

116TH CONGRESS
2D SESSION

S. 3358

To extend protections to part-time workers in the areas of family and medical leave and pension plans, and to ensure equitable treatment in the workplace.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 27, 2020

Mr. SCHUMER (for Ms. WARREN (for herself, Mr. BOOKER, Mr. MARKEY, and Ms. HARRIS)) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To extend protections to part-time workers in the areas of family and medical leave and pension plans, and to ensure equitable treatment in the workplace.

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 “Part-Time Worker Bill
5 of Rights Act of 2020”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—EXPANDING ACCESS TO BENEFITS FOR PART-TIME
WORKERS

- Sec. 101. Elimination of hours of service requirement for FMLA leave.
Sec. 102. Improving coverage for long-term part-time workers.

TITLE II—ENSURING FAIR TREATMENT FOR PART-TIME
WORKERS

- Sec. 201. Definitions.
Sec. 202. Elimination of discrimination on the basis of hours worked.
Sec. 203. Offer of work to existing employees.
Sec. 204. Prohibited acts.
Sec. 205. Remedies and enforcement.
Sec. 206. Regulations.

1 **TITLE I—EXPANDING ACCESS TO**
2 **BENEFITS FOR PART-TIME**
3 **WORKERS**

4 **SEC. 101. ELIMINATION OF HOURS OF SERVICE REQUIRE-**
5 **MENT FOR FMLA LEAVE.**

6 (a) AMENDMENT.—Section 101(2)(A) of the Family
7 and Medical Leave Act of 1993 (29 U.S.C. 2611(2)(A))
8 is amended to read as follows:

9 “(A) IN GENERAL.—The term ‘eligible em-
10 ployee’ means an employee who has been em-
11 ployed for at least 12 months by the employer
12 with respect to whom leave is requested under
13 section 102.”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) Section 101(2) of such Act (29 U.S.C.
16 2611(2)) is amended by striking subparagraphs (C)
17 and (D).

18 (2) Section 102(a) of such Act (29 U.S.C.
19 2612(a)) is amended by striking paragraph (5).

1 (c) EFFECTIVE DATE.—The amendments made by
2 subsections (a) and (b) shall take effect beginning on the
3 date that is 1 year after the date of enactment of this
4 Act.

5 **SEC. 102. IMPROVING COVERAGE FOR LONG-TERM PART-**
6 **TIME WORKERS.**

7 (a) IN GENERAL.—Section 202 of the Employee Re-
8 tirement Income Security Act of 1974 (29 U.S.C. 1052)
9 is amended by adding at the end the following new sub-
10 section:

11 “(c) SPECIAL RULE FOR CERTAIN PART-TIME EM-
12 PLOYEES.—

13 “(1) IN GENERAL.—A pension plan that in-
14 cludes either a qualified cash or deferred arrange-
15 ment (as defined in section 401(k) of the Internal
16 Revenue Code of 1986) or a salary reduction agree-
17 ment (as described in section 403(b) of such Code)
18 shall not require, as a condition of participation in
19 the arrangement or agreement, that an employee
20 complete a period of service with the employer (or
21 employers) maintaining the plan extending beyond
22 the close of the earlier of—

23 “(A) the period permitted under subsection
24 (a)(1) (determined without regard to subpara-
25 graph (B)(i) thereof) and section 410(a)(1) of

1 such Code (determined without regard to sub-
2 paragraph (B)(i) thereof); or

3 “(B) the first 24-month period—

4 “(i) consisting of 2 consecutive 12-
5 month periods during each of which the
6 employee has at least 500 hours of service;
7 and

8 “(ii) by the close of which the em-
9 ployee has attained the age of 21.

10 “(2) EXCEPTION.—Paragraph (1)(B) shall not
11 apply to employees who are included in a unit of em-
12 ployees covered by an agreement which the Secretary
13 finds to be a collective bargaining agreement be-
14 tween employee representatives and 1 or more em-
15 ployers, if there is evidence that retirement benefits
16 were the subject of good faith bargaining between
17 such employee representatives and such employer or
18 employers.

19 “(3) COORDINATION WITH OTHER RULES.—In
20 the case of employees who are not highly com-
21 pensated employees (within the meaning of section
22 414(q) of the Internal Revenue Code of 1986) and
23 who are eligible to participate in the arrangement or
24 agreement solely by reason of paragraph (1)(B):

1 “(A) EXCLUSIONS.—An employer may
2 elect to exclude such employees from the deter-
3 mination of whether the plan that includes the
4 arrangement or agreement satisfies the require-
5 ments of subsections (a)(4), (k)(3), (k)(12),
6 (k)(13), (m)(2), (m)(11), and (m)(12) of sec-
7 tion 401 of such Code, section 410(b) of such
8 Code, and section 416 of such Code. If the em-
9 ployer so excludes such employees with respect
10 to the requirements of any such provision, such
11 employees shall be excluded with respect to the
12 requirements of all such provisions. This sub-
13 paragraph shall cease to apply to any employee
14 as of the first plan year beginning after the
15 plan year in which the employee completes 1
16 year of service (without regard to paragraph
17 (1)(B) of this subsection).

18 “(B) TIME OF PARTICIPATION.—The rules
19 of subsection (a)(4) and section 410(a)(4) of
20 the Internal Revenue Code of 1986 shall apply
21 to such employees.

22 “(4) 12-MONTH PERIOD.—For purposes of this
23 subsection, 12-month periods shall be determined in
24 the same manner as under the last sentence of sub-
25 section (a)(3)(A), except that 12-month periods be-

1 ginning before January 1, 2019, shall not be taken
2 into account.”.

3 (b) VESTING.—Section 203(b) of the Employee Re-
4 tirement Income Security Act of 1974 (29 U.S.C.
5 1053(b)) is amended by redesignating paragraph (4) as
6 paragraph (5) and by inserting after paragraph (3) the
7 following new paragraph:

8 “(4) PART-TIME EMPLOYEES.—For purposes of de-
9 termining whether an employee who is eligible to partici-
10 pate in a qualified cash or deferred arrangement or a sal-
11 ary reduction agreement under a plan solely by reason of
12 section 202(c)(1)(B) has a nonforfeitable right to em-
13 ployer contributions—

14 “(A) except as provided in subparagraph (B),
15 each 12-month period for which the employee has at
16 least 500 hours of service shall be treated as a year
17 of service; and

18 “(B) 12-month periods occurring before the 24-
19 month period described in section 202(c)(1)(B) shall
20 not be treated as years of service.

21 For purposes of this paragraph, 12-month periods shall
22 be determined in the same manner as under the last sen-
23 tence of section 202(a)(3)(A), except that 12-month peri-
24 ods beginning before January 1, 2019, shall not be taken
25 into account.”.

1 (c) PENALTY.—Section 502 of the Employee Retirement
 2 Income Security Act of 1974 (29 U.S.C. 1132) is
 3 amended by adding at the end the following new sub-
 4 section:

5 “(n) REQUIREMENTS RELATING TO PART-TIME EM-
 6 PLOYEES.—In the case of a plan that fails to permit par-
 7 ticipation as required by section 202(c), the Secretary may
 8 assess a civil penalty against the plan sponsor in an
 9 amount equal to \$10,000 per year per employee to whom
 10 such failure relates. The Secretary may, in the Secretary’s
 11 sole discretion, waive or reduce the penalty under this sub-
 12 section if the Secretary determines that the plan sponsor
 13 acted reasonably and in good faith.”

14 **TITLE II—ENSURING FAIR**
 15 **TREATMENT FOR PART-TIME**
 16 **WORKERS**

17 **SEC. 201. DEFINITIONS.**

18 In this title:

19 (1) EMPLOY.—The term “employ” has the
 20 meaning given the term in section 3(g) of the Fair
 21 Labor Standards Act of 1938 (29 U.S.C. 203(g)).

22 (2) EMPLOYEE.—The term “employee” means
 23 an individual who is—

24 (A) an employee, as defined in section 3(e)
 25 of the Fair Labor Standards Act of 1938 (29

1 U.S.C. 203(e)), who is not covered under any of
2 subparagraphs (B) through (G), except that a
3 reference in such section to an employer shall
4 be considered to be a reference to a person in
5 commerce described in paragraph (3)(A);

6 (B) a State employee described in section
7 304(a) of the Government Employee Rights Act
8 of 1991 (42 U.S.C. 2000e–16c(a));

9 (C) a covered employee, as defined in sec-
10 tion 101 of the Congressional Accountability
11 Act of 1995 (2 U.S.C. 1301), except that such
12 term shall not include an applicant for employ-
13 ment;

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

16 (E) a Federal officer or employee covered
17 under subchapter V of chapter 63 of title 5,
18 United States Code; or

19 (F) an employee of the Government Ac-
20 countability Office.

21 (3) EMPLOYER.—The term “employer”—

22 (A)(i) means any person in commerce
23 that—

24 (I) except as provided in subclause

25 (II)—

1 (aa) employs more than 500 em-
2 ployees described in paragraph (2)(A),
3 which shall be calculated by including
4 all employees described in paragraph
5 (2)(A) performing work for compensa-
6 tion on a full-time, part-time, or tem-
7 porary basis, except that if the num-
8 ber of such employees who perform
9 work for such a person for compensa-
10 tion fluctuates, the number may be
11 determined for a calendar year based
12 upon the average number of such em-
13 ployees who performed work for the
14 person for compensation during the
15 preceding calendar year; or

16 (bb) is part of an integrated en-
17 terprise, chain of businesses, group of
18 franchises associated with a
19 franchisor, or network of franchises
20 that, in the aggregate, employs more
21 than 500 employees, calculated in ac-
22 cordance with item (aa); and

23 (II) for purposes of section 202, em-
24 ploys, directly or in the aggregate as de-
25 scribed in subclause (I)(bb), more than 15

1 employees, calculated in accordance with
2 subclause (I)(aa);

3 (ii) includes—

4 (I) any person who acts, directly or
5 indirectly, in the interest of such an em-
6 ployer to any of the employees (described
7 in clause (i)) of such employer; and

8 (II) any successor in interest of such
9 an employer; and

10 (iii) includes an agency described in sub-
11 paragraph (A)(iii) of section 101(4) of the
12 Family and Medical Leave Act of 1993 (29
13 U.S.C. 2611(4)), to which subparagraph (B) of
14 such section shall apply;

15 (B) is an entity employing a State em-
16 ployee described in section 304(a) of the Gov-
17 ernment Employee Rights Act of 1991 (42
18 U.S.C. 2000e–16c(a));

19 (C) is an employing office, as defined in
20 section 101 of the Congressional Accountability
21 Act of 1995 (2 U.S.C. 1301);

22 (D) is an employing office, as defined in
23 section 411(c) of title 3, United States Code;

1 (E) is an employing agency covered under
2 subchapter V of chapter 63 of title 5, United
3 States Code; or

4 (F) is the Comptroller General of the
5 United States.

6 (4) PERSON.—The term “person”, except as
7 used with the term “person in commerce”, has the
8 meaning given the term in section 3(a) of the Fair
9 Labor Standards Act of 1938 (29 U.S.C. 203(a)).

10 (5) PERSON IN COMMERCE.—

11 (A) IN GENERAL.—The term “person in
12 commerce” means any person who is engaged
13 in commerce, in any industry or activity affect-
14 ing commerce, or in the production of goods for
15 commerce.

16 (B) COMMERCE.—In subparagraph (A),
17 the term “commerce” includes government.

18 **SEC. 202. ELIMINATION OF DISCRIMINATION ON THE BASIS**
19 **OF HOURS WORKED.**

20 (a) RULE.—

21 (1) IN GENERAL.—An employer shall not dis-
22 criminate against an employee on the basis that
23 such employee is scheduled to work fewer hours per
24 week, or is employed for a shorter expected duration,
25 than another employee of the employer if the jobs of

1 such employees require substantially equal skill, ef-
2 fort, responsibility, and duties and such jobs are per-
3 formed under similar working conditions.

4 (2) EXAMPLES.—Discrimination described in
5 paragraph (1) shall include differential treatment
6 with respect to—

7 (A) rate of compensation;

8 (B) notice of, and input into, work hours;

9 (C) eligibility to accrue, on a pro rata
10 basis, employer-provided paid and unpaid time
11 off and other benefits;

12 (D) promotion opportunities; or

13 (E) other terms, conditions, or privileges of
14 employment.

15 (b) DISTINCTIONS PERMITTED.—This section shall
16 not be construed to prohibit differences in rate of com-
17 pensation, or other conditions, terms, or privileges of em-
18 ployment, of employees of an employer for reasons other
19 than the number of hours the employees are scheduled to
20 work per week, or the expected duration of employment
21 of the employees, including for reasons such as—

22 (1) the date on which the employees are hired;

23 (2) a merit system; or

24 (3) a system that measures earnings by quan-
25 tity per hour or quality of production.

1 **SEC. 203. OFFER OF WORK TO EXISTING EMPLOYEES.**

2 (a) WRITTEN STATEMENTS REQUIRED.—

3 (1) IN GENERAL.—Upon hiring an employee, an
4 employer shall—

5 (A) obtain a written statement of the em-
6 ployee's desired number of weekly work hours
7 and the days and times the employee is avail-
8 able to work;

9 (B) notify the employee that this written
10 statement may be modified in writing at any
11 time during employment; and

12 (C) specify the process to modify the writ-
13 ten statement.

14 (b) OFFER OF DESIRED WEEKLY WORK HOURS TO
15 EXISTING EMPLOYEES.—

16 (1) IN GENERAL.—Except as provided in para-
17 graph (2), an employer shall schedule an employee
18 of the employer to work the number of weekly hours
19 identified by the employee as desired weekly hours in
20 a written statement under subsection (a) prior to
21 hiring any new employee from an external applicant
22 pool, including hiring through the use of a tem-
23 porary services or staffing agency, or contracting
24 with a contractor or subcontractor, to work such
25 hours.

1 (2) EXCEPTIONS.—An employer may hire an
2 individual as a new employee, or engage a contractor
3 or subcontractor, to perform work for the employer
4 if—

5 (A) the employer needs to fill hours for
6 which no employees of the employer who have
7 provided written statements under subsection
8 (a) are available based on such written state-
9 ments;

10 (B) all employees of the employer who
11 have provided written statements under sub-
12 section (a) lack, and cannot obtain with reason-
13 able training, the qualifications necessary to
14 perform the work; or

15 (C) scheduling any such employee to per-
16 form the work would require providing such em-
17 ployee overtime compensation at a rate not less
18 than one and one half times the regular rate at
19 which the employee is employed, in accordance
20 with section 7 of the Fair Labor Standards Act
21 of 1938 (29 U.S.C. 207) or any State law.

22 (c) COMPENSATION REQUIRED.—

23 (1) IN GENERAL.—Except as provided in para-
24 graph (2), an employee (referred to in this sub-
25 section as an “existing employee”) who is not sched-

1 uled for the desired number of total weekly work
2 hours identified by the employee in a written state-
3 ment under subsection (a) shall be compensated for
4 each hour worked by a newly hired employee, con-
5 tractor, or subcontractor hired after the existing em-
6 ployee so identified such number of hours, during an
7 hour that such existing employee identified in a writ-
8 ten statement under such subsection as an hour for
9 which the employee is available to work.

10 (2) EXCEPTION.—An employer shall not be re-
11 quired to compensate an existing employee under
12 paragraph (1) for any hour of work for which—

13 (A) the employee lacks, or cannot obtain
14 with reasonable training, the qualifications nec-
15 essary to perform the work;

16 (B) scheduling such employee to perform
17 the work would require providing the employee
18 overtime compensation as described in sub-
19 section (b)(2)(C);

20 (C) the employer made a reasonable at-
21 tempt to contact the employee to work such
22 hour and was unable to reach the employee; or

23 (D) the employee was otherwise no longer
24 available.

1 (d) DEFINITION.—For purposes of this section, the
2 terms “written”, with respect to a statement, and “writ-
3 ing” mean a printed or printable communication in phys-
4 ical or electronic form.

5 **SEC. 204. PROHIBITED ACTS.**

6 (a) INTERFERENCE WITH RIGHTS.—It shall be un-
7 lawful for any employer to interfere with, restrain, or deny
8 the exercise or the attempt to exercise, any rights set forth
9 under this title.

10 (b) RETALIATION PROHIBITED.—It shall be unlawful
11 for any employer to discharge, threaten to discharge, de-
12 mote, suspend, reduce work hours of, or otherwise dis-
13 criminate (including taking any other adverse employment
14 action) against any person because of an employee of the
15 employer exercising the rights of the employee under this
16 title or opposing any practice made unlawful by this title.

17 (c) INTERFERENCE WITH PROCEEDINGS OR INQUIR-
18 IES.—It shall be unlawful for any person to discharge or
19 in any other manner discriminate against an individual be-
20 cause such individual—

21 (1) has filed any charge, or has instituted or
22 caused to be instituted any proceeding, under or re-
23 lated to this title;

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

4 (3) has testified, or is about to testify, in any
5 inquiry or proceeding relating to any right provided
6 under this title.

7 **SEC. 205. REMEDIES AND ENFORCEMENT.**

8 (a) INVESTIGATIVE AUTHORITY.—

9 (1) IN GENERAL.—To ensure compliance with
10 this title, including any regulation or order issued
11 under this title, the Secretary shall have, subject to
12 paragraph (3), the investigative authority provided
13 under section 11(a) of the Fair Labor Standards
14 Act of 1938 (29 U.S.C. 211(a)).

15 (2) OBLIGATION TO KEEP AND PRESERVE
16 RECORDS.—

17 (A) IN GENERAL.—Each employer shall
18 maintain for a period of not less than 3 years,
19 or for the duration of any claim (including the
20 duration of a related civil action or investiga-
21 tion) pending pursuant to this title, whichever
22 is longer, all records necessary to demonstrate
23 compliance with this title, including compliance
24 with the requirements of regulations issued by
25 the Secretary under section 206. Such records

1 shall include documentation of offers of hours
2 of work to employees and responses to such of-
3 fers.

4 (B) COPIES.—Each employer shall, upon a
5 reasonable request of an employee of the em-
6 ployer, provide the employee with a copy of the
7 records described in subparagraph (A) relating
8 to the employee.

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

19 (4) SUBPOENA POWERS.—For the purposes of
20 any investigation provided for in this subsection, the
21 Secretary shall have the subpoena authority provided
22 for under section 9 of the Fair Labor Standards Act
23 of 1938 (29 U.S.C. 209).

24 (b) CIVIL ACTION BY EMPLOYEES.—

25 (1) LIABILITY.—

1 (A) IN GENERAL.—Any employer who vio-
2 lates section 202, 203, or 204 (each such provi-
3 sion referred to in this section as a “covered
4 provision”) shall be liable to any person af-
5 fected for—

6 (i) damages equal to the amount of—

7 (I) any wages, salary, employ-
8 ment benefits (as defined in section
9 101 of the Family and Medical Leave
10 Act of 1993 (29 U.S.C. 2611)), or
11 other compensation denied, lost, or
12 owed to such employee by reason of
13 the violation; or

14 (II) in a case in which wages,
15 salary, employment benefits (as so de-
16 fined), or other compensation have
17 not been denied, lost, or owed to the
18 employee, any actual monetary losses
19 sustained by the employee as a direct
20 result of the violation;

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

24 (iii) except as provided in subpara-
25 graph (B), an additional amount as liq-

1 liquidated damages equal to the sum of the
2 amount described in clause (i) and the in-
3 terest described in clause (ii); and

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

7 (B) EXCEPTION FOR LIQUIDATED DAM-
8 AGES.—If an employer who has violated a cov-
9 ered provision proves to the satisfaction of the
10 court that the act or omission which violated
11 the covered provision was in good faith and that
12 the employer had reasonable grounds for believ-
13 ing that the act or omission was not a violation
14 of a covered provision, such court may, in the
15 discretion of the court, reduce the amount of li-
16 ability under subparagraph (A) to the amount,
17 interest, and equitable relief determined under
18 clauses (i), (ii), and (iv), respectively.

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

25 (A) such employees; or

1 (B) such employees and any other employ-
2 ees similarly situated.

3 (3) FEES AND COSTS.—The court in such an
4 action shall, in addition to any judgment awarded to
5 the plaintiff, allow a reasonable attorney’s fee, rea-
6 sonable expert witness fees, and other costs of the
7 action to be paid by the defendant.

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

17 (c) ACTIONS BY THE SECRETARY.—

18 (1) ADMINISTRATIVE ACTION.—The Secretary
19 shall receive, investigate, and attempt to resolve
20 complaints of violations of this title in the same
21 manner that the Secretary receives, investigates, and
22 attempts to resolve complaints of violations of sec-
23 tions 6 and 7 of the Fair Labor Standards Act of
24 1938 (29 U.S.C. 206 and 207), and may issue an
25 order making determinations, and assessing a civil

1 penalty described in paragraph (3) (in accordance
2 with paragraph (3)), with respect to such an alleged
3 violation.

4 (2) ADMINISTRATIVE REVIEW.—An affected
5 person who takes exception to an order issued under
6 paragraph (1) may request review of and a decision
7 regarding such an order by an administrative law
8 judge. In reviewing the order, the administrative law
9 judge may hold an administrative hearing con-
10 cerning the order, in accordance with the require-
11 ments of sections 554, 556, and 557 of title 5,
12 United States Code. Such hearing shall be conducted
13 expeditiously.

14 (3) CIVIL PENALTY.—

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

17 (i) section 204(a) shall be subject to
18 a civil penalty in an amount to be deter-
19 mined by the Secretary, but not to exceed
20 \$100 per violation (subject to subpara-
21 graph (B)); or

22 (ii) subsection (b) or (c) of section
23 204 shall be subject to a civil penalty in an
24 amount to be determined by the Secretary,

1 but not to exceed \$1,100 per violation
2 (subject to subparagraph (B)).

3 (B) INFLATION.—The Secretary shall, for
4 each year beginning with calendar year 2021,
5 increase the maximum amounts for the pen-
6 alties described in clauses (i) and (ii) of sub-
7 paragraph (A) by a percentage equal to the per-
8 centage increase in the Consumer Price Index
9 for All Urban Consumers, published by the De-
10 partment of Labor, between December 2019
11 and the December prior to the year for which
12 the increase takes effect.

13 (4) CIVIL ACTION.—

14 (A) IN GENERAL.—The Secretary may
15 bring an action in any court of competent juris-
16 diction on behalf of aggrieved employees to—

- 17 (i) restrain violations of this title;
- 18 (ii) obtain such equitable relief as may
19 be appropriate, including employment, re-
20 instatement, and promotion; and
- 21 (iii) in the case of a violation of a cov-
22 ered provision, recover the damages, inter-
23 est, and equitable relief described in
24 clauses (i) through (iv) of subsection
25 (b)(1)(A).

1 (B) RECOVERY ON BEHALF OF EMPLOY-
2 EES.—Any sums recovered by the Secretary
3 under subparagraph (A) on behalf of an em-
4 ployee shall be held in a special deposit account
5 and shall be paid, on order of the Secretary, di-
6 rectly to the employee affected. Any such sums
7 not paid to an employee because of inability to
8 do so within a period of three years shall be de-
9 posited in the Treasury and credited to mis-
10 cellaneous receipts.

11 (d) LIMITATION.—

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

17 (2) WILLFUL VIOLATION.—In the case of such
18 action brought for a willful violation of section 204,
19 such action may be brought within 3 years of the
20 date of the last event constituting the alleged viola-
21 tion for which such action is brought.

22 (3) COMMENCEMENT.—In determining when an
23 action is commenced by the Secretary or by an em-
24 ployee under this section for the purposes of this

1 subsection, it shall be considered to be commenced
2 on the date when the complaint is filed.

3 (e) OTHER ADMINISTRATIVE OFFICERS.—

4 (1) EMPLOYEES COVERED BY CONGRESSIONAL
5 ACCOUNTABILITY ACT OF 1995.—The powers and
6 procedures provided in the Congressional Account-
7 ability Act of 1995 (2 U.S.C. 1301 et seq.) to the
8 Board (as defined in section 101 of that Act (2
9 U.S.C. 1301)), or any person, alleging a violation of
10 section 202(a)(1) of that Act (2 U.S.C. 1312(a)(1))
11 shall be the powers and procedures this title provides
12 to that Board, or any person, alleging a violation of
13 this title against an employee described in section
14 201(2)(C).

15 (2) EMPLOYEES COVERED BY CHAPTER 5 OF
16 TITLE 3, UNITED STATES CODE.—The powers and
17 procedures provided in chapter 5 of title 3, United
18 States Code, to the President, the Merit Systems
19 Protection Board, or any person, alleging a violation
20 of section 412(a)(1) of that title, shall be the powers
21 and procedures this title provides to the President,
22 that Board, or any person, respectively, alleging a
23 violation of this title against an employee described
24 in section 201(2)(D).

1 (3) EMPLOYEES COVERED BY CHAPTER 63 OF
2 TITLE 5, UNITED STATES CODE.—The powers and
3 procedures provided in title 5, United States Code,
4 to an employing agency, provided in chapter 12 of
5 that title to the Merit Systems Protection Board, or
6 provided in that title to any person, alleging a viola-
7 tion of chapter 63 of that title, shall be the powers
8 and procedures this title provides to that agency,
9 that Board, or any person, respectively, alleging a
10 violation of this title against an employee described
11 in section 201(2)(E).

12 (4) COMPTROLLER GENERAL.—In the case of
13 employees of the Government Accountability Office,
14 the authority of the Secretary under this title shall
15 be exercised by the Comptroller General of the
16 United States.

17 **SEC. 206. REGULATIONS.**

18 (a) SECRETARY OF LABOR.—Except as provided in
19 subsections (b) through (e), not later than 180 days after
20 the date of enactment of this title, the Secretary shall
21 issue such regulations as may be necessary to implement
22 this title.

23 (b) BOARD.—

24 (1) IN GENERAL.—Not later than 180 days
25 after the date of enactment of this Act, the Board

1 of Directors of the Office of Congressional Work-
2 place Rights shall issue such regulations as may be
3 necessary to implement this title with respect to em-
4 ployees described in section 201(2)(C). The proce-
5 dures applicable to regulations of the Board issued
6 for the implementation of the Congressional Ac-
7 countability Act of 1995 (2 U.S.C. 1301 et seq.),
8 prescribed in section 304 of that Act (2 U.S.C.
9 1384), shall be the procedures applicable to regula-
10 tions issued under this subsection.

11 (2) CONSIDERATION.—In prescribing the regu-
12 lations, the Board shall take into consideration the
13 enforcement and remedies provisions concerning the
14 Office and applicable to rights and protections under
15 the Family and Medical Leave Act of 1993 (29
16 U.S.C. 2611 et seq.), under the Congressional Ac-
17 countability Act of 1995 (2 U.S.C. 1301 et seq.).

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

1 the implementation of the rights and protections
2 under this title.

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 title with respect to em-
8 ployees described in section 201(2)(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 title shall be
18 the same as substantive regulations issued by the
19 Secretary to implement this title, except to the ex-
20 tent that the President may determine, for good
21 cause shown and stated together with the regula-
22 tions issued by the President, that a modification of
23 such substantive regulations would be more effective
24 for the implementation of the rights and protections
25 under this title.

1 (d) OFFICE OF PERSONNEL MANAGEMENT.—

2 (1) IN GENERAL.—Not later than 180 days
3 after the date of enactment of this Act, the Office
4 of Personnel Management shall issue such regula-
5 tions as may be necessary to implement this title
6 with respect to employees described in section
7 201(2)(E).

8 (2) CONSIDERATION.—In prescribing the regu-
9 lations, the Office shall take into consideration the
10 enforcement and remedies provisions concerning an
11 employing agency and the Merit Systems Protection
12 Board under subchapter V of chapter 63 of title 5,
13 United States Code.

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

24 (e) 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 of the United States shall issue such
4 regulations as may be necessary to implement this
5 title with respect to employees of the Government
6 Accountability Office.

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

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

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