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# S. 1664

To allow Americans to earn paid sick time so that they can address their own health needs and the health needs of their families.

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## IN THE SENATE OF THE UNITED STATES

MAY 17, 2023

Mr. SANDERS (for himself, Mr. SCHUMER, Mrs. MURRAY, Mrs. GILLIBRAND, Ms. BALDWIN, Mr. BENNET, Mr. BLUMENTHAL, Mr. BOOKER, Mr. BROWN, Ms. CANTWELL, Mr. CARDIN, Mr. CASEY, Mr. COONS, Ms. CORTEZ MASTO, Ms. DUCKWORTH, Mr. DURBIN, Mrs. FEINSTEIN, Mr. FETTERMAN, Ms. HASSAN, Mr. HEINRICH, Mr. HICKENLOOPER, Ms. HIRONO, Mr. KAINE, Mr. KING, Ms. KLOBUCHAR, Mr. LUJÁN, Mr. MARKEY, Mr. MERKLEY, Mr. MENENDEZ, Mr. MURPHY, Mr. PADILLA, Mr. PETERS, Mr. REED, Ms. ROSEN, Mr. SCHATZ, Mrs. SHAHEEN, Ms. SMITH, Ms. STABENOW, Mr. VAN HOLLEN, Ms. WARREN, Mr. WELCH, Mr. WHITEHOUSE, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

JULY 18, 2023

Reported by Mr. SANDERS, without amendment

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## A BILL

To allow Americans to earn paid sick time so that they can address their own health needs and the health needs of their families.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Healthy Families Act”.

3 **SEC. 2. DEFINITIONS.**

4 In this Act:

5 (1) CHILD.—The term “child” means a biological,  
6 cal, foster, or adopted child, a stepchild, a child of  
7 a domestic partner, a legal ward, or a child of a person  
8 standing in loco parentis.

9 (2) COMMERCE.—The terms “commerce” and  
10 “industry or activity affecting commerce” mean any  
11 activity, business, or industry in commerce or in  
12 which a labor dispute would hinder or obstruct commerce  
13 or the free flow of commerce, and include  
14 “commerce” and any “industry affecting commerce”,  
15 as defined in paragraphs (1) and (3) of section  
16 501 of the Labor Management Relations Act,  
17 1947 (29 U.S.C. 142 (1) and (3)).

18 (3) DOMESTIC PARTNER.—

19 (A) IN GENERAL.—The term “domestic  
20 partner”, with respect to an individual, means  
21 another individual with whom the individual is  
22 in a committed relationship.

23 (B) COMMITTED RELATIONSHIP DEFINED.—The term  
24 “committed relationship” means a relationship between 2  
25 individuals, each at least 18 years of age, in which each in-  
26

1           dividual is the other individual’s sole domestic  
2           partner and both individuals share responsi-  
3           bility for a significant measure of each other’s  
4           common welfare. The term includes any such  
5           relationship between 2 individuals, including in-  
6           dividuals of the same sex, that is granted legal  
7           recognition by a State or political subdivision of  
8           a State as a marriage or analogous relationship,  
9           including a civil union or domestic partnership.

10           (4) DOMESTIC VIOLENCE.—The term “domestic  
11           violence” has the meaning given the term in section  
12           40002(a) of the Violence Against Women Act of  
13           1994 (34 U.S.C. 12291(a)), except that the ref-  
14           erence in such section to the term “jurisdiction re-  
15           ceiving grant funding” shall be deemed to mean the  
16           jurisdiction in which the victim lives or the jurisdic-  
17           tion in which the employer involved is located. Such  
18           term also includes “dating violence”, as that term is  
19           defined in such section.

20           (5) EMPLOYEE.—The term “employee” means  
21           an individual who is—

22                   (A)(i) an employee, as defined in section  
23                   3(e) of the Fair Labor Standards Act of 1938  
24                   (29 U.S.C. 203(e)), who is not covered under  
25                   any other provision of this paragraph, including

1 such an employee of the Library of Congress,  
2 except that a reference in such section to an  
3 employer shall be considered to be a reference  
4 to an employer described in paragraph  
5 (6)(A)(i)(I);

6 (ii) an employee of the Government Ac-  
7 countability Office; or

8 (iii) an employee of a covered employer de-  
9 scribed in paragraph (6)(B)(i)(V) who performs  
10 work that has been traditionally performed by  
11 employees in a railroad industry craft or class  
12 recognized under the Ninth paragraph of sec-  
13 tion 2 of the Railway Labor Act (45 U.S.C.  
14 152), including any employee who performs—

15 (I) work with respect to the movement  
16 of trains;

17 (II) maintenance of way work;

18 (III) signal work;

19 (IV) work for purposes of the inspec-  
20 tion, maintenance, repair, or cleaning of lo-  
21 comotives, rail maintenance facilities, rail-  
22 related equipment, or rail cars;

23 (V) dispatching work;

24 (VI) work with respect to the move-  
25 ment of equipment within a rail yard; or

1 (VII) rail clerical or communications  
2 work;

3 (B) a State employee described in section  
4 304(a) of the Government Employee Rights Act  
5 of 1991 (42 U.S.C. 2000e–16c(a));

6 (C) a covered employee, as defined in sec-  
7 tion 101 of the Congressional Accountability  
8 Act of 1995 (2 U.S.C. 1301), other than an ap-  
9 plicant for employment;

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

12 (E) a Federal officer or employee covered  
13 under subchapter V of chapter 63 of title 5,  
14 United States Code (without regard to the limi-  
15 tation in section 6381(1)(B) of that title).

16 (6) EMPLOYER.—

17 (A) IN GENERAL.—The term “employer”  
18 means a person who is—

19 (i)(I) a covered employer who is not  
20 described in any other subclause of this  
21 clause;

22 (II) an entity employing a State em-  
23 ployee described in section 304(a) of the  
24 Government Employee Rights Act of 1991;

1 (III) an employing office, as defined  
2 in section 101 of the Congressional Ac-  
3 countability Act of 1995;

4 (IV) an employing office, as defined in  
5 section 411(c) of title 3, United States  
6 Code; or

7 (V) an employing agency covered  
8 under subchapter V of chapter 63 of title  
9 5, United States Code; and

10 (ii) engaged in commerce (including  
11 government), or an industry or activity af-  
12 fecting commerce (including government).

13 (B) COVERED EMPLOYER.—

14 (i) IN GENERAL.—In subparagraph  
15 (A)(i)(I), the term “covered employer”—

16 (I) means any person engaged in  
17 commerce or in any industry or activ-  
18 ity affecting commerce who employs  
19 15 or more employees for each work-  
20 ing day during each of 20 or more  
21 calendar workweeks in the current or  
22 preceding year;

23 (II) means a smaller employer, to  
24 which the special rule in paragraph  
25 (3) of section 3(a) applies;

1 (III) means the Government Ac-  
2 countability Office and the Library of  
3 Congress;

4 (IV) includes—

5 (aa) any person who acts,  
6 directly or indirectly, in the inter-  
7 est of an employer covered by  
8 this clause to any of the employ-  
9 ees of such employer; and

10 (bb) any successor in inter-  
11 est of such an employer; and

12 (V) includes any rail carrier.

13 (ii) PUBLIC AGENCY.—For purposes  
14 of clause (i), a public agency, as defined in  
15 section 3(x) of the Fair Labor Standards  
16 Act of 1938 (29 U.S.C. 203(x)), shall be  
17 considered to be a person engaged in com-  
18 merce or in an industry or activity affect-  
19 ing commerce.

20 (iii) DEFINITIONS.—For purposes of  
21 this subparagraph:

22 (I) EMPLOYEE.—The term “em-  
23 ployee” has the meaning given such  
24 term in section 3(e) of the Fair Labor

1 Standards Act of 1938 (29 U.S.C.  
2 203(e)).

3 (II) PERSON.—The term “per-  
4 son” has the meaning given such term  
5 in section 3(a) of the Fair Labor  
6 Standards Act of 1938 (29 U.S.C.  
7 203(a)).

8 (III) SMALLER EMPLOYER.—The  
9 term “smaller employer” means any  
10 person engaged in commerce or in any  
11 industry or activity affecting com-  
12 merce who employs fewer than 15 em-  
13 ployees for each working day during  
14 each of 20 or more calendar work-  
15 weeks in the preceding year.

16 (C) PREDECESSORS.—Any reference in  
17 this paragraph to an employer, including such  
18 a smaller employer, shall include a reference to  
19 any predecessor of such employer.

20 (7) EMPLOYMENT BENEFITS.—The term “em-  
21 ployment benefits” means all benefits provided or  
22 made available to employees by an employer, includ-  
23 ing group life insurance, health insurance, disability  
24 insurance, sick leave, annual leave, educational bene-  
25 fits, and pensions, regardless of whether such bene-

1 fits are provided by a practice or written policy of  
2 an employer or through an “employee benefit plan”,  
3 as defined in section 3(3) of the Employee Retirement  
4 Income Security Act of 1974 (29 U.S.C.  
5 1002(3)).

6 (8) HEALTH CARE PROVIDER.—The term  
7 “health care provider” means a provider who—

8 (A)(i) is a doctor of medicine or osteopathy  
9 who is authorized to practice medicine or sur-  
10 gery (as appropriate) by the State in which the  
11 doctor practices; or

12 (ii) is any other person determined by the  
13 Secretary to be capable of providing health care  
14 services; and

15 (B) is not employed by an employer for  
16 whom the provider issues certification under  
17 this Act.

18 (9) PAID SICK TIME.—The term “paid sick  
19 time” means an increment of compensated leave  
20 that—

21 (A) can be earned by an employee for use  
22 during an absence from employment for any of  
23 the reasons described in paragraphs (1)  
24 through (4) of section 3(b); and

1 (B) is compensated at a rate that is not  
2 less than the greater of—

3 (i) the regular rate of pay of the em-  
4 ployee;

5 (ii) the rate specified in section  
6 6(a)(1) of the Fair Labor Standards Act  
7 of 1938 (29 U.S.C. 206(a)(1)); or

8 (iii) the rate specified in the applica-  
9 ble State or local minimum wage law.

10 (10) PARENT.—The term “parent” means a bi-  
11 ological, foster, or adoptive parent of an employee,  
12 a stepparent of an employee, parent-in-law, parent  
13 of a domestic partner, or a legal guardian or other  
14 person who stood in loco parentis to an employee  
15 when the employee was a child.

16 (11) RAIL CARRIER.—The term “rail carrier”  
17 has the meaning given such term in section 10102  
18 of title 49, United States Code.

19 (12) SECRETARY.—The term “Secretary”  
20 means the Secretary of Labor.

21 (13) SEXUAL ASSAULT.—The term “sexual as-  
22 sault” has the meaning given the term in section  
23 40002(a) of the Violence Against Women Act of  
24 1994 (34 U.S.C. 12291(a)).

1           (14) SPOUSE.—The term “spouse”, with re-  
2           spect to an employee, has the meaning given such  
3           term by the marriage laws of the State in which the  
4           marriage was celebrated.

5           (15) STALKING.—The term “stalking” has the  
6           meaning given the term in section 40002(a) of the  
7           Violence Against Women Act of 1994 (34 U.S.C.  
8           12291(a)).

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

12          (17) UNPAID SICK TIME.—The term “unpaid  
13          sick time” means the leave earned and used in the  
14          same manner and under the same conditions and  
15          procedures as paid sick time for the purposes of this  
16          Act, except that no compensation shall be paid.

17          (18) VICTIM SERVICES ORGANIZATION.—The  
18          term “victim services organization” means a non-  
19          profit, nongovernmental organization that provides  
20          assistance to victims of domestic violence, sexual as-  
21          sault, or stalking or advocates for such victims, in-  
22          cluding a rape crisis center, an organization carrying  
23          out a domestic violence, sexual assault, or stalking  
24          prevention or treatment program, an organization  
25          operating a shelter or providing counseling services,

1 or a legal services organization or other organization  
2 providing assistance through the legal process.

3 **SEC. 3. EARNED PAID SICK TIME.**

4 (a) EARNING OF PAID SICK TIME.—

5 (1) IN GENERAL.—An employer shall provide  
6 each employee employed by the employer not less  
7 than 1 hour of earned paid sick time for every 30  
8 hours worked, to be used as described in this sec-  
9 tion. An employer shall not be required to permit an  
10 employee to earn, under this section, more than 56  
11 hours of paid sick time in a year, unless the em-  
12 ployer chooses to set a higher limit.

13 (2) EXEMPT EMPLOYEES.—

14 (A) IN GENERAL.—Except as provided in  
15 subparagraph (B), for purposes of this section,  
16 an employee who is exempt from overtime re-  
17 quirements under section 13(a)(1) of the Fair  
18 Labor Standards Act of 1938 (29 U.S.C.  
19 213(a)(1)) shall be deemed to work 40 hours in  
20 each workweek.

21 (B) SHORTER NORMAL WORKWEEK.—If  
22 the normal workweek of such an employee is  
23 less than 40 hours, the employee shall earn  
24 paid sick time based upon that normal work-  
25 week.

1           (3) SPECIAL RULE FOR SMALLER EMPLOY-  
2           ERS.—A smaller employer, as defined in section  
3           2(6)(B)(iii), may provide paid sick time as provided  
4           under paragraph (1) but if such smaller employer  
5           opts not to do so, the smaller employer shall provide  
6           not fewer than 56 hours of unpaid sick time to each  
7           employee per year to be used for the same purposes  
8           and under the same conditions and procedures as set  
9           out in this Act. The provision and earning of unpaid  
10          sick time shall be treated in all respects the same as  
11          the provision and earning of paid sick time under  
12          this Act. References in this Act to paid sick time  
13          shall, with respect to such smaller employers, be  
14          deemed to be references to unpaid sick time.

15          (4) DATES FOR BEGINNING TO EARN PAID SICK  
16          TIME AND USE.—Except as provided in the second  
17          sentence of paragraph (8), employees shall begin to  
18          earn paid sick time under this section at the com-  
19          mencement of their employment. Except as provided  
20          in such sentence, an employee shall be entitled to  
21          use the earned paid sick time beginning on the 60th  
22          calendar day following commencement of the em-  
23          ployee’s employment. After that 60th calendar day,  
24          the employee may use the paid sick time as the time  
25          is earned. An employer may, at the discretion of the

1 employer, loan paid sick time to an employee for use  
2 by such employee in advance of the employee earn-  
3 ing such sick time as provided in this subsection and  
4 may permit use before the 60th day of employment.

5 (5) CARRYOVER.—

6 (A) IN GENERAL.—Except as provided in  
7 subparagraph (B), paid sick time earned under  
8 this section shall carry over from 1 year to the  
9 next.

10 (B) CONSTRUCTION.—This Act shall not  
11 be construed to require an employer to permit  
12 an employee to earn more than 56 hours of  
13 earned paid sick time in a calendar year.

14 (6) EMPLOYERS WITH EXISTING POLICIES.—

15 Any employer with a paid leave policy who makes  
16 available an amount of paid leave that is sufficient  
17 to meet the requirements of this section and that  
18 may be used for the same purposes and under the  
19 same conditions and procedures as the purposes,  
20 conditions, and procedures described in this section  
21 shall not be required to permit an employee to earn  
22 additional paid sick time under this section.

23 (7) CONSTRUCTION.—Nothing in this section

24 shall be construed as requiring financial or other re-  
25 imbursement to an employee from an employer upon

1 the employee's termination, resignation, retirement,  
2 or other separation from employment for earned  
3 paid sick time that has not been used.

4 (8) REINSTATEMENT.—If an employee is sepa-  
5 rated from employment with an employer and is re-  
6 hired, within 12 months after that separation, by the  
7 same employer, the employer shall reinstate the em-  
8 ployee's previously earned paid sick time. The em-  
9 ployee shall be entitled to use the earned paid sick  
10 time and earn additional paid sick time at the re-  
11 commencement of employment with the employer.

12 (9) PROHIBITION.—An employer may not re-  
13 quire, as a condition of providing paid sick time  
14 under this Act, that the employee involved search for  
15 or find a replacement employee to cover the hours  
16 during which the employee is using paid sick time.

17 (b) USES.—Paid sick time earned under subsection  
18 (a) may be used by an employee for any of the following:

19 (1) An absence resulting from a physical or  
20 mental illness, injury, or medical condition of the  
21 employee.

22 (2) An absence resulting from obtaining profes-  
23 sional medical diagnosis or care, or preventive med-  
24 ical care, for the employee.

1           (3) An absence for the purpose of caring for a  
2 child, a parent, a spouse, a domestic partner, or any  
3 other individual related by blood or affinity whose  
4 close association with the employee is the equivalent  
5 of a family relationship, who—

6           (A) has any of the conditions or needs for  
7 diagnosis or care described in paragraph (1) or  
8 (2);

9           (B) is required to attend—

10           (i) in the case of someone who is a  
11 child, a school meeting; or

12           (ii) a meeting at a place where the  
13 child, parent, spouse, domestic partner, or  
14 such other individual is receiving care ne-  
15 cessitated by a health condition or dis-  
16 ability of the child, parent, spouse, domes-  
17 tic partner, or such other individual;

18           (C) is in need of care and is typically cared  
19 for by an individual who is unable to provide  
20 care because the individual has any of condi-  
21 tions or needs for diagnosis or care described in  
22 paragraph (1) or (2); or

23           (D) is otherwise in need of care.

24           (4) An absence resulting from domestic vio-  
25 lence, sexual assault, or stalking, if the time is to—

1           (A) seek medical attention for the em-  
2           ployee or the employee's child, parent, spouse,  
3           domestic partner, or an individual related to the  
4           employee as described in paragraph (3), to re-  
5           cover from physical or psychological injury or  
6           disability caused by domestic violence, sexual  
7           assault, or stalking;

8           (B) obtain or assist a child, a parent, a  
9           spouse, a domestic partner, or any other indi-  
10          vidual related by blood or affinity whose close  
11          association with the employee is the equivalent  
12          of a family relationship in obtaining services  
13          from a victim services organization;

14          (C) obtain or assist a child, a parent, a  
15          spouse, a domestic partner, or any other indi-  
16          vidual related by blood or affinity whose close  
17          association with the employee is the equivalent  
18          of a family relationship in obtaining psycho-  
19          logical or other counseling;

20          (D) seek relocation; or

21          (E) take legal action, including preparing  
22          for or participating in any civil or criminal legal  
23          proceeding related to or resulting from domestic  
24          violence, sexual assault, or stalking.

1 (c) SCHEDULING.—An employee shall make a reason-  
2 able effort to schedule a period of paid sick time under  
3 this Act in a manner that does not unduly disrupt the  
4 operations of the employer.

5 (d) PROCEDURES.—

6 (1) IN GENERAL.—Paid sick time shall be pro-  
7 vided upon the oral or written request of an em-  
8 ployee. Such request shall—

9 (A) include the expected duration of the  
10 period of such time; and

11 (B)(i) in a case in which the need for such  
12 period of time is foreseeable at least 7 days in  
13 advance of such period, be provided at least 7  
14 days in advance of such period; or

15 (ii) otherwise, be provided as soon as prac-  
16 ticable after the employee is aware of the need  
17 for such period.

18 (2) CERTIFICATION IN GENERAL.—

19 (A) PROVISION.—

20 (i) IN GENERAL.—Subject to subpara-  
21 graph (C), an employer may require that a  
22 request for paid sick time under this sec-  
23 tion for a purpose described in paragraph  
24 (1), (2), or (3) of subsection (b) be sup-  
25 ported by a certification issued by the

1 health care provider of the eligible em-  
2 ployee or of an individual described in sub-  
3 section (b)(3), as appropriate, if the period  
4 of such time covers more than 3 consecu-  
5 tive workdays.

6 (ii) TIMELINESS.—The employee shall  
7 provide a copy of such certification to the  
8 employer in a timely manner, not later  
9 than 30 days after the first day of the pe-  
10 riod of time. The employer shall not delay  
11 the commencement of the period of time on  
12 the basis that the employer has not yet re-  
13 ceived the certification.

14 (B) SUFFICIENT CERTIFICATION.—A cer-  
15 tification provided under subparagraph (A)  
16 shall be sufficient if it states—

17 (i) the date on which the period of  
18 time will be needed;

19 (ii) the probable duration of the pe-  
20 riod of time; and

21 (iii)(I) for purposes of paid sick time  
22 under subsection (b)(1), a statement that  
23 absence from work is medically necessary;

24 (II) for purposes of such time under  
25 subsection (b)(2), the dates on which test-

1           ing for a medical diagnosis or care is ex-  
2           pected to be given and the duration of such  
3           testing or care; and

4           (III) for purposes of such time under  
5           subsection (b)(3), in the case of time to  
6           care for someone who is not a child, a  
7           statement that care is needed for an indi-  
8           vidual described in such subsection, and an  
9           estimate of the amount of time that such  
10          care is needed for such individual.

11          (C) REGULATIONS.—Regulations pre-  
12          scribed under section 12 shall specify the man-  
13          ner in which an employee who does not have  
14          health insurance shall provide a certification for  
15          purposes of this paragraph.

16          (D) CONFIDENTIALITY AND NONDISCLO-  
17          SURE.—

18               (i) PROTECTED HEALTH INFORMA-  
19               TION.—Nothing in this Act shall be con-  
20               strued to require a health care provider to  
21               disclose information in violation of section  
22               1177 of the Social Security Act (42 U.S.C.  
23               1320d–6) or the regulations promulgated  
24               pursuant to section 264(c) of the Health

1 Insurance Portability and Accountability  
2 Act of 1996 (42 U.S.C. 1320d–2 note).

3 (ii) HEALTH INFORMATION  
4 RECORDS.—If an employer possesses  
5 health information about an employee or  
6 an employee’s child, parent, spouse, domes-  
7 tic partner, or an individual related to the  
8 employee as described in subsection (b)(3),  
9 such information shall—

10 (I) be maintained on a separate  
11 form and in a separate file from other  
12 personnel information;

13 (II) be treated as a confidential  
14 medical record; and

15 (III) not be disclosed except to  
16 the affected employee or with the per-  
17 mission of the affected employee.

18 (3) CERTIFICATION IN THE CASE OF DOMESTIC  
19 VIOLENCE, SEXUAL ASSAULT, OR STALKING.—

20 (A) IN GENERAL.—An employer may re-  
21 quire that a request for paid sick time under  
22 this section for a purpose described in sub-  
23 section (b)(4) be supported by a form of docu-  
24 mentation described in subparagraph (B) if the

1 period of such time covers more than 3 consecu-  
2 tive workdays.

3 (B) FORM OF DOCUMENTATION.—A form  
4 of documentation described in this subpara-  
5 graph is any one of the following:

6 (i) A police report indicating that the  
7 employee, or an individual described in  
8 subsection (b)(4)(A) with respect to the  
9 employee, was a victim of domestic vio-  
10 lence, sexual assault, or stalking.

11 (ii) A court order protecting or sepa-  
12 rating the employee, or such an individual  
13 with respect to the employee, from the per-  
14 petrator of an act of domestic violence,  
15 sexual assault, or stalking, or other evi-  
16 dence from the court or prosecuting attor-  
17 ney that the employee, or an individual de-  
18 scribed in subsection (b)(4)(A) with re-  
19 spect to the employee, has appeared in  
20 court or is scheduled to appear in court in  
21 a proceeding related to domestic violence,  
22 sexual assault, or stalking.

23 (iii) Other documentation signed by  
24 an employee or volunteer working for a vic-  
25 tim services organization, an attorney, a

1 police officer, a medical professional, a so-  
2 cial worker, an antiviolence counselor, or a  
3 member of the clergy, affirming that the  
4 employee, or an individual described in  
5 subsection (b)(4)(A) with respect to the  
6 employee, is a victim of domestic violence,  
7 sexual assault, or stalking.

8 (C) REQUIREMENTS.—The requirements of  
9 paragraph (2) shall apply to certifications  
10 under this paragraph, except that—

11 (i) subparagraph (B)(iii) of such para-  
12 graph shall not apply;

13 (ii) the certification shall state the  
14 reason that the leave is required with the  
15 facts to be disclosed limited to the min-  
16 imum necessary to establish a need for the  
17 employee to be absent from work, and the  
18 employee shall not be required to explain  
19 the details of the domestic violence, sexual  
20 assault, or stalking involved; and

21 (iii) with respect to confidentiality  
22 under subparagraph (D) of such para-  
23 graph, any information provided to the em-  
24 ployer under this paragraph shall be con-

1 confidential, except to the extent that any dis-  
 2 closure of such information is—

3 (I) requested or consented to in  
 4 writing by the employee; or

5 (II) otherwise required by appli-  
 6 cable Federal or State law.

7 (D) SPECIFICATION OF DOCUMENTA-  
 8 TION.—An employer may not specify which of  
 9 the forms of documentation described in clause  
 10 (i), (ii), or (iii) of subparagraph (B) is required  
 11 to be provided in order to satisfy the require-  
 12 ment under subparagraph (A).

13 **SEC. 4. NOTICE REQUIREMENT.**

14 (a) IN GENERAL.—Each employer shall notify each  
 15 employee and include in any employee handbook, informa-  
 16 tion—

17 (1) describing paid sick time available to em-  
 18 ployees under this Act;

19 (2) pertaining to the filing of an action under  
 20 this Act;

21 (3) on the details of the notice requirement for  
 22 a foreseeable period of time under section  
 23 3(d)(1)(B)(i); and

24 (4) that describes—

1 (A) the protections that an employee has  
2 in exercising rights under this Act; and

3 (B) how the employee can contact the Sec-  
4 retary (or other appropriate authority as de-  
5 scribed in section 6) if any of the rights are vio-  
6 lated.

7 (b) POSTING OF NOTICE.—Each employer shall post  
8 and keep posted a notice, to be prepared or approved in  
9 accordance with procedures specified in regulations pre-  
10 scribed under section 12, setting forth excerpts from, or  
11 summaries of, the pertinent provisions of this Act includ-  
12 ing the information described in paragraphs (1) through  
13 (4) of subsection (a).

14 (c) LOCATION.—The notice described under sub-  
15 section (b) shall be posted—

16 (1) in conspicuous places on the premises of the  
17 employer, where notices to employees (including ap-  
18 plicants) are customarily posted; and

19 (2) in employee handbooks.

20 (d) VIOLATION; PENALTY.—Any employer who will-  
21 fully violates subsection (b) shall be subject to a civil fine  
22 in an amount not to exceed \$100 for each separate of-  
23 fense.

24 **SEC. 5. PROHIBITED ACTS.**

25 (a) INTERFERENCE WITH RIGHTS.—

1           (1) EXERCISE OF RIGHTS.—It shall be unlawful  
2 for any employer to interfere with, restrain, or deny  
3 the exercise of, or the attempt to exercise, any right  
4 provided under this Act, including—

5           (A) discharging or discriminating against  
6 (including retaliating against) any individual,  
7 including a job applicant, for exercising, or at-  
8 tempting to exercise, any right provided under  
9 this Act;

10          (B) using the taking of paid sick time or  
11 unpaid sick time under this Act as a negative  
12 factor in an employment action, such as hiring,  
13 promotion, reducing hours or number of shifts,  
14 or a disciplinary action; or

15          (C) counting the paid sick time or unpaid  
16 sick time under a no-fault attendance policy or  
17 any other absence-control policy.

18           (2) DISCRIMINATION.—It shall be unlawful for  
19 any employer to discharge or in any other manner  
20 discriminate against (including retaliating against)  
21 any individual, including a job applicant, for oppos-  
22 ing any practice made unlawful by this Act.

23          (b) INTERFERENCE WITH PROCEEDINGS OR INQUIR-  
24 IES.—It shall be unlawful for any person to discharge or  
25 in any other manner discriminate against (including retali-

1 ating against) any individual, including a job applicant,  
2 because such individual—

3 (1) has filed an action, or has instituted or  
4 caused to be instituted any proceeding, under or re-  
5 lated to this Act;

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

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

12 (c) CONSTRUCTION.—Nothing in this section shall be  
13 construed to state or imply that the scope of the activities  
14 prohibited by section 105 of the Family and Medical Leave  
15 Act of 1993 (29 U.S.C. 2615) is less than the scope of  
16 the activities prohibited by this section.

17 **SEC. 6. ENFORCEMENT AUTHORITY.**

18 (a) IN GENERAL.—

19 (1) DEFINITION.—In this subsection—

20 (A) the term “employee” means an em-  
21 ployee described in subparagraph (A) or (B) of  
22 section 2(5); and

23 (B) the term “employer” means an em-  
24 ployer described in subclause (I) or (II) of sec-  
25 tion 2(6)(A)(i).

## 1 (2) INVESTIGATIVE AUTHORITY.—

2 (A) IN GENERAL.—To ensure compliance  
3 with the provisions of this Act, or any regula-  
4 tion or order issued under this Act, the Sec-  
5 retary shall have, subject to subparagraph (C),  
6 the investigative authority provided under sec-  
7 tion 11(a) of the Fair Labor Standards Act of  
8 1938 (29 U.S.C. 211(a)), with respect to em-  
9 ployers, employees, and other individuals af-  
10 fected by an employer.

11 (B) OBLIGATION TO KEEP AND PRESERVE  
12 RECORDS.—An employer shall make, keep, and  
13 preserve records pertaining to compliance with  
14 this Act in accordance with section 11(c) of the  
15 Fair Labor Standards Act of 1938 (29 U.S.C.  
16 211(c)) and in accordance with regulations pre-  
17 scribed by the Secretary.

18 (C) REQUIRED SUBMISSIONS GENERALLY  
19 LIMITED TO AN ANNUAL BASIS.—The Secretary  
20 shall not require, under the authority of this  
21 paragraph, an employer to submit to the Sec-  
22 retary any books or records more than once  
23 during any 12-month period, unless the Sec-  
24 retary has reasonable cause to believe there  
25 may exist a violation of this Act or any regula-

1           tion or order issued pursuant to this Act, or is  
2           investigating a charge pursuant to paragraph  
3           (4).

4           (D) SUBPOENA AUTHORITY.—For the pur-  
5           poses of any investigation provided for in this  
6           paragraph, the Secretary shall have the sub-  
7           poena authority provided for under section 9 of  
8           the Fair Labor Standards Act of 1938 (29  
9           U.S.C. 209).

10          (3) CIVIL ACTION BY EMPLOYEES OR INDIVID-  
11          UALS.—

12           (A) RIGHT OF ACTION.—An action to re-  
13           cover the damages or equitable relief prescribed  
14           in subparagraph (B) may be maintained  
15           against any employer in any Federal or State  
16           court of competent jurisdiction by an employee  
17           or individual or a representative for and on be-  
18           half of—

19                   (i) the employee or individual; or

20                   (ii) the employee or individual and  
21           others similarly situated.

22           (B) LIABILITY.—Any employer who vio-  
23           lates section 5 (including a violation relating to  
24           rights provided under section 3) shall be liable  
25           to any employee or individual affected—

- 1 (i) for damages equal to—  
2 (I) the amount of—  
3 (aa) any wages, salary, em-  
4 ployment benefits, or other com-  
5 pensation denied or lost by rea-  
6 son of the violation; or  
7 (bb) in a case in which  
8 wages, salary, employment bene-  
9 fits, or other compensation have  
10 not been denied or lost, any ac-  
11 tual monetary losses sustained as  
12 a direct result of the violation up  
13 to a sum equal to 56 hours of  
14 wages or salary for the employee  
15 or individual;  
16 (II) the interest on the amount  
17 described in subclause (I) calculated  
18 at the prevailing rate; and  
19 (III) an additional amount as liq-  
20 uidated damages; and  
21 (ii) for such equitable relief as may be  
22 appropriate, including employment, rein-  
23 statement, and promotion.  
24 (C) FEES AND COSTS.—The court in an  
25 action under this paragraph shall, in addition to

1 any judgment awarded to the plaintiff, allow a  
2 reasonable attorney's fee, reasonable expert wit-  
3 ness fees, and other costs of the action to be  
4 paid by the defendant.

5 (4) ACTION BY THE SECRETARY.—

6 (A) ADMINISTRATIVE ACTION.—The Sec-  
7 retary shall receive, investigate, and attempt to  
8 resolve complaints of violations of section 5 (in-  
9 cluding a violation relating to rights provided  
10 under section 3) in the same manner that the  
11 Secretary receives, investigates, and attempts to  
12 resolve complaints of violations of sections 6  
13 and 7 of the Fair Labor Standards Act of 1938  
14 (29 U.S.C. 206 and 207).

15 (B) CIVIL ACTION.—The Secretary may  
16 bring an action in any court of competent juris-  
17 diction to recover the damages described in  
18 paragraph (3)(B)(i).

19 (C) SUMS RECOVERED.—Any sums recov-  
20 ered by the Secretary pursuant to subparagraph  
21 (B) shall be held in a special deposit account  
22 and shall be paid, on order of the Secretary, di-  
23 rectly to each employee or individual affected.  
24 Any such sums not paid to an employee or indi-  
25 vidual affected because of inability to do so

1 within a period of 3 years shall be deposited  
2 into the Treasury of the United States as mis-  
3 cellaneous receipts.

4 (5) LIMITATION.—

5 (A) IN GENERAL.—Except as provided in  
6 subparagraph (B), an action may be brought  
7 under paragraph (3), (4), or (6) not later than  
8 2 years after the date of the last event consti-  
9 tuting the alleged violation for which the action  
10 is brought.

11 (B) WILLFUL VIOLATION.—In the case of  
12 an action brought for a willful violation of sec-  
13 tion 5 (including a willful violation relating to  
14 rights provided under section 3), such action  
15 may be brought not later than 3 years after of  
16 the last event constituting the alleged violation  
17 for which such action is brought.

18 (C) COMMENCEMENT.—In determining  
19 when an action is commenced under paragraph  
20 (3), (4), or (6) for the purposes of this para-  
21 graph, it shall be considered to be commenced  
22 on the date when the complaint is filed.

23 (6) ACTION FOR INJUNCTION BY SECRETARY.—

24 The district courts of the United States shall have

1 jurisdiction, for cause shown, in an action brought  
2 by the Secretary—

3 (A) to restrain violations of section 5 (in-  
4 cluding a violation relating to rights provided  
5 under section 3), including the restraint of any  
6 withholding of payment of wages, salary, em-  
7 ployment benefits, or other compensation, plus  
8 interest, found by the court to be due to em-  
9 ployees or individuals eligible under this Act; or

10 (B) to award such other equitable relief as  
11 may be appropriate, including employment, re-  
12 instatement, and promotion.

13 (7) SOLICITOR OF LABOR.—The Solicitor of  
14 Labor may appear for and represent the Secretary  
15 on any litigation brought under paragraph (4) or  
16 (6).

17 (8) GOVERNMENT ACCOUNTABILITY OFFICE  
18 AND LIBRARY OF CONGRESS.—Notwithstanding any  
19 other provision of this subsection, in the case of the  
20 Government Accountability Office and the Library of  
21 Congress, the authority of the Secretary of Labor  
22 under this subsection shall be exercised respectively  
23 by the Comptroller General of the United States and  
24 the Librarian of Congress.

1 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-  
2 COUNTABILITY ACT OF 1995.—The powers, remedies, and  
3 procedures provided in the Congressional Accountability  
4 Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as de-  
5 fined in section 101 of that Act (2 U.S.C. 1301)), or any  
6 person, alleging a violation of section 202(a)(1) of that  
7 Act (2 U.S.C. 1312(a)(1)) shall be the powers, remedies,  
8 and procedures this Act provides to that Board, or any  
9 person, alleging an unlawful employment practice in viola-  
10 tion of this Act against an employee described in section  
11 2(5)(C).

12 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE  
13 3, UNITED STATES CODE.—The powers, remedies, and  
14 procedures provided in chapter 5 of title 3, United States  
15 Code, to the President, the Merit Systems Protection  
16 Board, or any person, alleging a violation of section  
17 412(a)(1) of that title, shall be the powers, remedies, and  
18 procedures this Act provides to the President, that Board,  
19 or any person, respectively, alleging an unlawful employ-  
20 ment practice in violation of this Act against an employee  
21 described in section 2(5)(D).

22 (d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE  
23 5, UNITED STATES CODE.—The powers, remedies, and  
24 procedures provided in title 5, United States Code, to an  
25 employing agency, provided in chapter 12 of that title to

1 the Merit Systems Protection Board, or provided in that  
2 title to any person, alleging a violation of chapter 63 of  
3 that title, shall be the powers, remedies, and procedures  
4 this Act provides to that agency, that Board, or any per-  
5 son, respectively, alleging an unlawful employment prac-  
6 tice in violation of this Act against an employee described  
7 in section 2(5)(E).

8 (e) REMEDIES FOR STATE EMPLOYEES.—

9 (1) WAIVER OF SOVEREIGN IMMUNITY.—A  
10 State's receipt or use of Federal financial assistance  
11 for any program or activity of a State shall con-  
12 stitute a waiver of sovereign immunity, under the  
13 11th Amendment to the Constitution or otherwise,  
14 to a suit brought by an employee of that program  
15 or activity under this Act for equitable, legal, or  
16 other relief authorized under this Act.

17 (2) OFFICIAL CAPACITY.—An official of a State  
18 may be sued in the official capacity of the official by  
19 any employee who has complied with the procedures  
20 under subsection (a)(3), for injunctive relief that is  
21 authorized under this Act. In such a suit the court  
22 may award to the prevailing party those costs au-  
23 thorized by section 722 of the Revised Statutes (42  
24 U.S.C. 1988).

1           (3) APPLICABILITY.—With respect to a par-  
2           ticular program or activity, paragraph (1) applies to  
3           conduct occurring on or after the day, after the date  
4           of enactment of this Act, on which a State first re-  
5           ceives or uses Federal financial assistance for that  
6           program or activity.

7           (4) DEFINITION OF PROGRAM OR ACTIVITY.—In  
8           this subsection, the term “program or activity” has  
9           the meaning given the term in section 606 of the  
10          Civil Rights Act of 1964 (42 U.S.C. 2000d–4a).

11 **SEC. 7. EDUCATION AND OUTREACH.**

12          (a) IN GENERAL.—The Secretary may conduct a  
13          public awareness campaign to educate and inform the pub-  
14          lic of the requirements for paid sick time required by this  
15          Act.

16          (b) AUTHORIZATION OF APPROPRIATIONS.—There is  
17          authorized to be appropriated to the Secretary such sums  
18          as may be necessary to carry out such campaign.

19 **SEC. 8. COLLECTION OF DATA ON PAID SICK TIME AND**  
20 **FURTHER STUDY.**

21          (a) COMPILATION OF INFORMATION.—The Commis-  
22          sioner of Labor Statistics of the Department of Labor  
23          shall annually compile and report to the Comptroller Gen-  
24          eral of the United States information on—

1           (1) the amount of paid and unpaid sick time  
2 available to employees by occupation and type of em-  
3 ployment establishment; and

4           (2) an estimate of the average sick time used  
5 by employees according to occupation and the type  
6 of employment establishment.

7 (b) GAO STUDY.—

8           (1) IN GENERAL.—Not later than 5 years after  
9 the date of enactment of this Act, the Comptroller  
10 General of the United States shall conduct a study  
11 to evaluate the implementation of this Act. Such  
12 study shall include an estimation of employees' ac-  
13 cess to paid sick time, employees' awareness of their  
14 rights under this Act, and employers' experiences  
15 complying with this Act. Such study shall take into  
16 account access, awareness and experiences of em-  
17 ployees by race, ethnicity, gender, and occupation.

18           (2) REPORT.—Upon completion of the study re-  
19 quired by paragraph (1), the Comptroller General of  
20 the United States shall prepare and submit a report  
21 to the appropriate committees of Congress con-  
22 cerning the results of the study and the information  
23 compiled pursuant to subsection (a).

24           (c) REPORT ON RAIL CARRIER ENFORCEMENT.—Not  
25 later than 3 years after the date of enactment of this Act,

1 the Secretary shall submit a report to Congress on any  
2 action by the Secretary under section 6(a) with respect  
3 to employers described in section 2(6)(B)(i)(V) providing  
4 paid sick time to employees described in section  
5 2(5)(A)(iii).

6 **SEC. 9. EFFECT ON OTHER LAWS.**

7 (a) FEDERAL AND STATE ANTIDISCRIMINATION  
8 LAWS.—Nothing in this Act shall be construed to modify  
9 or affect any Federal or State law prohibiting discrimina-  
10 tion on the basis of race, religion, color, national origin,  
11 sex, age, disability, sexual orientation, gender identity,  
12 marital status, familial status, or any other protected sta-  
13 tus.

14 (b) STATE AND LOCAL LAWS.—Nothing in this Act  
15 shall be construed to supersede (including preempting)  
16 any provision of any State or local law that provides great-  
17 er paid sick time or leave rights (including greater  
18 amounts of paid sick time or leave or greater coverage of  
19 those eligible for paid sick time or leave) than the rights  
20 established under this Act.

21 **SEC. 10. EFFECT ON EXISTING EMPLOYMENT BENEFITS.**

22 (a) MORE PROTECTIVE.—Nothing in this Act shall  
23 be construed to diminish the obligation of an employer to  
24 comply with any contract, collective bargaining agreement,  
25 or any employment benefit program or plan that provides

1 greater paid sick leave or other leave rights to employees  
2 or individuals than the rights established under this Act.

3 (b) LESS PROTECTIVE.—The rights established for  
4 employees under this Act shall not be diminished by any  
5 contract, collective bargaining agreement, or any employ-  
6 ment benefit program or plan.

7 **SEC. 11. ENCOURAGEMENT OF MORE GENEROUS LEAVE**  
8 **POLICIES.**

9 Nothing in this Act shall be construed to discourage  
10 employers from adopting or retaining leave policies more  
11 generous than policies that comply with the requirements  
12 of this Act.

13 **SEC. 12. REGULATIONS.**

14 (a) IN GENERAL.—

15 (1) AUTHORITY.—Except as provided in para-  
16 graph (2), not later than 180 days after the date of  
17 enactment of this Act, the Secretary shall prescribe  
18 such regulations as are necessary to carry out this  
19 Act with respect to employees described in subpara-  
20 graph (A) or (B) of section 2(5) and other individ-  
21 uals affected by employers described in subclause (I)  
22 or (II) of section 2(6)(A)(i).

23 (2) GOVERNMENT ACCOUNTABILITY OFFICE; LI-  
24 BRARY OF CONGRESS.—The Comptroller General of  
25 the United States and the Librarian of Congress

1 shall prescribe the regulations with respect to em-  
2 ployees of the Government Accountability Office and  
3 the Library of Congress, respectively, and other indi-  
4 viduals affected by the Comptroller General of the  
5 United States and the Librarian of Congress, re-  
6 spectively.

7 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-  
8 COUNTABILITY ACT OF 1995.—

9 (1) AUTHORITY.—Not later than 90 days after  
10 the Secretary prescribes regulations under sub-  
11 section (a), the Board of Directors of the Office of  
12 Compliance shall prescribe (in accordance with sec-  
13 tion 304 of the Congressional Accountability Act of  
14 1995 (2 U.S.C. 1384)) such regulations as are nec-  
15 essary to carry out this Act with respect to employ-  
16 ees described in section 2(5)(C) and other individ-  
17 uals affected by employers described in section  
18 2(6)(A)(i)(III).

19 (2) AGENCY REGULATIONS.—The regulations  
20 prescribed under paragraph (1) shall be the same as  
21 substantive regulations promulgated by the Sec-  
22 retary to carry out this Act except insofar as the  
23 Board may determine, for good cause shown and  
24 stated together with the regulations prescribed  
25 under paragraph (1), that a modification of such

1 regulations would be more effective for the imple-  
2 mentation of the rights and protections involved  
3 under this section.

4 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE  
5 3, UNITED STATES CODE.—

6 (1) AUTHORITY.—Not later than 90 days after  
7 the Secretary prescribes regulations under sub-  
8 section (a), the President (or the designee of the  
9 President) shall prescribe such regulations as are  
10 necessary to carry out this Act with respect to em-  
11 ployees described in section 2(5)(D) and other indi-  
12 viduals affected by employers described in section  
13 2(6)(A)(i)(IV).

14 (2) AGENCY REGULATIONS.—The regulations  
15 prescribed under paragraph (1) shall be the same as  
16 substantive regulations promulgated by the Sec-  
17 retary to carry out this Act except insofar as the  
18 President (or designee) may determine, for good  
19 cause shown and stated together with the regula-  
20 tions prescribed under paragraph (1), that a modi-  
21 fication of such regulations would be more effective  
22 for the implementation of the rights and protections  
23 involved under this section.

24 (d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE  
25 5, UNITED STATES CODE.—

1           (1) **AUTHORITY.**—Not later than 90 days after  
2 the Secretary prescribes regulations under sub-  
3 section (a), the Director of the Office of Personnel  
4 Management shall prescribe such regulations as are  
5 necessary to carry out this Act with respect to em-  
6 ployees described in section 2(5)(E) and other indi-  
7 viduals affected by employers described in section  
8 2(6)(A)(i)(V).

9           (2) **AGENCY REGULATIONS.**—The regulations  
10 prescribed under paragraph (1) shall be the same as  
11 substantive regulations promulgated by the Sec-  
12 retary to carry out this Act except insofar as the Di-  
13 rector may determine, for good cause shown and  
14 stated together with the regulations prescribed  
15 under paragraph (1), that a modification of such  
16 regulations would be more effective for the imple-  
17 mentation of the rights and protections involved  
18 under this section.

19 **SEC. 13. EFFECTIVE DATES.**

20           (a) **EFFECTIVE DATE.**—This Act shall take effect 6  
21 months after the date of issuance of regulations under sec-  
22 tion 12(a)(1).

23           (b) **COLLECTIVE BARGAINING AGREEMENTS.**—In the  
24 case of a collective bargaining agreement in effect on the

1 effective date prescribed by subsection (a), this Act shall  
2 take effect on the earlier of—

3           (1) the date of the termination of such agree-  
4           ment;

5           (2) the date of any amendment, made on or  
6           after such effective date, to such agreement; or

7           (3) the date that occurs 18 months after the  
8           date of issuance of regulations under section  
9           12(a)(1).

Calendar No. 136

118<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**S. 1664**

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**A BILL**

To allow Americans to earn paid sick time so that they can address their own health needs and the health needs of their families.

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JULY 18, 2023

Reported without amendment