

116TH CONGRESS
1ST SESSION

S. 3104

To make technical corrections relating to parental leave for Federal employees.

IN THE SENATE OF THE UNITED STATES

DECEMBER 18, 2019

Mr. SCHUMER (for himself, Mr. PETERS, Mrs. MURRAY, Mr. REED, Mr. SCHATZ, and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To make technical corrections relating to parental leave for
Federal employees.

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 “Federal Employee Pa-
5 rental Leave Technical Correction Act”.

6 **SEC. 2. FAMILY AND MEDICAL LEAVE AMENDMENTS.**

7 (a) IN GENERAL.—

8 (1) PAID PARENTAL LEAVE FOR EMPLOYEES OF
9 DISTRICT OF COLUMBIA COURTS AND DISTRICT OF
10 COLUMBIA PUBLIC DEFENDER SERVICE.—

1 (A) DISTRICT OF COLUMBIA COURTS.—

2 Section 11–1726, District of Columbia Official
3 Code, is amended by adding at the end the fol-
4 lowing new subsection:

5 “(d) In carrying out the Family and Medical Leave
6 Act of 1993 (29 U.S.C. 2601 et seq.) with respect to non-
7 judicial employees of the District of Columbia courts, the
8 Joint Committee on Judicial Administration shall, not-
9 withstanding any provision of such Act, establish a paid
10 parental leave program for the leave described in subpara-
11 graphs (A) and (B) of section 102(a)(1) of such Act (29
12 U.S.C. 2612(a)(1)) (relating to leave provided in connec-
13 tion with the birth of a child or the placement of a child
14 for adoption or foster care). In developing the terms and
15 conditions for this program, the Joint Committee may be
16 guided by the terms and conditions applicable to the provi-
17 sion of paid parental leave for employees of the Federal
18 Government under chapter 63 of title 5, United States
19 Code, and any corresponding regulations.”.

20 (B) DISTRICT OF COLUMBIA PUBLIC DE-

21 FENDER SERVICE.—Section 305 of the District
22 of Columbia Court Reform and Criminal Proce-
23 dure Act of 1970 (sec. 2–1605, D.C. Official
24 Code) is amended by adding at the end the fol-
25 lowing new subsection:

1 “(d) In carrying out the Family and Medical Leave
 2 Act of 1993 (29 U.S.C. 2601 et seq.) with respect to em-
 3 ployees of the Service, the Director shall, notwithstanding
 4 any provision of such Act, establish a paid parental leave
 5 program for the leave described in subparagraphs (A) and
 6 (B) of section 102(a)(1) of such Act (29 U.S.C.
 7 2612(a)(1)) (relating to leave provided in connection with
 8 the birth of a child or the placement of a child for adoption
 9 or foster care). In developing the terms and conditions for
 10 this program, the Director may be guided by the terms
 11 and conditions applicable to the provision of paid parental
 12 leave for employees of the Federal Government under
 13 chapter 63 of title 5, United States Code, and any cor-
 14 responding regulations.”.

15 (2) CLARIFICATION OF USE OF OTHER LEAVE
 16 IN ADDITION TO 12 WEEKS AS FAMILY AND MEDICAL
 17 LEAVE.—

18 (A) TITLE 5.—Section 6382(a) of title 5,
 19 United States Code, as amended by section
 20 7602 of the National Defense Authorization Act
 21 for Fiscal Year 2020, is amended—

22 (i) in paragraph (1), in the matter
 23 preceding subparagraph (A), by inserting
 24 “(or, in the case of leave that includes
 25 leave under subparagraph (A) or (B) of

1 this paragraph, 12 administrative work-
 2 weeks of leave plus any additional period
 3 of leave used under subsection
 4 (d)(2)(B)(ii))” after “12 administrative
 5 workweeks of leave”; and

6 (ii) in paragraph (4), by inserting
 7 “(or 26 administrative workweeks of leave
 8 plus any additional period of leave used
 9 under subsection (d)(2)(B)(ii))” after “26
 10 administrative workweeks of leave”.

11 (B) CONGRESSIONAL EMPLOYEES.—Sec-
 12 tion 202(a)(1) of the Congressional Account-
 13 ability Act of 1995 (2 U.S.C. 1312(a)(1)), as
 14 amended by section 7603 of the National De-
 15 fense Authorization Act for Fiscal Year 2020,
 16 is amended—

17 (i) in the second sentence, by insert-
 18 ing “and in the case of leave that includes
 19 leave for such an event, the period of leave
 20 to which a covered employee is entitled
 21 under section 102(a)(1) of such Act shall
 22 be 12 administrative workweeks of leave
 23 plus any additional period of leave used
 24 under subsection (d)(2)(B) of this section”
 25 before the period; and

(ii) by striking the third sentence and inserting the following: “For purposes of applying section 102(a)(4) of such Act, in the case of leave that includes leave under subparagraph (A) or (B) of section 102(a)(1) of such Act, a covered employee is entitled, under paragraphs (1) and (3) of section 102(a) of such Act, to a combined total of 26 workweeks of leave plus any additional period of leave used under subsection (d)(2)(B) of this section.”.

(C) OTHER EMPLOYEES COVERED UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993.—Section 102(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611(a)) is amended by adding at the end the following:

“(6) SPECIAL RULES ON PERIOD OF LEAVE.—

With respect to an employee of the Government Accountability Office and an employee of the Library of Congress—

“(A) in the case of leave that includes leave under subparagraph (A) or (B) of paragraph (1), the employee shall be entitled to 12 administrative workweeks of leave plus any additional period of leave used under subsection

(d)(3)(B)(ii) of this section or section 202(d)(2)(B) of the Congressional Accountability Act of 1995 (2 U.S.C. 1312(d)(2)(B)), as the case may be; and

“(B) for purposes of paragraph (4), the employee is entitled, under paragraphs (1) and (3), to a combined total of 26 workweeks of leave plus, if applicable, any additional period of leave used under subsection (d)(3)(B)(ii) of this section or section 202(d)(2)(B) of the Congressional Accountability Act of 1995 (2 U.S.C. 1312(d)(2)(B)), as the case may be.”.

(3) APPLICABILITY.—The amendments made by this section shall not be effective with respect to any birth or placement occurring before October 1, 2020.

(b) PAID PARENTAL LEAVE FOR PRESIDENTIAL EMPLOYEES.—

(1) AMENDMENTS TO CHAPTER 5 OF TITLE 3, UNITED STATES CODE.—Section 412 of title 3, United States Code, is amended—

(A) in subsection (a)(1), by adding at the end the following: “In applying section 102 of such Act with respect to leave for an event described in subsection (a)(1)(A) or (B) of such

section to covered employees, subsection (c) of this section shall apply and in the case of leave that includes leave for such an event, the period of leave to which a covered employee is entitled under section 102(a)(1) of such Act shall be 12 administrative workweeks of leave plus any additional period of leave used under subsection (c)(2)(B) of this section. For purposes of applying section 102(a)(4) of such Act, in the case of leave that includes leave under subparagraph (A) or (B) of section 102(a)(1) of such Act, a covered employee is entitled, under paragraphs (1) and (3) of section 102(a) of such Act, to a combined total of 26 workweeks of leave plus any additional period of leave used under subsection (c)(2)(B) of this section.”;

(B) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(C) by inserting after subsection (b) the following:

“(c) SPECIAL RULE FOR PAID PARENTAL LEAVE.—

“(1) SUBSTITUTION OF PAID LEAVE.—A covered employee may elect to substitute for any leave without pay under subparagraph (A) or (B) of section 102(a)(1) of the Family and Medical Leave Act

1 of 1993 (29 U.S.C. 2612(a)(1)) any paid leave
 2 which is available to such employee for that purpose.

3 “(2) AMOUNT OF PAID LEAVE.—The paid leave
 4 that is available to a covered employee for purposes
 5 of paragraph (1) is—

6 “(A) the number of weeks of paid parental
 7 leave in connection with the birth or placement
 8 involved that corresponds to the number of ad-
 9 ministrative workweeks of paid parental leave
 10 available to employees under section
 11 6382(d)(2)(B)(i) of title 5, United States Code;
 12 and

13 “(B) during the 12-month period referred
 14 to in section 102(a)(1) of the Family and Med-
 15 ical Leave Act of 1993 (29 U.S.C. 2612(a)(1))
 16 and in addition to the administrative workweeks
 17 described in subparagraph (A), any additional
 18 paid vacation, personal, family, medical, or sick
 19 leave provided by the employing office to such
 20 employee.

21 “(3) LIMITATION.—Nothing in this section or
 22 section 102(d)(2)(A) of the Family and Medical
 23 Leave Act of 1993 (29 U.S.C. 2612(d)(2)(A)) shall
 24 be considered to require or permit an employing of-
 25 fice to require that an employee first use all or any

1 portion of the leave described in paragraph (2)(B)
 2 before being allowed to use the paid parental leave
 3 described in paragraph (2)(A).

4 “(4) ADDITIONAL RULES.—Paid parental leave
 5 under paragraph (2)(A)—

6 “(A) shall be payable from any appropria-
 7 tion or fund available for salaries or expenses
 8 for positions within the employing office;

9 “(B) if not used by the covered employee
 10 before the end of the 12-month period (as re-
 11 ferred to in section 102(a)(1) of the Family and
 12 Medical Leave Act of 1993 (29 U.S.C.
 13 2612(a)(1))) to which it relates, shall not accu-
 14 mulate for any subsequent use; and

15 “(C) shall apply without regard to the limi-
 16 tations in subparagraph (E), (F), or (G) of sec-
 17 tion 6382(d)(2) of title 5, United States Code,
 18 or section 104(c)(2) of the Family and Medical
 19 Leave Act of 1993 (29 U.S.C. 2614(c)(2)).”;
 20 and

21 “(D) in subsection (e)(1), as so redesign-
 22 ated, by striking “subsection (c)” and insert-
 23 ing “subsection (d)”.

24 “(2) APPLICABILITY.—The amendments made
 25 by this subsection shall not be effective with respect

1 to any birth or placement occurring before October
2 1, 2020.

3 (c) FAA AND TSA.—

4 (1) APPLICATION OF FEDERAL FML.—

5 (A) IN GENERAL.—Section 40122(g)(2) of
6 title 49, United States Code, is amended—

7 (i) in subparagraph (I)(iii), by strik-
8 ing “and” at the end;

9 (ii) in subparagraph (J), by striking
10 the period at the end and inserting “;
11 and”; and

12 (iii) by adding at the end the fol-
13 lowing:

14 “(K) subchapter V of chapter 63, relating
15 to family and medical leave.”.

16 (B) APPLICABILITY.—The amendments
17 made by subparagraph (A) shall not be effective
18 with respect to any event for which leave may
19 be taken under subchapter V of chapter 63 of
20 title 5, United States Code, occurring before
21 October 1, 2020.

22 (2) CORRECTIONS FOR TSA SCREENERS.—Sec-
23 tion 7606 of the National Defense Authorization Act
24 for Fiscal Year 2020 is amended—

1 (A) by striking “Section 111(d)(2)” and
2 inserting the following:

3 “(a) IN GENERAL.—Section 111(d)(2)”; and

4 (B) by adding at the end the following:

5 “(b) EFFECTIVE DATE; APPLICATION.—

6 “(1) IN GENERAL.—The amendment made by
7 subsection (a) shall not be effective with respect to
8 any event for which leave may be taken under sub-
9 chapter V of chapter 63 of title 5, United States
10 Code, occurring before October 1, 2020.

11 “(2) APPLICATION TO SERVICE REQUIREMENT
12 FOR ELIGIBILITY.—For purposes of applying the pe-
13 riod of service requirement under subparagraph (B)
14 of section 6381(1) to an individual appointed under
15 section 111(d)(1) of the Aviation and Transpor-
16 tation Security Act (49 U.S.C. 44935 note), the
17 amendment made by subsection (a) of this section
18 shall apply with respect to any period of service by
19 the individual under such an appointment, including
20 service before the effective date of such amend-
21 ment.”.

22 (d) TITLE 38 EMPLOYEES.—

23 (1) IN GENERAL.—Section 7425 of title 38,
24 United States Code, is amended—

1 (A) in subsection (b), by striking “Not-
 2 withstanding” and inserting “Except as pro-
 3 vided in subsection (c), and notwithstanding”;
 4 and

5 (B) by adding at the end the following:

6 “(c) Notwithstanding any other provision of this sub-
 7 chapter, the Administration shall provide to individuals
 8 appointed to any position described in section 7421(b) who
 9 are employed by the Administration family and medical
 10 leave in the same manner, to the maximum extent prac-
 11 ticable, as family and medical leave is provided under sub-
 12 chapter V of chapter 63 of title 5 to employees, as defined
 13 in section 6381(1) of such title.”.

14 (2) APPLICABILITY.—The amendments made
 15 by paragraph (1) shall not be effective with respect
 16 to any event for which leave may be taken under
 17 subchapter V of chapter 63 of title 5, United States
 18 Code, occurring before October 1, 2020.

19 (e) ARTICLE I JUDGES.—

20 (1) BANKRUPTCY JUDGES.—Section 153(d) of
 21 title 28, United States Code, is amended—

22 (A) by striking “A bankruptcy judge” and
 23 inserting “(1) Except as provided in paragraph
 24 (2), a bankruptcy judge”; and

25 (B) by adding at the end the following:

1 “(2) The provisions of subchapter V of chapter 63
 2 of title 5 shall apply to a bankruptcy judge as if the bank-
 3 ruptcy judge were an employee (within the meaning of
 4 subparagraph (A) of section 6381(1) of such title).”.

5 (2) MAGISTRATE JUDGES.—Section 631(k) of
 6 title 28, United States Code, is amended—

7 (A) by striking “A United States mag-
 8 istrate judge” and inserting “(1) Except as pro-
 9 vided in paragraph (2), a United States mag-
 10 istrate judge”; and

11 (B) by adding at the end the following:

12 “(2) The provisions of subchapter V of chapter 63
 13 of title 5 shall apply to a United States magistrate judge
 14 as if the United States magistrate judge were an employee
 15 (within the meaning of subparagraph (A) of section
 16 6381(1) of such title).”.

17 (f) TECHNICAL CORRECTIONS.—

18 (1) Section 7605 of the National Defense Au-
 19 thorization Act for Fiscal Year 2020 is amended by
 20 striking “on active duty” each place it appears and
 21 inserting “on covered active duty”.

22 (2) Subparagraph (E) of section 6382(d)(2) of
 23 title 5, United States Code, as added by section
 24 7602 of the National Defense Authorization Act for
 25 Fiscal Year 2020, is amended by striking “the re-

1 requirement to complete” and all that follows and in-
2 serting “the service requirement under subparagraph
3 (B) of section 6381(1).”.

4 (g) EFFECTIVE DATE.—The amendments made by
5 this section shall take effect as if enacted immediately
6 after the enactment of the National Defense Authorization
7 Act for Fiscal Year 2020.

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