

SEC. 585. FAMILY LEAVE IN CONNECTION WITH INJURED MEMBERS OF THE ARMED FORCES

(a) SERVICEMEMBER FAMILY LEAVE.—(1) DEFINITIONS.—Section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611) is amended by adding at the end the following new paragraphs:

“(14) ACTIVE DUTY.—The term ‘active duty’ means duty under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

“(15) CONTINGENCY OPERATION.—The term ‘contingency operation’ has the same meaning given such term in section 101(a)(13) of title 10, United States Code.

“(16) COVERED SERVICEMEMBER.—The term ‘covered servicemember’ means a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.

“(17) OUTPATIENT STATUS.—The term ‘outpatient status’, with respect to a covered servicemember, means the status of a member of the Armed Forces assigned to—

“(A) a military medical treatment facility as an outpatient; or

“(B) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

“(18) NEXT OF KIN.—The term ‘next of kin’, used with respect to an individual, means the nearest blood relative of that individual.

“(19) SERIOUS INJURY OR ILLNESS.—The term ‘serious injury or illness’, in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the H. R. 4986—127 member medically unfit to perform the duties of the member’s office, grade, rank, or rating.”

(2) ENTITLEMENT TO LEAVE.—Section 102(a) of such Act (29 U.S.C. 2612(a)) is amended—

(A) in paragraph (1), by adding at the end the following new subparagraph:

“(E) Because of any qualifying exigency (as the Secretary shall, by regulation, determine) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.”; and

(B) by adding at the end the following new paragraphs:

“(3) SERVICEMEMBER FAMILY LEAVE.—Subject to section 103, an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember shall be entitled to a total of 26 workweeks of leave during a 12-month period to care for the servicemember. The leave described in this paragraph shall only be available during a single 12-month period.

“(4) COMBINED LEAVE TOTAL.—During the single 12-month period described in paragraph (3), an eligible employee shall be entitled to a combined total of 26 workweeks of leave under paragraphs (1) and (3). Nothing in this paragraph shall be construed to limit the availability of leave under paragraph (1) during any other 12-month period.”

(3) REQUIREMENTS RELATING TO LEAVE.—

(A) SCHEDULE.—Section 102(b) of such Act (29 U.S.C. 2612(b)) is amended—

- (i) in paragraph (1), in the second sentence— (I) by striking “section 103(b)(5)” and inserting “subsection (b)(5) or (f) (as appropriate) of section 103”; and (II) by inserting “or under subsection (a)(3)” after “subsection (a)(1)”;
- (ii) in paragraph (1), by inserting after the second sentence the following new sentence: “Subject to subsection (e)(3) and section 103(f), leave under subsection (a)(1)(E) may be taken intermittently or on a reduced leave schedule.”; and
- (iii) in paragraph (2), by inserting “or under subsection (a)(3)” after “subsection (a)(1)”.

(B) SUBSTITUTION OF PAID LEAVE.—Section 102(d) of such Act (29 U.S.C. 2612(d)) is amended—

- (i) in paragraph (1)—(I) by inserting “(or 26 workweeks in the case of leave provided under subsection (a)(3))” after “12 workweeks” the first place it appears; and (II) by inserting “(or 26 workweeks, as appropriate)” after “12 workweeks” the second place it appears;
- (ii) in paragraph (2)(A), by striking “or (C)” and inserting “(C), or (E)”;
- and
- (iii) in paragraph (2)(B), by adding at the end the following: “An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, H. R. 4986—128 family leave, or medical or sick leave of the employee for leave provided under subsection (a)(3) for any part of the 26-week period of such leave under such subsection, except that nothing in this title requires an employer to provide paid sick leave

or paid medical leave in any situation in which the employer would not normally provide any such paid leave.”

(C) NOTICE.—Section 102(e) of such Act (29 U.S.C. 2612(e)) is amended—

- (i) in paragraph (2), by inserting “or under subsection (a)(3)” after “subsection (a)(1)”; and
- (ii) by adding at the end the following new paragraph:

“(3) NOTICE FOR LEAVE DUE TO ACTIVE DUTY OF FAMILY MEMBER.—In any case in which the necessity for leave under subsection (a)(1)(E) is foreseeable, whether because the spouse, or a son, daughter, or parent, of the employee is on active duty, or because of notification of an impending call or order to active duty in support of a contingency operation, the employee shall provide such notice to the employer as is reasonable and practicable.”

(D) SPOUSES EMPLOYED BY SAME EMPLOYER.—Section 102(f) of such Act (29 U.S.C. 2612(f)) is amended—

- (i) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), and aligning the margins of the subparagraphs with the margins of section 102(e)(2)(A);
- (ii) by striking “In any” and inserting the following:

“(1) IN GENERAL.—In any”; and (iii) by adding at the end the following:

“(2) SERVICEMEMBER FAMILY LEAVE.—

“(A) IN GENERAL.—The aggregate number of workweeks of leave to which both that husband and wife may be entitled under subsection (a) may be limited to 26 workweeks during the single 12-month period described in subsection (a)(3) if the leave is—

“(i) leave under subsection (a)(3); or

“(ii) a combination of leave under subsection (a)(3) and leave described in paragraph (1).

“(B) BOTH LIMITATIONS APPLICABLE.—If the leave taken by the husband and wife includes leave described in paragraph (1), the limitation in paragraph (1) shall apply to the leave described in paragraph (1).”

(E) CERTIFICATION REQUIREMENTS.—Section 103 of such Act (29 U.S.C. 2613) is amended—

- (i) in subsection (a)—(I) by striking “section 102(a)(1)” and inserting “paragraph (1) or paragraph (3) of section 102(a)”;
- (ii) by inserting “or of the next of kin of an individual in the case of leave taken under such paragraph (3),” after “parent of the employee”;
- and
- (iii) by adding at the end the following:

“(f) CERTIFICATION RELATED TO ACTIVE DUTY OR CALL TO ACTIVE DUTY.—An employer may require that a request for leave under section 102(a)(1)(E) be supported by a certification issued H. R. 4986—129 at such time and in such manner as the Secretary may by regulation prescribe. If the Secretary issues a regulation requiring such certification, the employee shall provide, in a timely manner, a copy of such certification to the employer.”

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

- (i) in paragraph (2)(B)(i), by inserting “or under section 102(a)(3)” before the semicolon; and
- (ii) in paragraph (3)(A)—(I) in clause (i), by striking “or” at the end; (II) in clause (ii), by striking the period and inserting “; or”; and (III) by adding at the end the following:

“(iii) a certification issued by the health care provider of the servicemember being cared for by the employee, in the case of an employee unable to return to work because of a condition specified in section 102(a)(3).”

(G) ENFORCEMENT.—Section 107 of such Act (29 U.S.C. 2617) is amended, in subsection (a)(1)(A)(i)(II), by inserting “(or 26 weeks, in a case involving leave under section 102(a)(3))” after “12 weeks.”

(H) INSTRUCTIONAL EMPLOYEES.—Section 108 of such Act (29 U.S.C. 2618) is amended, in subsections (c)(1), (d)(2), and (d)(3), by inserting “or under section 102(a)(3)” after “section 102(a)(1).”

(b) SERVICEMEMBER FAMILY LEAVE FOR CIVIL SERVICE EMPLOYEES.—

(1) DEFINITIONS.—Section 6381 of title 5, United States Code, is amended—

- (A) in paragraph (5), by striking “and” at the end;
- (B) in paragraph (6), by striking the period and inserting a semicolon; and
- (C) by adding at the end the following:

“(7) the term ‘active duty’ means duty under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10;

“(8) the term ‘covered servicemember’ means a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in an outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; “(9) the term ‘outpatient status’, with respect to a covered servicemember, means the status of a member of the Armed Forces assigned to—

“(A) a military medical treatment facility as an outpatient; or

“(B) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients;

“(10) the term ‘next of kin’, used with respect to an individual, means the nearest blood relative of that individual; and

“(11) the term ‘serious injury or illness’, in the case of a member of the Armed Forces, means an injury or illness incurred by the member in line of duty on active duty in H. R. 4986—130 the Armed Forces that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating.”

(2) ENTITLEMENT TO LEAVE.—Section 6382(a) of such title is amended by adding at the end the following:

“(3) Subject to section 6383, an employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember shall be entitled to a total of 26 administrative workweeks of leave during a 12-month period to care for the servicemember. The leave described in this paragraph shall only be available during a single 12-month period.

“(4) During the single 12-month period described in paragraph (3), an employee shall be entitled to a combined total of 26 administrative workweeks of leave under paragraphs (1) and (3). Nothing in this paragraph shall be construed to limit the availability of leave under paragraph (1) during any other 12-month period.”

(3) REQUIREMENTS RELATING TO LEAVE.—

(A) SCHEDULE.—Section 6382(b) of such title is amended—

- (i) in paragraph (1), in the second sentence—(I) by striking “section 6383(b)(5)” and inserting “subsection (b)(5) or (f) (as appropriate) of section 6383”; and (II) by inserting “or under subsection (a)(3)” after “subsection (a)(1)”; and
- (ii) in paragraph (2), by inserting “or under subsection (a)(3)” after “subsection (a)(1)”.

(B) SUBSTITUTION OF PAID LEAVE.—Section 6382(d) of such title is amended by adding at the end the following:

“An employee may elect to substitute for leave under subsection (a)(3) any of the employee’s accrued or accumulated annual or sick leave under subchapter I for any part of the 26-week period of leave under such subsection.”

(C) NOTICE.—Section 6382(e) of such title is amended by inserting “or under subsection (a)(3)” after “subsection (a)(1)”.

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

“(f) An employing agency may require that a request for leave under section 6382(a)(3) be supported by a certification issued at such time and in such manner as the Office of Personnel Management may by regulation prescribe.”