the Office may determine, for good cause shown
20 and stated together with the regulations issued by
21 the Office, that a modification of such substantive
22 regulations would be more effective for the imple-
23 mentation of the rights and protections under this
24 Act with respect to the employees described in sec-
25 tion 2(10)(E).

1 (e) LIBRARIAN OF CONGRESS.—

2 (1) IN GENERAL.—Not later than 180 days
3 after the date of enactment of this Act, the Librar-
4 ian of Congress shall issue such regulations as may
5 be necessary to implement this Act with respect to
6 employees of the Library of Congress.

7 (2) CONSIDERATION.—In prescribing the regu-
8 lations, the Librarian shall take into consideration
9 the enforcement and remedies provisions concerning
10 the Librarian of Congress under title I of the Fam-
11 ily and Medical Leave Act of 1993 (29 U.S.C. 2611
12 et seq.).

13 (3) MODIFICATIONS.—The regulations issued
14 under paragraph (1) to implement this Act shall be
15 the same as substantive regulations issued by the
16 Secretary to implement this Act, except to the extent
17 that the Librarian may determine, for good cause
18 shown and stated together with the regulations
19 issued by the Librarian, that a modification of such
20 substantive regulations would be more effective for
21 the implementation of the rights and protections
22 under this Act with respect to employees of the Li-
23 brary of Congress.

24 (f) COMPTROLLER GENERAL.—

1 (1) IN GENERAL.—Not later than 180 days
2 after the date of enactment of this Act, the Comp-
3 troller General shall issue such regulations as may
4 be necessary to implement this Act with respect to
5 employees of the Government Accountability Office.

6 (2) CONSIDERATION.—In prescribing the regu-
7 lations, the Comptroller General shall take into con-
8 sideration the enforcement and remedies provisions
9 concerning the Comptroller General under title I of
10 the Family and Medical Leave Act of 1993 (29
11 U.S.C. 2611 et seq.).

12 (3) MODIFICATIONS.—The regulations issued
13 under paragraph (1) to implement this Act shall be
14 the same as substantive regulations issued by the
15 Secretary to implement this Act, except to the extent
16 that the Comptroller General may determine, for
17 good cause shown and stated together with the regu-
18 lations issued by the Comptroller General, that a
19 modification of such substantive regulations would
20 be more effective for the implementation of the
21 rights and protections under this Act with respect to
22 employees of the Government Accountability Office.

1 **SEC. 10. RESEARCH, EDUCATION, AND TECHNICAL ASSIST-**
2 **ANCE PROGRAM AND SURVEYS.**

3 (a) IN GENERAL.—The Secretary shall provide infor-
4 mation and technical assistance to employers, labor orga-
5 nizations, and the general public concerning compliance
6 with this Act.

7 (b) PROGRAM.—In order to achieve the objectives of
8 this Act—

9 (1) the Secretary, acting through the Adminis-
10 trator of the Wage and Hour Division of the Depart-
11 ment of Labor, shall issue guidance on compliance
12 with this Act regarding providing a flexible, predict-
13 able, or stable work environment through changes in
14 the terms and conditions of employment as provided
15 in section 3(a); and

16 (2) the Secretary shall carry on a continuing
17 program of research, education, and technical assist-
18 ance, including—

19 (A)(i) conducting pilot programs that im-
20 plement fairer work schedules, including by pro-
21 moting cross training, providing 3 weeks or
22 more advance notice of schedules, providing em-
23 ployees with a minimum number of hours of
24 work, and using electronic workforce manage-
25 ment systems to provide more flexible, predict-
26 able, and stable schedules for employees; and

1 (ii) evaluating the results of such pilot pro-
2 grams for employees, employee's families, and
3 employers;

4 (B) publishing and otherwise making avail-
5 able to employers, labor organizations, profes-
6 sional associations, educational institutions, the
7 various communication media, and the general
8 public the findings of studies regarding fair
9 work scheduling policies and other materials for
10 promoting compliance with this Act;

11 (C) sponsoring and assisting State and
12 community informational and educational pro-
13 grams; and

14 (D) providing technical assistance to em-
15 ployers, labor organizations, professional asso-
16 ciations, and other interested persons on means
17 of achieving and maintaining compliance with
18 the provisions of this Act.

19 (c) CURRENT POPULATION SURVEY.—The Secretary,
20 acting through the Commissioner of the Bureau of Labor
21 Statistics, and the Director of the Bureau of the Census
22 shall—

23 (1) include in the Current Population Survey
24 questions on—

1 (A) the magnitude of fluctuation in the
2 number of hours the employee is scheduled to
3 work on a daily, weekly, or monthly basis;

4 (B) the extent of advance notice an em-
5 ployee receives of the employee's work schedule;

6 (C) the extent to which an employee has
7 input in the employee's work schedule; and

8 (D) the number of hours that an employee
9 would prefer to work, relative to the number of
10 hours the employee is currently working; and

11 (2) at regular intervals, update and conduct the
12 Contingent Worker Supplement, the Work Schedules
13 and Work at Home Supplement, and other relevant
14 supplements (as determined by the Secretary), to
15 the Current Population Survey and the American
16 Time Use Survey.

17 **SEC. 11. RIGHTS RETAINED BY EMPLOYEES.**

18 This Act provides minimum requirements and shall
19 not be construed to preempt, limit, or otherwise affect the
20 applicability of any other law, requirement, policy, or
21 standard that provides for greater rights for employees
22 than are required in this Act.

23 **SEC. 12. EXEMPTION.**

24 This Act shall not apply to any employee covered by
25 a valid collective bargaining agreement if—

1 (1) the terms of the collective bargaining agree-
 2 ment include terms that govern work scheduling
 3 practices; and

4 (2) the provisions of this Act are expressly
 5 waived in such collective bargaining agreement.

6 **SEC. 13. EFFECT ON OTHER LAW.**

7 (a) IN GENERAL.—Nothing in this Act shall be con-
 8 strued as superseding, or creating or imposing any re-
 9 quirement in conflict with, any Federal, State, or local
 10 regulation or other law (including the Americans with Dis-
 11 abilities Act of 1990 (42 U.S.C. 12101 et seq.), the Fam-
 12 ily and Medical Leave Act of 1993 (29 U.S.C. 2601 et
 13 seq.), the National Labor Relations Act (29 U.S.C. 151
 14 et seq.), the Fair Labor Standards Act of 1938 (29 U.S.C.
 15 201 et seq.), and title VII of the Civil Rights Act of 1964
 16 (42 U.S.C. 2000e et seq.)).

17 (b) RELATIONSHIP TO COLLECTIVE BARGAINING
 18 RIGHTS.—Nothing in this Act (including section 12) shall
 19 be construed to diminish or impair the rights of an em-
 20 ployee under any valid collective bargaining agreement.

