

TRANSMITTAL SLIP		DATE 20 MARCH
TO: DDA		
ROOM NO. 7D 24	BUILDING Hg.	
REMARKS: EXO / DDA <u>20 2/3</u> ADDA <u>9</u> <small>21 MAR 1986</small> DDL <u>A</u> EXO <u>toys</u> cc: D/OMS <u>Jones</u> 3/21		
FROM: LEG/OCA		
ROOM NO. 7B 14	BUILDING Hg.	

STAT

OCA 86-0857  
20 March 1986



MEMORANDUM FOR: DDA  
D/Pers  
DD/OP/PA&E  
C/ALD/OGC

FROM:

[Redacted Name]

SA/LE/OCA

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SUBJECT: Parental and Medical Leave Act of 1986  
(H.R. 4300)/ Parental and Disability Leave  
Act of 1985 (H.R. 2020)

1. Attached for your review and comment are two similar pieces of legislation now before House committees. Both bills would entitle federal employees to parental leave in cases involving the birth, adoption, or serious illness of a child. Furthermore, H.R. 4300 and H.R. 2020 would also provide for temporary disability leave in cases due to non-occupational medical reasons, with adequate protection of employees' employment and benefit rights.

2. Title II of H.R. 4300 applies exclusively to federal employees, including the Agency, allowing 18 administrative workweeks of leave for parental purposes. This period would be classified as leave without pay and would be in addition to accumulated annual and sick leave (See section 6332). Non-occupational medical leave would be for 26 workweeks (See section 6333). Persons taking advantage of such entitlement would be given job protection and have the opportunity to elect continuation of health benefits, if paid for by the employee (See sections 6334, 6336). Finally, a commission would be established to study "paid" parental and medical leave. While the Commission is to have access to information from federal agencies - section 305(c) - it has no subpoena power, nor does it appear that such access power can supercede basic Agency authorities to protect classified information.

3. While providing the same fundamental entitlements and protections for disability and parental leave, H.R. 2020 is cast in somewhat different language and has a much more elaborate enforcement and investigative scheme (See sections

107, and 108). Also, H.R. 2020 establishes a commission to study paid parental and disability leave. Access to governmental information by the commission is accorded under section 202(c), however agencies shall furnish information "only to the extent permitted by law." This caveat will enable the Agency to protect classified information. In any event, information and statistics concerning parental and disability leave practices may be unclassified or packaged in such a way as to be helpful to the commission without breaching confidentiality.

4. Both H.R. 4300 and H.R. 2020 have been introduced by Subcommittee Chairman, having direct subject matter jurisdiction. Subcommittee staff informs us that hearings on these bills are tentatively scheduled for late April, with a markup in May and possible House floor consideration in June. There is no companion legislation in the Senate.

5. So that we can be prepared when these bills become active, please phone  or provide written comment by 10 April 1986.

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Attachment:  
as stated

99<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 2020

To require that employees be allowed parental leave in cases involving the birth, adoption, or serious illness of a child and temporary disability leave in cases involving inability to work due to nonoccupational medical reasons, with adequate protection of the employees' employment and benefit rights; and to authorize a study to determine ways of providing salary replacement for employees who take parental and disability leaves.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 4, 1985

Mrs. SCHROEDER introduced the following bill; which was referred jointly to the Committees on Education and Labor and Post Office and Civil Service

SEPTEMBER 23, 1985

Additional sponsors: Mrs. BOXER, Mrs. KENNELLY, Mrs. COLLINS, Ms. OAKAR, Mrs. BURTON of California, Mr. BERMAN, Mr. CONYERS, Mr. GREEN, Mr. HAYES, Mr. LEHMAN of Florida, Mr. DELLUMS, Mr. ACKERMAN, Mr. SAVAGE, Mr. MITCHELL, Mr. FOGLIETTA, Mr. MRAZEK, Mr. RANGEL, Mr. MORRISON of Connecticut, Mr. SMITH of Florida, Mr. WEISS, Mr. FAZIO, Mr. MARTINEZ, Mr. YATES, Mr. CLAY, Mr. KILDEE, Mr. WIRTH, Mr. MILLER of California, Mr. DYMALLY, Mr. MINETA, Mr. OWENS, Mr. TOWNS, Mr. FUSTER, Mr. WOLPE, Mr. FISH, and Mr. CROCKETT

FEBRUARY 5, 1986

Additional sponsors: Mr. WHEAT, Mr. GONZALEZ, Mr. SUNIA, Mr. SEIBERLING, Mr. DIXON, Mr. SMITH of New Jersey, Mr. GEJDENSON, Mr. RODINO, and Mr. EVANS of Illinois

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## A BILL

To require that employees be allowed parental leave in cases involving the birth, adoption, or serious illness of a child and temporary disability leave in cases involving inability to work due to nonoccupational medical reasons, with ade-

quate protection of the employees' employment and benefit rights; and to authorize a study to determine ways of providing salary replacement for employees who take parental and disability leaves.

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 AND TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the “Pa-  
5 rental and Disability Leave Act of 1985”.

6 (b) **TABLE OF CONTENTS.**—

Sec. 1. Short title and table of contents.

**TITLE I—GENERAL REQUIREMENTS FOR PARENTAL AND  
DISABILITY LEAVE**

- Sec. 101. Definitions.
- Sec. 102. Temporary disability leave requirement.
- Sec. 103. Parental leave requirement.
- Sec. 104. Employment and benefits protection.
- Sec. 105. Reduced leave schedules.
- Sec. 106. Prohibition against retaliation.
- Sec. 107. Enforcement.
- Sec. 108. Investigative authority.
- Sec. 109. Regulations.
- Sec. 110. Authorization of appropriations.
- Sec. 111. Effect on other laws.
- Sec. 112. Effect on existing employment benefits.
- Sec. 113. Effective date.

**TITLE II—COMMISSION TO RECOMMEND MEANS TO PROVIDE  
SALARY REPLACEMENT FOR EMPLOYEES TAKING PARENTAL  
AND DISABILITY LEAVES**

- Sec. 201. Establishment and composition of Commission.
- Sec. 202. Powers and duties of Commission.
- Sec. 203. Administrative provisions.
- Sec. 204. Compensation of members.
- Sec. 205. Reports and termination of the Commission.

1 **TITLE I—GENERAL REQUIRE-**  
2 **MENTS FOR PARENTAL AND**  
3 **DISABILITY LEAVE**

4 **SEC. 101. DEFINITIONS.**

5 For purposes of this title:

6 (1) **EMPLOY.**—The term “employ” includes to  
7 suffer or permit to work, and includes ongoing contrac-  
8 tual relationships in which the employer retains sub-  
9 stantial direct or indirect control over the employee’s  
10 employment opportunities or terms and conditions of  
11 employment.

12 (2) **EMPLOYEE.**—The term “employee” means  
13 any individual who is employed by an employer on a  
14 full-time or regular part-time basis.

15 (3) **EMPLOYER.**—The term “employer” means  
16 any person engaged in commerce or in any industry or  
17 activity affecting commerce who acts directly or indi-  
18 rectly in the interest of an employer to one or more  
19 employees, and any agent or successor in interest of  
20 such a person.

21 (4) **PERSON.**—The term “person” includes one or  
22 more individuals, governments, public agencies, politi-  
23 cal subdivisions, labor unions, joint labor-management  
24 committees, partnerships, joint ventures, corporations,  
25 legal representatives, mutual companies, joint-stock

1 companies, trusts, trustees in bankruptcy, or receivers,  
2 estates, unincorporated organizations, associations, or  
3 employee organizations.

4 (5) PUBLIC AGENCY.—The term “public agency”  
5 means (A) the Government of the United States; the  
6 government of a State or political subdivision thereof;  
7 any agency of the United States that employs employ-  
8 ees regardless of whether or how they are classified  
9 under the civil service provisions of title 5 of the  
10 United States Code, including any executive or legisla-  
11 tive agency, the Public Health Service, any unit of the  
12 legislative or judicial branches, any military depart-  
13 ment, a corporation wholly or partially owned by the  
14 Government of the United States, a nonappropriated  
15 fund instrumentality whether under the jurisdiction of  
16 the Armed Forces or otherwise, the United States  
17 Postal Services, and the Postal Rate Commission; (B)  
18 any agency of a State or of a political subdivision of a  
19 State that employs employees regardless of whether or  
20 how they are classified under the applicable civil serv-  
21 ice law, including any executive or legislative agency  
22 and any unit of the legislative or judicial branches; or  
23 (C) any interstate governmental agency. Persons elect-  
24 ed to public office in the government of the United  
25 States or of any State or political subdivision thereof

1 and persons chosen by them as their immediate advi-  
2 sors with respect to the exercise of the constitutional  
3 or policymaking powers of their offices shall not be  
4 considered employees of a public agency within the  
5 meaning of this paragraph.

6 (6) STATE.—The term “State” includes any  
7 State of the United States, the District of Columbia,  
8 the Canal Zone, the Commonwealth of Puerto Rico,  
9 the Virgin Islands, American Samoa, Guam, Wake  
10 Island, and the Outer Continental Shelf lands defined  
11 in the Outer Continental Shelf Lands Act.

12 (7) COMMERCE.—The term “commerce” means  
13 trade, traffic, commerce, transportation, transmission,  
14 or communication (A) among the States, (B) between a  
15 State and any place outside thereof, (C) within the  
16 District of Columbia or a possession of the United  
17 States, or (D) between points in the same State but  
18 through a point outside thereof.

19 (8) INDUSTRY OR ACTIVITY AFFECTING COM-  
20 MERCE.—The term “industry or activity affecting com-  
21 merce” means any activity, business, or industry in  
22 commerce or in which a labor dispute would hinder or  
23 obstruct commerce or the free flow of commerce, and  
24 includes any activity or industry “affecting commerce”  
25 within the meaning of the Labor Management Rela-



1 tions Act of 1947, or the Railway Labor Act and any  
2 governmental industry, business, or activity.

3 (9) PARENTAL LEAVE.—The term “parental  
4 leave” means leave by reason of—

5 (A) the birth of a child of an employee;

6 (B) the placement of a child with an employ-  
7 ee in connection with adoption of such child by  
8 the employee; or

9 (C) the serious illness of a child of an  
10 employee.

11 (10) TEMPORARY DISABILITY LEAVE.—The term  
12 “temporary disability leave” means leave by reason of  
13 an employee’s inability to perform his or her job due to  
14 nonoccupational medical reasons.

15 (11) EMPLOYMENT BENEFITS.—The term “em-  
16 ployment benefits” means all benefits and policies pro-  
17 vided or made available to employees by an employer,  
18 and includes group insurance plan eligibility, health in-  
19 surance, disability insurance, sick leave, annual leave,  
20 educational benefits, and pensions.

21 (12) SECRETARY.—The term “Secretary” means  
22 the Secretary of Labor.

23 (13) REDUCED LEAVE SCHEDULE.—The term  
24 “reduced leave schedule” means leave scheduled for

1 fewer than 5 workdays per week or fewer than the  
2 employer's usual number of hours per workday.

3 (14) **SERIOUS ILLNESS.**—The term “serious ill-  
4 ness” means an illness, injury, or condition likely to  
5 require—

6 (A) continuing medical treatment, or

7 (B) confinement for at least one month.

8 **SEC. 102. TEMPORARY DISABILITY LEAVE REQUIREMENT.**

9 (a) **GENERAL RULE.**—(1) Each employee shall be enti-  
10 tled to disability leave of not fewer than 26 workweeks in  
11 any one calendar year.

12 (2) Such leave need not be taken consecutively.

13 (b) **UNPAID LEAVE PERMITTED.**—Except as provided  
14 in subsection (c), leave granted as required by subsection (a)  
15 may consist of unpaid leave.

16 (c) **INCREASES REQUIRED TO MEET MINIMUMS.**—Any  
17 employer which provides temporary nonoccupational disabil-  
18 ity leave or benefits, or both, must provide such leave or  
19 benefits in such a manner that each employee is entitled to a  
20 minimum of 26 workweeks of disability leave in any one cal-  
21 endar year. If the benefits provided are paid benefits for a  
22 period of less than 26 weeks, the additional weeks of leave  
23 which are added to meet the 26-week minimum may be  
24 unpaid.

1 (d) VERIFICATION REGULATIONS.—The Secretary  
2 shall promulgate regulations governing employer verification  
3 of employees' eligibility for leave under this section; except  
4 that the same standards, procedures, or other requirements  
5 so imposed must apply to all temporary disabilities.

6 **SEC. 103. PARENTAL LEAVE REQUIREMENT.**

7 (a) GENERAL RULE.—(1) Each employee shall be enti-  
8 tled to parental leave of not fewer than 18 workweeks in any  
9 two years upon advance notice to his or her employer.

10 (2) Such leave need not be taken consecutively.

11 (b) UNPAID LEAVE PERMITTED.—Except as provided  
12 in subsection (c), leave granted as required under subsection  
13 (a) may consist of unpaid leave.

14 (c) INCREASES REQUIRED TO MEET MINIMUMS.—Any  
15 employer which provides parental leave or benefits, or both,  
16 must provide such leave or benefits in such a manner that  
17 each employee is entitled to a minimum of 18 workweeks of  
18 parental leave in any two calendar years. If the benefits pro-  
19 vided are paid benefits for a period of less than 18 weeks, the  
20 additional weeks of leave which are added to meet the 18-  
21 week minimum may be unpaid.

22 (d) VERIFICATION AND NOTICE REGULATIONS.—The  
23 Secretary shall promulgate regulations governing (1) employ-  
24 er verification of employees' eligibility for leave under this

1 section; and (2) the form, content, and timing requirements of  
2 the notice specified in subsection (a)(1).

3 **SEC. 104. EMPLOYMENT AND BENEFITS PROTECTION.**

4 (a) **RESTORATION TO POSITION.**—Each employee who  
5 exercises his or her right to a leave under section 102 or 103  
6 shall, upon expiration of such leave, be entitled to be restored  
7 by the employer to the position held by the employee when  
8 the leave commenced or to an equivalent position of like se-  
9 niority, status, employment benefits, pay, and other terms  
10 and conditions of employment.

11 (b) **MAINTENANCE OF EXISTING HEALTH BENE-**  
12 **FITS.**—During any leave taken under section 102 or 103,  
13 the employer shall maintain any existing health benefits of  
14 the employee for the duration of such leave as if he or she  
15 continued in employment continuously from the time he or  
16 she commenced such leave until the time of his or her resto-  
17 ration to such employment pursuant to subsection (a) of this  
18 section, regardless of whether continuation of such benefits  
19 during employee leaves is otherwise provided.

20 **SEC. 105. REDUCED LEAVE SCHEDULES.**

21 Each employee shall be entitled, at his or her option and  
22 subject to section 104, to take leave under section 102 or  
23 103 on a reduced leave schedule; except that the total time  
24 period over which such reduced leave schedule is spread may  
25 not exceed 39 consecutive weeks.

1 **SEC. 106. PROHIBITION AGAINST RETALIATION.**

2 (a) **INTERFERENCE WITH RIGHTS.**—It shall be unlaw-  
3 ful for any person to discharge, fine, suspend, expel, disci-  
4 pline, or in any other manner discriminate against an individ-  
5 ual for (1) exercising any right to which such individual is  
6 entitled under the provisions of this title, (2) the purpose of  
7 interfering with the attainment of any right to which such  
8 participant may become entitled under this title, or (3) oppos-  
9 ing any practice made unlawful by this title.

10 (b) **INTERFERENCE WITH PROCEEDINGS OR INQUIR-**  
11 **IES.**—It shall be unlawful for any person to discharge, fine,  
12 suspend, expel, discipline, or in any other manner discrimi-  
13 nate against any individual because such individual has filed  
14 any complaint or has instituted or caused to be instituted, or  
15 is about to institute or cause to be instituted, any proceeding  
16 under or related to this title, or has testified or is about to  
17 testify in any inquiry or proceeding or has given or is about  
18 to give any information connected to any inquiry or proceed-  
19 ing relating to this title.

20 (c) **PROOF OF RETALIATION.**—Any negative material  
21 change in the seniority, status, employment benefits, pay, or  
22 other terms or conditions of the position of an employee who  
23 has been restored to a position pursuant to section 104 that  
24 occurs within one year of such restoration, or of the position  
25 of an employee who has engaged in proceedings or inquiries  
26 pursuant to subsection (b) of this section that occurs within

1 one year of the termination of such proceedings or inquiries,  
2 shall be presumed to be prohibited retaliation under this sec-  
3 tion.

4 **SEC. 107. ENFORCEMENT.**

5 (a) **RIGHT TO BRING CIVIL ACTION.**—A civil action  
6 may be brought in any district court of the United States, or  
7 any other United States court of a place subject to the juris-  
8 diction of the United States, without respect to the amount in  
9 controversy or to the citizenship of the parties, or in any  
10 State court of competent jurisdiction, by an employee or by  
11 the Secretary against any employer, to enforce the provisions  
12 of this title; except that the Secretary may not bring an  
13 action against any public agency.

14 (b) **JURISDICTION.**—The district courts of the United  
15 States shall have original jurisdiction of civil actions brought  
16 under subsection (a), without regard to amount in con-  
17 troversy.

18 (c) **VENUE.**—Where an action under subsection (a) is  
19 brought in a district court of the United States or in a court  
20 of a place subject to the jurisdiction of the United States, it  
21 may be brought in any judicial district in the State in which  
22 the violation is alleged to have taken place, in the judicial  
23 district in which the employment records relevant to such  
24 violation are maintained and administered, or in the place in  
25 which the aggrieved person worked or would have worked

1 but for the alleged violation. If the employer is not found  
2 within any such district or plan, such an action may be  
3 brought within the judicial district in which the employer re-  
4 sides or may be found. For purposes of sections 1404 and  
5 1406 of title 28 of the United States Code, the judicial dis-  
6 trict in which the employer resides or may be found shall in  
7 all cases be considered a district in which the action might  
8 have been brought.

9 (d) RELIEF.—

10 (1) EQUITABLE RELIEF.—In any action brought  
11 under subsection (a), the court may enjoin any act or  
12 practice which violates or may violate any provision of  
13 this title, or order such other appropriate equitable  
14 relief as is necessary and appropriate to redress such  
15 violation or to enforce any provision of this title.

16 (2) DAMAGES.—Any employer which violates any  
17 of the provisions of this title shall be liable to the em-  
18 ployee or class of employees affected in an amount  
19 equal to any wages, salary, employment benefits, or  
20 other compensation determined by the court to have  
21 been denied or lost to such employee or employees by  
22 reason of the violation, plus interest on the total mone-  
23 tary damages calculated at the prevailing rate, and in  
24 an additional equal amount as liquidated damages.

1           (3) PUNITIVE DAMAGES.—If, in the judgment of  
2           the court, the violation of this title was deliberate, the  
3           court shall award, in addition to monetary and liquidat-  
4           ed damages, punitive damages equal to three times the  
5           total amount of monetary and liquidated damages.

6           (4) REASONABLE ATTORNEYS' FEES AND  
7           COSTS.—The court in any action under subsection  
8           (a)(1) shall, in addition to any judgment awarded to the  
9           plaintiff or class or plaintiffs, allow a reasonable attor-  
10          ney's fee to be paid by the defendant, and costs of the  
11          action. The United States shall be liable for attorney's  
12          fees and costs the same as a private person.

13          (e) NOTIFICATION OF THE SECRETARY; RIGHTS TO  
14          INTERVENE.—A copy of the complaint in any action under  
15          subsection (a) shall be served upon the Secretary by certified  
16          mail. The Secretary shall have the right in his or her discre-  
17          tion to intervene in any action brought by an employee under  
18          subsection (a). Any person aggrieved shall have the right to  
19          intervene in a civil action brought by the Secretary under  
20          subsection (a).

21          (f) LIMITATIONS.—

22                 (1) STATUTE OF LIMITATIONS.—Actions brought  
23                 under subsection (a) must be commenced within three  
24                 years of the date of the violation.



1           (2) **PERIOD OF RECOVERY.**—An action under sub-  
2           section (a) for damages may be brought only with re-  
3           spect to wages, salary, employment benefits, or other  
4           compensation denied or lost to any employee for peri-  
5           ods commencing within three years before the date on  
6           which the action is brought.

7           (g) **ATTORNEYS FOR THE SECRETARY.**—In any civil  
8           action under subsection (a), attorneys appointed by the Secre-  
9           tary may appear for and represent the Secretary, except that  
10          the Attorney General shall conduct all litigation to which the  
11          Secretary is a party in the Supreme Court pursuant to this  
12          title.

13          **SEC. 108. INVESTIGATIVE AUTHORITY.**

14          (a) **IN GENERAL.**—To determine whether any person  
15          has violated or is about to violate any provision of this title or  
16          any regulation or order thereunder the Secretary may—

17                 (1) make an investigation, and in connection  
18                 therewith require the submission of reports, books, and  
19                 records, and the filing of data in support of any infor-  
20                 mation required to be filed with the Secretary under  
21                 this title, and

22                 (2) enter such places, inspect such books and  
23                 records, and question such persons as the Secretary  
24                 may deem necessary to enable the Secretary to deter-  
25                 mine the facts relative to such investigation, if the Sec-

1       retary has reasonable cause to believe there may exist  
2       a violation of this title or any rule or regulation issued  
3       thereunder or if the entry is pursuant to an agreement  
4       with the employer.

5       The Secretary may make available to any person actually  
6       affected by any matter which is the subject of an investiga-  
7       tion under this section, and to any department or agency of  
8       the United States, information concerning any matter which  
9       may be the subject of such investigation.

10       (b) REQUIRED SUBMISSIONS GENERALLY LIMITED TO  
11       AN ANNUAL BASIS.—The Secretary may not under the au-  
12       thority of this section require any employer or any plan, fund,  
13       or program to submit to the Secretary any books or records  
14       more than once in any 12-month period, unless the Secretary  
15       has reasonable cause to believe there may exist a violation of  
16       this title or any regulation or order thereunder.

17       (c) SUBPOENA POWERS, ETC.—For the purposes of  
18       any investigation provided for in this section, the provisions  
19       of sections 9 and 10 (relating to the attendance of witnesses  
20       and the production of books, records, and documents) of the  
21       Federal Trade Commission Act are hereby made applicable  
22       (without regard to any limitation in such sections respecting  
23       persons, partnerships, banks or common carriers) to the juris-  
24       diction, powers, and duties of the Secretary or any officers  
25       designated by him or her.

1 **SEC. 109. REGULATIONS.**

2       The Secretary may prescribe such regulations as he or  
3 she finds necessary or appropriate to carry out this title.

4 **SEC. 110. AUTHORIZATION OF APPROPRIATIONS.**

5       There are authorized to be appropriated such sums as  
6 may be necessary to enable the Secretary to carry out the  
7 Secretary's functions and duties under this title.

8 **SEC. 111. EFFECT ON OTHER LAWS.**

9       (a) **FEDERAL LAWS.**—

10           (1) The requirements of this title may not be pro-  
11 vided in any manner that discriminates on the basis of  
12 race, religion, color, national origin, or sex, within the  
13 meaning of title VII of the 1964 Civil Rights Act; on  
14 the basis of age within the meaning of the Age Dis-  
15 crimination in Employment Act; or on the basis of dis-  
16 ability within the meaning of section 501, 503, or 504  
17 of the Rehabilitation Act.

18       (b) **STATE AND LOCAL LAWS.**—Nothing in this title  
19 shall be construed to excuse noncompliance with, or to dimin-  
20 ish any rights or protections established under, any provision  
21 of the law of any State or any political subdivision of a State  
22 which provides rights and protections which are greater than  
23 rights and protections established pursuant to this title.

24 **SEC. 112. EFFECT ON EXISTING EMPLOYMENT BENEFITS.**

25       Except as required by sections 102, 103, 104, and 105,  
26 no provision of this title shall excuse noncompliance with any

1 collective bargaining agreement or other employment benefit  
2 program or plan in effect on the date of enactment of this  
3 Act, nor justify any employer in reducing employment bene-  
4 fits provided by it which are in excess of those required by  
5 this title.

6 **SEC. 113. EFFECTIVE DATE.**

7 This title shall take effect six months after the date of  
8 the enactment of this Act.

9 **TITLE II—COMMISSION TO REC-**  
10 **COMMEND MEANS TO PROVIDE**  
11 **SALARY REPLACEMENT FOR**  
12 **EMPLOYEES TAKING PAREN-**  
13 **TAL AND DISABILITY LEAVES**

14 **SEC. 201. ESTABLISHMENT AND COMPOSITION OF COMMIS-**  
15 **SION.**

16 (a) **ESTABLISHMENT.**—There is established a commis-  
17 sion to be known as the Paid Parental and Disability Leave  
18 Commission (hereinafter referred to as the “Commission”).

19 (b) **COMPOSITION.**—The Commission shall consist of  
20 twenty-one members as follows:

21 (1) five members of the Commission shall be ap-  
22 pointed by the majority leader of the Senate;

23 (2) five members of the Commission shall be ap-  
24 pointed by the Speaker of the House of Representa-  
25 tives;

1           (3) five members of the Commission shall be ap-  
2           pointed by the President of the United States, which  
3           members shall include the Secretary of Health and  
4           Human Services, the Secretary of Labor, and the  
5           Chairperson of the Equal Employment Opportunity  
6           Commission; and

7           (4) six members of the Commission shall be ap-  
8           pointed jointly by the majority leader of the Senate and  
9           the Speaker of the House of Representatives to ensure  
10          a broad representation among the members of the  
11          Commission of child advocacy, women's rights, labor,  
12          management, and academic interests.

13          (c) **QUALIFICATIONS.**—The members of the Commis-  
14          sion shall be individuals who possess the demonstrated capac-  
15          ities to discharge the duties imposed on the Commission.

16          (d) **REMOVAL.**—The Speaker of the House of Repre-  
17          sentatives and the Majority Leader of the Senate jointly may  
18          remove a member of the Commission only for neglect of duty  
19          or malfeasance in office.

20          (e) **VACANCIES.**—Any vacancy in the Commission shall  
21          not affect its powers, but shall be filled in the same manner in  
22          which the original appointment was made.

23          (f) **CHAIRPERSON AND VICE CHAIRPERSON.**—The  
24          Commission shall elect a Chairperson and a Vice Chairper-  
25          son from among its members.

1 (g) QUORUM.—Fifteen members of the Commission  
2 shall constitute a quorum for the transaction of business, but  
3 the Commission may establish a lesser number as a quorum  
4 for the purpose of holding hearings, taking testimony, and  
5 receiving evidence.

6 **SEC. 202. POWERS AND DUTIES OF COMMISSION.**

7 (a) FUNCTIONS OF THE COMMISSION.—The Commis-  
8 sion shall—

9 (1) engage in a comprehensive study of existing  
10 and proposed systems to provide workers with full or  
11 partial salary replacement or other income protection  
12 during periods of nonoccupational temporary disability  
13 leave, parental leave, and dependent care leave, both  
14 within the United States and in other countries or ter-  
15 ritories;

16 (2) produce a comprehensive written study analyz-  
17 ing the plans it has considered, with emphasis on their  
18 suitability for implementation on a nation-wide level in  
19 the United States, which study shall include the Com-  
20 mission's recommendations for implementation of a  
21 system for salary replacement for all workers in the  
22 United States during periods of nonoccupational tempo-  
23 rary disability leave and parental leave;

24 (3) pursuant to the analyses and recommendations  
25 of the study under paragraph (2), and within two years

1 of the effective date of this Act, propose legislation to  
2 Congress to implement such a system of salary re-  
3 placement for temporary nonoccupational disability  
4 leave;

5 (4) pursuant to the analyses and recommendations  
6 of the study under paragraph (2), propose legislation to  
7 Congress to implement such a system of salary re-  
8 placement for parental leave.

9 (b) **AUTHORITY TO CONDUCT HEARINGS.**—The Com-  
10 mission or, on the authorization of the Commission, any sub-  
11 committee thereof or any member authorized by the Commis-  
12 sion may, for the purpose of carrying out this Act, hold such  
13 hearings and sit and act at such times and places, take such  
14 testimony, have such printing and binding done, enter into  
15 such contracts and other arrangements (with or without con-  
16 sideration or bond, to such extent or in such amounts as are  
17 provided in appropriation Acts, and without regard to section  
18 3709 of the Revised Statutes (41 U.S.C. 5)), make such ex-  
19 penditures, and take such other actions as the Commission or  
20 such member may deem advisable. Any member of the Com-  
21 mission may administer oaths or affirmations to witnesses ap-  
22 pearing before the Commission or before such member.

23 (c) **ACCESS TO INFORMATION.**—The Commission is au-  
24 thorized to secure directly from any officer, department,  
25 agency, establishment, or instrumentality of the Government

1 such information, suggestions, estimates, and statistics as the  
2 Commission may require to carry out its duties, and each  
3 such officer, department, agency, establishment, or instru-  
4 mentality shall furnish, to the extent permitted by law, such  
5 information, suggestions, estimates, and statistics directly to  
6 the Commission, upon request made by the Chairperson or  
7 Vice Chairperson.

8 (d) USE OF FACILITIES.—Upon request of the Commis-  
9 sion, the head of any Federal agency is authorized to make  
10 any of the facilities and services of such agency available to  
11 the Commission or to detail any of the personnel of such  
12 agency to the Commission, on a reimbursable basis, to assist  
13 the Commission in carrying out its duties unless the head of  
14 such agency determines that urgent, overriding reasons will  
15 not permit the agency to make such facilities, services, or  
16 personnel available to the Commission and so notifies the  
17 Chairperson in writing.

18 (e) USE OF MAILS.—The Commission may use the  
19 United States mails in the same manner and under the same  
20 conditions as other departments and agencies of the United  
21 States.

22 (f) NO CLEARANCE TO BE REQUIRED.—No officer or  
23 agency of the United States shall require the Commission to  
24 submit any report, recommendation, or other matter to any  
25 such officer or agency for approval, comment, or review



1 before submitting such report, recommendation, or other  
2 matter to Congress.

3 **SEC. 203. ADMINISTRATIVE PROVISIONS.**

4 (a) **GENERAL ADMINISTRATIVE AUTHORITY.**—Subject  
5 to such rules and regulations as may be adopted by the Com-  
6 mission, the Chairperson shall have the power to—

7 (1) appoint, terminate, and fix the compensation  
8 without regard to the provisions of title 5, United  
9 States Code, governing appointments in the competi-  
10 tive service, and without regard to the provisions of  
11 chapter 51 and subchapter III of chapter 53 of such  
12 title, or of any other provision of law, relating to the  
13 number, classification, and General Schedule rates of  
14 such personnel as it deems advisable to assist in the  
15 performance of its duties, at rates not to exceed a rate  
16 equal to the maximum rate for grade GS-18 of the  
17 General Schedule; and

18 (2) procure, as authorized by section 3109 of title  
19 5, United States Code, temporary and intermittent  
20 services to the same extent as is authorized by law for  
21 agencies in the executive branch but at rates not to  
22 exceed the daily equivalent of the maximum annual  
23 rate of basic pay in effect for grade GS-18 of the Gen-  
24 eral Schedule.

1           (b) **EFFECT OF SERVICE.**—Service of an individual as a  
2 member of the Commission, or employment of an individual  
3 by the Commission as an attorney or expert in any business  
4 or professional field, on a part-time or full-time basis, with or  
5 without compensation, shall not be considered as service or  
6 employment bringing such individual within the provisions of  
7 any Federal law relating to conflicts of interest or otherwise  
8 imposing restrictions, requirements, or penalties in relation to  
9 the employment of persons, the performance of services, or  
10 the payment or receipt of compensation in connection with  
11 claims, proceedings, or matters involving the United States.  
12 Service as a member of the Commission, or as an employee  
13 of the Commission, shall not be considered service in an ap-  
14 pointive or elective position in the Government for purposes  
15 of section 8344 of title 5, United States Code, or comparable  
16 provisions of Federal law.

17           (c) **INTERNAL RULES OF OPERATION.**—The Commis-  
18 sion may adopt such rules and regulations as may be neces-  
19 sary to establish its procedures and to govern the manner of  
20 its operations, organization, and personnel.

21 **SEC. 204. COMPENSATION OF MEMBERS.**

22           (a) **PAY.**—Each member of the Commission who is in  
23 the service of the Government of the United States shall  
24 serve on the Commission without additional compensation.  
25 Each member of the Commission who is not in the service of

1 the Government of the United States shall be paid at a rate  
2 not to exceed a rate equal to the maximum daily rate for  
3 grade GS-18 of the General Schedule, for each day such  
4 member is engaged in the actual performance of duties as a  
5 member of the Commission.

6 (b) EXPENSES.—All members of the Commission shall  
7 be reimbursed for travel and per diem in lieu of subsistence  
8 expenses during the performance of duties of the Commission  
9 in accordance with subchapter I of chapter 57 of title 5,  
10 United States Code.

11 **SEC. 205. REPORTS AND TERMINATION OF THE COMMISSION.**

12 (a) INTERIM AND FINAL REPORTS.—The Commission  
13 shall prepare and submit to the Congress such interim reports  
14 as the Commission deems to be appropriate, except that its  
15 report and proposed legislation to provide salary replacement  
16 for employees on nonoccupational temporary disability leave  
17 must be submitted to Congress within two years of the date  
18 of enactment of this Act.

19 (b) TERMINATION OF COMMISSION.—Thirty days after  
20 the submission to the Congress of its final report the Com-  
21 mission shall cease to exist.

○

99<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4300

To entitle employees to parental leave in cases involving the birth, adoption, or serious health condition of a son or daughter and temporary medical leave in cases involving inability to work because of a serious health condition, with adequate protection of the employees' employment and benefit rights, and to establish a commission to study ways of providing salary replacement for employees who take any such leave.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 1986

Mr. CLAY (for himself, Mr. MURPHY, Mrs. SCHROEDER, Ms. OAKAR, Mr. MILLER of California, Mr. HAWKINS, Mr. BERMAN, Mr. BROWN of California, Mrs. BURTON of California, Mr. CONTE, Mr. CONYERS, Mr. DUNCAN, Mr. DYMALLY, Mr. FISH, Mr. GREEN, Mrs. KENNELLY, Mr. KILDEE, Mr. LEHMAN of Florida, Mr. MCKINNEY, Mr. MRAZEK, Mr. OWENS, Mr. RANGEL, Mr. SAVAGE, Mr. SMITH of New Jersey, Mr. TOWNS, Mr. WEISS, Mr. WHEAT, Mr. YATES, Mrs. JOHNSON, and Mr. SMITH of Florida) introduced the following bill; which was referred jointly to the Committees on Education and Labor and Post Office and Civil Service

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## A BILL

To entitle employees to parental leave in cases involving the birth, adoption, or serious health condition of a son or daughter and temporary medical leave in cases involving inability to work because of a serious health condition, with adequate protection of the employees' employment and benefit rights, and to establish a commission to study ways of providing salary replacement for employees who take any such leave.

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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Parental and Medical Leave Act of 1986”.

6 (b) **TABLE OF CONTENTS.**—

**TITLE I—GENERAL REQUIREMENTS FOR PARENTAL AND  
TEMPORARY MEDICAL LEAVE**

- Sec. 101. Findings and purposes.
- Sec. 102. Definitions.
- Sec. 103. Parental leave requirement.
- Sec. 104. Temporary medical leave requirement.
- Sec. 105. Certification.
- Sec. 106. Employment and benefits protection.
- Sec. 107. Prohibited acts.
- Sec. 108. Administrative enforcement.
- Sec. 109. Enforcement by civil action.
- Sec. 110. Investigative authority.
- Sec. 111. Relief.
- Sec. 112. Notice.

**TITLE II—PARENTAL LEAVE AND TEMPORARY MEDICAL LEAVE  
FOR CIVIL SERVICE EMPLOYEES**

- Sec. 201. Parental and temporary medical leave.

**TITLE III—COMMISSION ON PAID PARENTAL AND MEDICAL LEAVE**

- Sec. 301. Establishment.
- Sec. 302. Duties.
- Sec. 303. Membership.
- Sec. 304. Compensation.
- Sec. 305. Powers.
- Sec. 306. Termination.

**TITLE IV—MISCELLANEOUS PROVISIONS**

- Sec. 401. Effect on other laws.
- Sec. 402. Effect on existing employment benefits.
- Sec. 403. Regulations.
- Sec. 404. Effective dates.

1           **TITLE I—GENERAL REQUIREMENTS FOR**  
2           **PARENTAL AND MEDICAL LEAVE**

3   **SEC. 101. FINDINGS AND PURPOSES.**

4           **(a) FINDINGS.—**The Congress finds that—

5                   (1) the number of single-parent households and  
6                   two-parent households in which the single parent or  
7                   both parents work is increasing significantly;

8                   (2) it is important for the development of the child  
9                   and the family unit that fathers and mothers be able to  
10                  participate in early childrearing and the care of their  
11                  children who have serious health conditions;

12                  (3) the lack of employment policies to accommo-  
13                  date working parents forces many individuals to choose  
14                  between job security and parenting; and

15                  (4) there is inadequate job security for employees  
16                  who have serious health conditions that prevent them  
17                  from working for temporary periods.

18           **(b) PURPOSES.—**The Congress therefore declares that  
19   the purposes of this Act are—

20                   (1) to balance the demands of the workplace with  
21                   the needs of families, and to promote the stability and  
22                   economic security of families; and

23                   (2) to entitle employees to take reasonable leave  
24                   for medical reasons, for the birth or adoption of a child,  
25                   and for the care of a child who has a serious health

1 condition, without the risk of termination or retaliation  
2 by employers.

3 **SEC. 102. DEFINITIONS.**

4 For purposes of this title the following terms have the  
5 following meanings:

6 (1) The terms "employ", "person", and "State"  
7 have the meanings given such terms in sections 3(g),  
8 3(a), and 3(e), respectively, of the Fair Labor Stand-  
9 ards Act (29 U.S.C. 203(g), 203(a), 203(c)).

10 (2) The term "employee" has the meaning given  
11 such term in section 3(e) of such Act, except that such  
12 term does not include any Federal officer or employee  
13 covered under title II of this Act; and such term in-  
14 cludes permanent part-time employees.

15 (3) The term "employer" —

16 (A) means any person who employs five or  
17 more employees and is engaged in commerce or in  
18 any industry or activity affecting commerce;

19 (B) includes (i) any person who acts directly  
20 or indirectly in the interest of an employer to one  
21 or more employees, and (ii) any successor in inter-  
22 est of such an employer; and

23 (C) includes any public agency, as defined in  
24 section 3(x) of the Fair Labor Standards Act (29  
25 U.S.C. 203(x)); employees of any such employer

1           shall be deemed to be employees engaged in  
2           commerce.

3           (4) The term "employment benefits" means all  
4           benefits provided or made available to employees by an  
5           employer, and includes group life insurance, health in-  
6           surance, disability insurance, sick leave, annual leave,  
7           educational benefits, and pensions, regardless of wheth-  
8           er such benefits are provided by a policy or practice of  
9           an employer or by an employee benefit plan as defined  
10          in section 3(3) of the Employee Retirement Income Se-  
11          curity Act of 1974 (29 U.S.C. 1002(1)).

12          (5) The terms "commerce" and "industry or ac-  
13          tivity affecting commerce" mean any activity, business,  
14          or industry in commerce or in which a labor dispute  
15          would hinder or obstruct commerce or the free flow of  
16          commerce, and include "commerce" and any activity  
17          or industry "affecting commerce" within the meaning  
18          of the Labor Management Relations Act, 1947 (29  
19          U.S.C 141 et seq.).

20          (6) The term "reduced leave schedule" means  
21          leave scheduled for fewer than an employee's usual  
22          number of hours per workweek or hours per workday.

23          (7) The term "Secretary" means the Secretary of  
24          Labor.



1           (8) The term “serious health condition” means an  
2 illness, injury, impairment, or physical or mental condi-  
3 tion which involves—

4                   (A) inpatient care in a hospital, hospice, or  
5 residential medical care facility; or

6                   (B) continuing treatment or continuing super-  
7 vision by a health care provider.

8           (9) The term “son or daughter” means a biologi-  
9 cal, adopted, or foster child, stepchild, legal ward, or  
10 child of a de facto parent, who is—

11                   (A) under eighteen years of age; or

12                   (B) eighteen years of age or older and in-  
13 capable of self-care because of mental or physical  
14 disability.

15 **SEC. 103. PARENTAL LEAVE REQUIREMENT.**

16           (a) **IN GENERAL.**—(1) An employee shall be entitled to  
17 18 workweeks of parental leave during any twenty-four-  
18 month period—

19                   (A) because of the birth of a son or daughter of  
20 the employee;

21                   (B) because of the placement, for adoption or  
22 foster care, of a son or daughter with the employee; or

23                   (C) in order to care for the employee’s son or  
24 daughter who has a serious health condition.

1           (2) Such leave may be taken on a reduced leave sched-  
2     ule, in which case—

3           (A) the total period during which the eighteen  
4     workweeks may be taken may not exceed thirty-six  
5     consecutive workweeks, and

6           (B) such leave shall be scheduled so as not to dis-  
7     rupt unduly the operations of the employer.

8           (3) In the case of a child who has a serious health condi-  
9     tion, such leave may be taken intermittently when medically  
10    necessary.

11          (b) UNPAID LEAVE PERMITTED.—Such leave may con-  
12    sist of unpaid leave, except as provided in subsection (c).

13          (c) RELATIONSHIP TO PAID LEAVE.—(1) If an employ-  
14    er provides paid parental leave for fewer than eighteen  
15    weeks, the additional weeks of leave added to attain the  
16    eighteen week total may be unpaid.

17          (2) An employee may elect to substitute any accrued  
18    paid vacation leave, personal leave, or other appropriate paid  
19    leave for any part of the eighteen-week period.

20    **SEC. 104. TEMPORARY MEDICAL LEAVE REQUIREMENT.**

21          (a) IN GENERAL.—(1) Any employee who, because of a  
22    serious health condition, becomes unable to perform the func-  
23    tions of such employee's position, shall be entitled to tempo-  
24    rary medical leave. Such entitlement shall continue for as  
25    long as the employee is unable to perform such functions,

1 except that it shall not exceed twenty-six workweeks during  
2 any twelve-month period.

3 (2) Such leave may be taken intermittently when medi-  
4 cally necessary.

5 (b) UNPAID LEAVE PERMITTED.—Such leave may con-  
6 sist of unpaid leave, except as provided in subsection (c).

7 (c) RELATIONSHIP TO PAID LEAVE.—(1) If an employ-  
8 er provides paid temporary medical leave or paid sick leave  
9 for fewer than twenty-six weeks, the additional weeks of  
10 leave added to attain the twenty-six-week total may be  
11 unpaid.

12 (2) An employee may elect to substitute accrued paid  
13 vacation leave, sick leave, or other appropriate paid leave for  
14 any part of the twenty-six-week period.

15 **SEC. 105. CERTIFICATION.**

16 (a) IN GENERAL.—An employer may require that a  
17 claim for parental leave under section 103(a)(1)(C), or tempo-  
18 rary medical leave under section 104, be supported by certifi-  
19 cation issued by—

20 (1) the duly licensed health care provider of the  
21 son or daughter, or of the employee, whichever is ap-  
22 propriate; or

23 (2) any other health care provider determined by  
24 the Secretary to be capable of providing adequate cer-  
25 tification.

1       (b) **SUFFICIENT CERTIFICATION.**—Such certification  
2 shall be sufficient if it states—

3           (1) the date on which the serious health condition  
4 commenced;

5           (2) the probable duration of the condition; and

6           (3) the medical facts within the provider's knowl-  
7 edge regarding the condition.

8 **SEC. 106. EMPLOYMENT AND BENEFITS PROTECTION.**

9       (a) **RESTORATION TO POSITION.**—(1) Any employee  
10 who exercises any right provided under section 103 or 104  
11 shall be entitled, upon return from such leave—

12           (A) to be restored by the employer to the position  
13 held by the employee when the leave commenced; or

14           (B) to be restored to a position with equivalent  
15 status, benefits, pay, and other terms and conditions of  
16 employment.

17       (2) The taking of leave under this title shall not result in  
18 the loss of any benefit accrued before the date on which the  
19 leave commenced.

20       (3) Except as provided in subsection (b), nothing in this  
21 section shall be construed to entitle any restored employee to  
22 (A) the accrual of any seniority or benefits during any period  
23 of leave, or (B) any right or benefit other than any right or  
24 benefit to which the employee would have been entitled had  
25 the employee not taken the leave.

1           (b) **MAINTENANCE OF HEALTH BENEFITS.**—During  
2 any period of leave taken under section 103 or 104, health  
3 benefits of the employee shall be maintained for the duration  
4 of such leave at the level at which they would have been  
5 maintained if the employee had continued in employment  
6 continuously from the date the employee commenced such  
7 leave until the date the employee is restored under subsection  
8 (a).

9 **SEC. 107. PROHIBITED ACTS.**

10           (a) **INTERFERENCE WITH RIGHTS.**—(1) It shall be un-  
11 lawful for any employer to interfere with, restrain, or deny  
12 the exercise of or the attempt to exercise, any right provided  
13 under this title.

14           (2) It shall be unlawful for any employer to discharge or  
15 in any other manner discriminate against any individual for  
16 opposing any practice made unlawful by this title.

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

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

1           (2) has given or is about to give any information  
2           in connection with any inquiry or proceeding relating  
3           to any right provided under this title; or

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

7 **SEC. 108. ADMINISTRATIVE ENFORCEMENT.**

8           (a) **IN GENERAL.**—The Secretary shall issue such rules  
9           and regulations as are necessary to carry out this section,  
10           including rules and regulations concerning service of com-  
11           plaints, notice of hearings, answers and amendments to com-  
12           plaints, and copies of orders and records of proceedings.

13           (b) **CHARGES.**—(1) Any person (or person, including a  
14           class or organization, on behalf of any person) alleging an act  
15           which violates any provision of this title may file a charge  
16           respecting such violation with the Secretary. Charges shall  
17           be in such form and contain such information as the Secre-  
18           tary shall require by regulation.

19           (2) The Secretary shall serve a notice of the charge on  
20           the person charged with the violation not more than 10 days  
21           after the Secretary receives such charge.

22           (3) A charge may not be filed more than one year after  
23           the last event constituting the alleged violation.

24           (c) **INVESTIGATION; COMPLAINT.**—(1) Within the  
25           sixty-day period after the Secretary receives any charge, the

1 Secretary shall investigate the charge and issue a complaint  
2 based on the charge or dismiss the charge.

3 (2) If the Secretary determines that there is a reasona-  
4 ble basis for the charge, the Secretary shall issue a complaint  
5 based on the charge and promptly notify the charging party  
6 and the respondent as to the issuance.

7 (3) If the Secretary determines that there is no reasona-  
8 ble basis for the charge, the Secretary shall dismiss the  
9 charge and promptly notify the charging party and the re-  
10 spondent as to the dismissal.

11 (4) The charging party and the respondent may enter  
12 into a settlement agreement concerning the violation alleged  
13 in the charge. To be effective such an agreement must be  
14 determined by the Secretary to be consistent with the pur-  
15 poses of this title.

16 (5) Upon the issuance of a complaint, the Secretary and  
17 the respondent may enter into a settlement agreement con-  
18 cerning a violation alleged in the complaint, except that any  
19 such settlement shall not be entered into over the objection of  
20 the charging party.

21 (6) If, within the sixty-day period referred to in para-  
22 graph (1), the Secretary—

23 (A) has not issued a complaint under paragraph

24 (2),

1 (B) has dismissed the charge under paragraph (3),

2 or

3 (C) has not approved or entered into a settlement

4 agreement under paragraph (4) or (5),

5 the charging party may bring a civil action under section

6 109.

7 (7) The Secretary may issue and serve a complaint al-

8 leging a violation of this title on the basis of information and

9 evidence gathered as a result of an investigation initiated by

10 the Secretary pursuant to section 110.

11 (8) Upon issuance of a complaint, the Secretary shall

12 have the power to petition the United States district court for

13 the district in which the violation is alleged to have occurred,

14 or in which the respondent resides or transacts business, for

15 appropriate temporary relief or restraining order. Upon the

16 filing of any such petition, the court shall cause notice of the

17 petition to be served upon the respondent, and the court shall

18 have jurisdiction to grant to the Secretary such temporary

19 relief or restraining order as it deems just and proper.

20 (d) RIGHTS OF PARTIES.—(1) In any case in which a

21 complaint is issued under subsection (b), the Secretary shall,

22 not less than five days and not more than thirty days after

23 the complaint is issued, cause to be served on the respondent

24 a copy of the complaint.



1           (2) Any person filing a charge alleging a violation of this  
2 title may elect to be a full party to any complaint filed by the  
3 Secretary alleging such violation. Such election must be  
4 made before the commencement of the hearing.

5           (e) CONDUCT OF HEARING.—(1) The Secretary shall  
6 have the duty to prosecute any complaint issued under sub-  
7 section (b).

8           (2) An administrative law judge shall conduct a hearing  
9 on the record with respect to a complaint issued under this  
10 title. Such hearing shall be conducted in conformity with sec-  
11 tions 554, 555, and 556 of chapter 5, United States Code,  
12 and shall be commenced within sixty days after the issuance  
13 of such complaint.

14           (f) FINDINGS AND CONCLUSIONS.—(1) After the hear-  
15 ing conducted under this section, the administrative law  
16 judge shall promptly make findings of fact and conclusions of  
17 law, and, if appropriate, issue an order for relief as provided  
18 in section 111.

19           (2) The administrative law judge shall inform the par-  
20 ties, in writing, of the reason for any delay in making such  
21 findings and conclusions if such findings and conclusions are  
22 not made within sixty days after the conclusion of such  
23 hearing.

24           (g) FINALITY OF DECISION; REVIEW.—(1) The deci-  
25 sion and order of the administrative law judge shall become

1 the final decision and order of the agency unless, upon appeal  
2 by an aggrieved party taken not more than thirty days after  
3 such action, the Secretary modifies or vacates the decision, in  
4 which case the decision of the Secretary shall be the final  
5 decision.

6 (2) Not later than sixty days after the entry of such final  
7 order, any person aggrieved by such final order may obtain a  
8 review of such order in the United States court of appeals for  
9 the circuit in which the violation is alleged to have occurred  
10 or in which the employer resides or transacts business.

11 (3) Upon the filing of the record with the court, the  
12 jurisdiction of the court shall be exclusive and its judgment  
13 shall be final, except that the same shall be subject to review  
14 by the Supreme Court of the United States upon writ of cer-  
15 tiorari or certification as provided in section 1254 of title 28,  
16 United States Code.

17 (h) COURT ENFORCEMENT OF ADMINISTRATIVE  
18 ORDERS.—(1) If the respondent does not appeal an order of  
19 an administrative law judge under subsection (g)(2), the Sec-  
20 retary may petition the United States district court for the  
21 district in which the violation is alleged to have occurred, or  
22 in which the respondent resides or transacts business, for the  
23 enforcement of the order of the administrative law judge, by  
24 filing in such court a written petition praying that such order  
25 be enforced.

1 (2) Upon the filing of such petition, the court shall have  
2 jurisdiction to make and enter a decree enforcing the order of  
3 the administrative law judge. In such a proceeding, the order  
4 of the administrative law judge shall not be subject to review.

5 (3) If, upon appeal of an order under subsection (g)(2),  
6 the United States court of appeals does not reverse such  
7 order, such court shall have the jurisdiction to make and  
8 enter a decree enforcing the order of the administrative law  
9 judge.

10 **SEC. 109. ENFORCEMENT BY CIVIL ACTION.**

11 (a) **RIGHT TO BRING CIVIL ACTION.**—(1) Subject to  
12 the limitations in this section, an employee or the Secretary  
13 may bring a civil action against any employer to enforce the  
14 provisions of this title in any appropriate court of the United  
15 States or in any State court of competent jurisdiction.

16 (2) A civil action may be commenced under this subsec-  
17 tion without regard to whether a charge has been filed under  
18 section 108(b).

19 (3) No civil action may be commenced under paragraph  
20 (1) if the Secretary—

21 (A) has approved a settlement agreement under  
22 section 108(c)(4), in which case no civil action may be  
23 filed under this subsection if such action is based upon  
24 a violation alleged in the charge and resolved by the  
25 agreement; or

1 (B) has issued a complaint under section 108(c)(2)  
2 or 108(c)(7), in which case no civil action may be filed  
3 under this subsection if such action is based upon a  
4 violation alleged in the complaint.

5 (4) Notwithstanding paragraph (2)(A), a civil action may  
6 be commenced to enforce the terms of any such settlement  
7 agreement.

8 (5)(A) Except as provided in subparagraph (B), no civil  
9 action may be commenced more than one year after the date  
10 on which the alleged violation occurred.

11 (B) In any case in which—

12 (i) a timely charge is filed under section 108(b);  
13 and

14 (ii) the failure of the Secretary to issue a com-  
15 plaint or enter into a settlement agreement based on  
16 the charge (as provided under section 108(c)(6)) occurs  
17 more than eleven months after the date on which any  
18 alleged violation occurred,

19 the employee may commence a civil action not more than  
20 thirty days after the date on which the employee is notified of  
21 such failure.

22 (6) The Secretary may not bring a civil action against  
23 any agency of the United States.

24 (b) VENUE.—An action brought under subsection (a) in  
25 a district court of the United States may be brought—

1 (1) in any appropriate judicial district under sec-  
2 tion 1391 of title 28, United States Code; or

3 (2) in the judicial district in the State in which—

4 (A) the employment records relevant to such  
5 violation are maintained and administered; or

6 (B) the aggrieved person worked or would  
7 have worked but for the alleged violation.

8 (c) **NOTIFICATION OF THE SECRETARY; RIGHT TO IN-**  
9 **TERVENE.**—A copy of the complaint in any action by an em-  
10 ployee under subsection (a) shall be served upon the Secre-  
11 tary by certified mail. The Secretary shall have the right to  
12 intervene in a civil action brought by an employee under sub-  
13 section (a).

14 (d) **ATTORNEYS FOR THE SECRETARY.**—In any civil  
15 action under subsection (a), attorneys appointed by the Secre-  
16 tary may appear for and represent the Secretary, except that  
17 the Attorney General and the Solicitor General shall conduct  
18 any litigation in the Supreme Court.

19 **SEC. 110. INVESTIGATIVE AUTHORITY.**

20 (a) **IN GENERAL.**—To ensure compliance with the pro-  
21 visions of this title, or any regulation or order issued under  
22 this title, the Secretary shall have, subject to subsection (c)  
23 the investigative authority provided under section 11(a) of the  
24 Fair Labor Standards Act (29 U.S.C. 211(a)).

1 (b) OBLIGATION TO KEEP AND PRESERVE  
2 RECORDS.—Any employer shall keep and preserve records  
3 in accordance with section 11(c) of such Act.

4 (c) REQUIRED SUBMISSIONS GENERALLY LIMITED TO  
5 AN ANNUAL BASIS.—The Secretary may not under the au-  
6 thority of this section require any employer or any plan, fund,  
7 or program to submit to the Secretary any books or records  
8 more than once in any twelve-month period, unless the Sec-  
9 retary has reasonable cause to believe there may exist a vio-  
10 lation of this title or any regulation or order issued pursuant  
11 to this title, or is investigating a charge pursuant to section  
12 108.

13 (d) SUBPOENA POWERS, ETC.—For the purposes of  
14 any investigation provided for in this section, the Secretary  
15 shall have the subpoena authority provided under section 9 of  
16 the Fair Labor Standards Act.

17 (e) DISSEMINATION OF INFORMATION.—The Secretary  
18 may make available to any person substantially affected by  
19 any matter which is the subject of an investigation under this  
20 section, and to any department or agency of the United  
21 States, information concerning any matter which may be the  
22 subject of such investigation.

23 SEC. 111. RELIEF.

24 (a) INJUNCTIVE.—(1) Upon finding a violation under  
25 section 108, the administrative law judge shall issue an order

1 requiring such person to cease and desist from any act or  
2 practice which violates this title.

3 (2) In any civil action brought under section 109, the  
4 court may grant as relief any permanent or temporary injunc-  
5 tion, temporary restraining order, and other equitable relief  
6 as the court deems appropriate.

7 (b) **MONETARY.**—Any employer that violates any provi-  
8 sion of this title shall be liable to the injured party in an  
9 amount equal to—

10 (1) any wages, salary, employment benefits, or  
11 other compensation denied or lost to such employee by  
12 reason of the violation, plus interest on the total mone-  
13 tary damages calculated at the prevailing rate, and

14 (2) an additional amount equal to the greater of  
15 (A) the amount determined under paragraph (1), as liq-  
16 uidated damages, or (b) general or consequential  
17 damages.

18 (c) **ATTORNEYS' FEES.**—The prevailing party (other  
19 than the United States) may be awarded a reasonable attor-  
20 neys' fee as part of the costs, in addition to any relief award-  
21 ed. The United States shall be liable for costs the same as a  
22 private person.

23 (d) **LIMITATION.**—Damages awarded under subsection  
24 (b) may not accrue from a date more than two years before

1 the date on which a charge is filed under section 108(b) or a  
2 civil action is brought under section 109.

3 **SEC. 112. NOTICE.**

4 (a) **IN GENERAL.**—Each employer shall post and keep  
5 posted, in conspicuous places upon its premises where notices  
6 to employees and applicants for employment are customarily  
7 posted, a notice, to be prepared for approval by the Secre-  
8 tary, setting forth excerpts from, or summaries of, the perti-  
9 nent provisions of this title and information pertaining to the  
10 filing of a charge.

11 (b) **PENALTY.**—Any employer who wilfully violates this  
12 section shall be fined not more than \$100 for each separate  
13 offense.

14 **TITLE II—PARENTAL LEAVE AND TEMPORARY**  
15 **MEDICAL LEAVE FOR CIVIL SERVICE EM-**  
16 **PLOYEES**

17 **SEC. 201. PARENTAL AND TEMPORARY MEDICAL LEAVE.**

18 (a) **IN GENERAL.**—(1) Chapter 63 of title 5, United  
19 States Code, is amended by adding at the end thereof the  
20 following new subchapter:

21 **“SUBCHAPTER III—PARENTAL AND TEMPORARY**  
22 **MEDICAL LEAVE**

23 **“§ 6331. Definitions**

24 **“For purposes of this subchapter—**

25 **“(1) ‘employee’ means—**



1           “(A) an employee as defined by section  
2           6301(2) of this title (excluding an individual em-  
3           ployed by the government of the District of Co-  
4           lumbia); and

5           “(B) an individual under clause (v) or (ix) of  
6           such section;

7           whose employment is other than on a temporary or  
8           intermittent basis;

9           “(2) ‘serious health condition’ means an illness,  
10          injury, impairment, or physical or mental condition  
11          which involves—

12           “(A) inpatient care in a hospital, hospice, or  
13          residential medical care facility; or

14           “(B) continuing treatment, or continuing su-  
15          pervision, by a health care provider; and

16           “(3) ‘child’ means a biological, adopted, or foster  
17          child, stepchild, legal ward, or child of a de facto  
18          parent who is—

19           “(A) under 18 years of age; or

20           “(B) 18 years of age or older and incapable  
21          of self-care because of mental or physical dis-  
22          ability.

23   **“§ 6332. Parental leave**

24          “(a) Leave under this section shall be granted on the  
25          request of an employee if such leave is requested—

1           “(1) because of the birth of a child of the  
2           employee;

3           “(2) because of the placement for adoption or  
4           foster care of a child with the employee; or

5           “(3) in order to care for employee’s child who has  
6           a serious health condition.

7           “(b) Leave under this section—

8           “(1) shall be leave without pay;

9           “(2) may not, in the aggregate, exceed the equiv-  
10          alent of 18 administrative workweeks of the employee  
11          during any 24-month period; and

12          “(3) shall be in addition to any annual leave, sick  
13          leave, temporary medical leave, or other leave or com-  
14          pensatory time off otherwise available to the employee.

15          “(c) An employee may elect to use leave under this  
16          section—

17          “(1) immediately before or after (or otherwise in  
18          coordination with) any period of annual leave, or  
19          compensatory time off, otherwise available to the  
20          employee;

21          “(2) under a method involving a reduced workday,  
22          a reduced workweek, or other alternative work  
23          schedule;

24          “(3) on either a continuing or intermittent basis;  
25          or

1           “(4) any combination thereof.

2   **“§ 6333. Temporary medical leave**

3           “(a) An employee who, because of a serious health con-  
4 dition, becomes unable to perform the functions of such em-  
5 ployee’s position shall, on request of the employee, be enti-  
6 tled to leave under this section.

7           “(b) Leave under this section—

8               “(1) shall be leave without pay;

9               “(2) shall be available for the duration of the seri-  
10 ous health condition of the employee involved, but may  
11 not, in the aggregate, exceed the equivalent of 26 ad-  
12 ministrative workweeks of the employee during any  
13 12-month period; and

14               “(3) shall be in addition to any annual leave, sick  
15 leave, parental leave, or other leave or compensatory  
16 time off otherwise available to the employee.

17           “(c) An employee may elect to use leave under this  
18 section—

19               “(1) immediately before or after (or otherwise in  
20 coordination with) any period of annual leave, sick  
21 leave, or compensatory time off otherwise available to  
22 the employee;

23               “(2) under a method involving a reduced workday,  
24 a reduced workweek, or other alternative work  
25 schedule;

1           “(3) on either a continuing or intermittent basis;  
2           or  
3           “(4) any combination thereof.

4   **“§ 6334. Job protection**

5           “An employee who uses leave under section 6332 or  
6 6333 of this title is entitled to be restored to the position held  
7 by such employee immediately before the commencement of  
8 such leave.

9   **“§ 6335. Prohibition of coercion**

10          “(a) An employee may not directly or indirectly intimi-  
11 date, threaten, or coerce, or attempt to intimidate, threaten,  
12 or coerce, any other employee for the purpose of interfering  
13 with such employee’s rights under this subchapter.

14          “(b) For the purpose of this section, ‘intimidate, threat-  
15 en, or coerce’ includes promising to confer or conferring any  
16 benefit (such as appointment, promotion, or compensation), or  
17 effecting or threatening to effect any reprisal (such as depri-  
18 vation of appointment, promotion, or compensation).

19   **“§ 6336. Health insurance**

20          “An employee enrolled in a health benefits plan under  
21 chapter 89 of this title who is placed in a leave status under  
22 section 6332 or 6333 of this title may elect to continue the  
23 employee’s health benefits enrollment while in such leave  
24 status and arrange to pay into the Employees Health Bene-  
25 fits Fund (described in section 8909 of this title), through that

1 individual's employing agency, the appropriate employee con-  
2 tributions.

3 **“§ 6337. Regulations**

4 “The Office of Personnel Management shall prescribe  
5 regulations necessary for the administration of this subchap-  
6 ter. The regulations prescribed under this subchapter shall be  
7 consistent with the regulations prescribed by the Secretary of  
8 Labor under title I of the Parental and Medical Leave Act of  
9 1986.”.

10 (2) The table of contents for chapter 63 of title 5,  
11 United States Code, is amended by adding at the end thereof  
12 the following:

“SUBCHAPTER III—PARENTAL AND TEMPORARY MEDICAL LEAVE

“6331. Definitions.

“6332. Parental leave.

“6333. Temporary medical leave.

“6334. Job protection.

“6335. Prohibition of coercion.

“6336. Health insurance.

“6337. Regulations.”.

13 (b) **EMPLOYEES PAID FROM NONAPPROPRIATED**  
14 **FUNDS.**—Section 2105(c)(1) of title 5, United States Code, is  
15 amended by striking out “53” and inserting in lieu thereof  
16 “53, subchapter III of chapter 63,”.

17 **TITLE III—COMMISSION ON PAID PARENTAL**  
18 **AND MEDICAL LEAVE**

19 **SEC. 301. ESTABLISHMENT.**

20 (a) **ESTABLISHMENT.**—There is established a commis-  
21 sion to be known as the Commission on Paid Parental and

1 Medical Leave (hereinafter in this Act referred to as the  
2 "Commission").

3 **SEC. 302. DUTIES.**

4 The Commission shall—

5 (1) conduct a comprehensive study of existing and  
6 proposed methods designed to provide workers with  
7 full or partial salary replacement or other income pro-  
8 tection during periods of temporary medical leave, pa-  
9 rental leave, and leave for care of dependents;

10 (2) within two years after the date on which the  
11 Commission first meets, submit a report to the Con-  
12 gress, including legislative recommendations concerning  
13 implementation of such a system of salary replacement  
14 for temporary medical leave and parental leave.

15 **SEC. 303. MEMBERSHIP.**

16 (a) **COMPOSITION.**—The Commission shall be composed  
17 of fifteen members appointed not more than sixty days after  
18 the date of the enactment of this Act as follows:

19 (1) Three Senators shall be appointed by the ma-  
20 jority leader of the Senate, in consultation with the mi-  
21 nority leader of the Senate.

22 (2) Three members of the House of Representa-  
23 tives shall be appointed by the Speaker of the House of  
24 Representatives, in consultation with the minority  
25 leader of the House of Representatives.

1           (3) The Secretary of Health and Human Services.

2           (4) The Secretary of Labor.

3           (5) Seven members shall be appointed jointly by  
4 the majority leader of the Senate and the Speaker of  
5 the House of Representatives. Such members shall be  
6 appointed by virtue of demonstrated expertise in rele-  
7 vant family and temporary disability issues.

8           (b) VACANCIES.—Any vacancy on the Commission  
9 shall be filled in the manner in which the original appoint-  
10 ment was made.

11          (c) CHAIRPERSON AND VICE CHAIRPERSON.—The  
12 Commission shall elect a chairperson and a vice-chairperson  
13 from among its members.

14          (d) QUORUM.—Eight members of the Commission shall  
15 constitute a quorum for all purposes, except that a lesser  
16 number may constitute a quorum for the purpose of holding  
17 hearings.

18 **SEC. 304. COMPENSATION.**

19          (a) PAY.—Members of the Commission shall serve with-  
20 out compensation.

21          (b) TRAVEL EXPENSES.—Members of the Commission  
22 shall be allowed reasonable travel expenses, including a per  
23 diem allowance, in accordance with section 5703 of title 5,  
24 United States Code, when performing duties of the  
25 Commission.

1 **SEC. 305. POWERS.**

2 (a) **MEETINGS.**—The Commission shall first meet not  
3 more than thirty days after the date on which members are  
4 appointed, and the Commission shall meet thereafter upon  
5 the call of the chairperson or a majority of the members.

6 (b) **HEARINGS AND SESSIONS.**—The Commission may  
7 hold such hearings, sit and act at such times and places, take  
8 such testimony, and receive such evidence as the Commission  
9 considers appropriate. The Commission may administer oaths  
10 or affirmations to witnesses appearing before it.

11 (c) **ACCESS TO INFORMATION.**—The Commission may  
12 secure directly from any Federal agency information neces-  
13 sary to enable it to carry out this Act. Upon the request of  
14 the chairperson or vice chairperson of the Commission, the  
15 head of such agency shall furnish such information to the  
16 Commission.

17 (d) **DIRECTOR.**—The Commission may appoint an Ex-  
18 ecutive Director from the personnel of any Federal agency to  
19 assist the Commission in carrying out its duties.

20 (e) **USE OF SERVICES AND FACILITIES.**—Upon the re-  
21 quest of the Commission, the head of any Federal agency  
22 may make available to the Commission any of the facilities  
23 and services of such agency.

24 (f) **PERSONNEL FROM OTHER AGENCIES.**—Upon the  
25 request of the Commission, the head of any Federal agency



1 may detail any of the personnel of such agency to assist the  
2 Commission in carrying out its duties.

3 **SEC. 306. TERMINATION.**

4 The Commission shall terminate thirty days after the  
5 date of the submission of its final report to the Congress.

6 **TITLE IV—MISCELLANEOUS PROVISIONS**

7 **SEC. 401. EFFECT ON OTHER LAWS.**

8 (a) **FEDERAL LAWS.**—Nothing in this Act shall be con-  
9 strued to modify or affect any Federal law prohibiting dis-  
10 crimination on the basis of race, religion, color, national  
11 origin, sex, age, or handicapped status.

12 (b) **STATE AND LOCAL LAWS.**—Nothing in this Act  
13 shall be construed to supersede any provision of any State  
14 and local law which provides greater employee parental or  
15 medical leave rights than the rights established under this  
16 title.

17 **SEC. 402. EFFECT ON EXISTING EMPLOYMENT BENEFITS.**

18 (a) **MORE PROTECTIVE.**—Nothing in this Act shall be  
19 construed to diminish an employer's obligation to comply  
20 with any collective-bargaining agreement or any employment  
21 benefit program or plan which provides greater parental and  
22 medical leave rights to employees than the rights provided  
23 under this title.

24 (b) **LESS PROTECTIVE.**—The rights provided to em-  
25 ployees under this title may not be diminished by any collec-

1 tive bargaining agreement or any employment benefit pro-  
2 gram or plan.

3 **SEC. 403. REGULATIONS.**

4 The Secretary shall prescribe such regulations as are  
5 necessary to carry out title I of this Act.

6 **SEC. 404. EFFECTIVE DATES.**

7 Titles I, II, and IV shall take effect six months after the  
8 date of the enactment of this Act. Title III shall take effect  
9 on such date of enactment.

○