

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

# S. 3680

To amend the Family and Medical Leave Act of 1993 to permit leave to care for a same-sex spouse, domestic partner, parent-in-law, adult child, sibling, or grandparent who has a serious health condition.

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## IN THE SENATE OF THE UNITED STATES

JULY 30, 2010

Mr. DURBIN introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Family and Medical Leave Act of 1993 to permit leave to care for a same-sex spouse, domestic partner, parent-in-law, adult child, sibling, or grandparent who has a serious health condition.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Family and Medical  
5       Leave Inclusion Act”.

1 **SEC. 2. LEAVE TO CARE FOR A SAME-SEX SPOUSE, DOMES-**  
 2 **TIC PARTNER, PARENT-IN-LAW, ADULT**  
 3 **CHILD, SIBLING, OR GRANDPARENT.**

4 (a) DEFINITIONS.—

5 (1) INCLUSION OF ADULT CHILDREN AND CHIL-  
 6 DREN OF A DOMESTIC PARTNER.—Section 101(12)  
 7 of such Act (29 U.S.C. 2611(12)) is amended—

8 (A) by inserting “a child of an individual’s  
 9 domestic partner,” after “a legal ward,”; and

10 (B) by striking “who is—” and all that  
 11 follows and inserting “and includes an adult  
 12 child.”.

13 (2) INCLUSION OF SAME-SEX SPOUSES.—Sec-  
 14 tion 101(13) of the Family and Medical Leave Act  
 15 of 1993 (29 U.S.C. 2611(13)) is amended by insert-  
 16 ing “, and includes a same-sex spouse as determined  
 17 under applicable State law” before the period.

18 (3) INCLUSION OF GRANDPARENTS, PARENTS-  
 19 IN-LAW, SIBLINGS, AND DOMESTIC PARTNERS.—Sec-  
 20 tion 101 of such Act (29 U.S.C. 2611) is further  
 21 amended by adding at the end the following:

22 “(20) DOMESTIC PARTNER.—The term ‘domes-  
 23 tic partner’, used with respect to an employee,  
 24 means—

25 “(A) the person recognized as the domestic  
 26 partner of the employee under any domestic

1 partner registry or civil union law of the State  
2 or political subdivision of a State where the em-  
3 ployee resides; or

4 “(B) in the case of an unmarried employee  
5 who lives in a State where a person cannot  
6 marry a person of the same sex under the laws  
7 of the State, a single, unmarried adult person  
8 of the same sex as the employee who is in a  
9 committed, personal (as defined in regulations  
10 issued by the Secretary) relationship with the  
11 employee, who is not a domestic partner to any  
12 other person, and who is designated to the em-  
13 ployer by such employee as that employee’s do-  
14 mestic partner.

15 “(21) GRANDCHILD.—The term ‘grandchild’,  
16 used with respect to an employee, means any person  
17 who is a son or daughter of a son or daughter of  
18 the employee.

19 “(22) GRANDPARENT.—The term ‘grand-  
20 parent’, used with respect to an employee, means a  
21 parent of a parent of the employee.

22 “(23) PARENT-IN-LAW.—The term ‘parent-in-  
23 law’, used with respect to an employee, means a par-  
24 ent of the spouse or domestic partner of the em-  
25 ployee.

1           “(24) SIBLING.—The term ‘sibling’, used with  
2           respect to an employee, means any person who is a  
3           son or daughter of the employee’s parent.

4           “(25) SON-IN-LAW OR DAUGHTER-IN-LAW.—  
5           The term ‘son-in-law or daughter-in-law’, used with  
6           respect to an employee, means any person who is a  
7           spouse or domestic partner of a son or daughter of  
8           the employee.”.

9           (b) LEAVE REQUIREMENT.—Section 102 of the Fam-  
10          ily and Medical Leave Act of 1993 (29 U.S.C. 2612) is  
11          amended—

12                 (1) in subsection (a)(1)—

13                         (A) in subparagraph (C), by striking  
14                         “spouse, or a son, daughter, or parent, of the  
15                         employee, if such spouse, son, daughter, or par-  
16                         ent” and inserting “spouse or domestic partner,  
17                         or a son, daughter, parent, parent-in-law,  
18                         grandparent, or sibling, of the employee if such  
19                         spouse, domestic partner, son, daughter, parent,  
20                         parent-in-law, grandparent, or sibling”; and

21                         (B) in subparagraph (E), by striking  
22                         “spouse, or a son, daughter, or parent” and in-  
23                         serting “spouse or domestic partner, or a son,  
24                         daughter, parent, parent-in-law, grandparent,  
25                         or sibling.”;

1           (2) in subsection (a)(3), by striking “spouse,  
2           son, daughter, parent,” and inserting “spouse or do-  
3           mestic partner, son, daughter, parent, son-in-law or  
4           daughter-in-law, grandchild, sibling,”; and

5           (3) in subsection (e)—

6           (A) in paragraph (2)(A), by striking  
7           “spouse, parent,” and inserting “spouse, do-  
8           mestic partner, parent, parent-in-law, grand-  
9           parent, sibling,”; and

10          (B) in paragraph (3), by striking “spouse,  
11          or a son, daughter, or parent,” and inserting  
12          “spouse or domestic partner, or a son, daugh-  
13          ter, parent, parent-in-law, grandparent, or sib-  
14          ling,”.

15          (c) CERTIFICATION.—Section 103 of the Family and  
16          Medical Leave Act of 1993 (29 U.S.C. 2613) is amend-  
17          ed—

18          (1) in subsection (a), by striking “spouse, or  
19          parent” and inserting “spouse, domestic partner,  
20          parent, parent-in-law, grandparent, or sibling”; and

21          (2) in subsection (b)—

22          (A) in paragraph (4)(A), by striking  
23          “spouse, or parent and an estimate of the  
24          amount of time that such employee is needed to  
25          care for the son, daughter, spouse, or parent”

1 and inserting “spouse, domestic partner, par-  
 2 ent, parent-in-law, grandparent, or sibling and  
 3 an estimate of the amount of time that such  
 4 employee is needed to care for such son, daugh-  
 5 ter, spouse, domestic partner, parent, parent-in-  
 6 law, grandparent, or sibling”; and

7 (B) in paragraph (7), by striking “parent,  
 8 or spouse” and inserting “spouse, domestic  
 9 partner, parent, parent-in-law, grandparent, or  
 10 sibling”.

11 (d) EMPLOYMENT AND BENEFITS PROTECTION.—  
 12 Section 104(c)(3) of the Family and Medical Leave Act  
 13 of 1993 (29 U.S.C. 2614(c)(3)) is amended—

14 (1) in subparagraph (A)(i), by striking “spouse,  
 15 or parent” and inserting “spouse, domestic partner,  
 16 parent, parent-in-law, grandparent, or sibling”; and

17 (2) in subparagraph (C)(ii), by striking  
 18 “spouse, or parent” and inserting “spouse, domestic  
 19 partner, parent, parent-in-law, grandparent, or sib-  
 20 ling”.

21 **SEC. 3. FEDERAL EMPLOYEES.**

22 (a) DEFINITIONS.—

23 (1) INCLUSION OF ADULT CHILDREN AND CHIL-  
 24 DREN OF A DOMESTIC PARTNER.—Section 6381(6)  
 25 of title 5, United States Code, is amended—

1 (A) by inserting “a child of an individual’s  
2 domestic partner,” after “a legal ward,”; and

3 (B) by striking “who is—” and all that  
4 follows and inserting “and includes an adult  
5 child.”.

6 (2) INCLUSION OF GRANDPARENTS, PARENTS-  
7 IN-LAW, SIBLINGS, AND DOMESTIC PARTNERS.—Sec-  
8 tion 6381 of such title is further amended—

9 (A) in paragraph (11)(B), by striking “;  
10 and” and inserting a semicolon;

11 (B) in paragraph (12), by striking the pe-  
12 riod and inserting a semicolon; and

13 (C) by adding at the end the following:

14 “(13) the term ‘domestic partner’, used with re-  
15 spect to an employee, means—

16 “(A) the person recognized as the domestic  
17 partner of the employee under any domestic  
18 partner registry or civil union law of the State  
19 or political subdivision of a State where the em-  
20 ployee resides; or

21 “(B) in the case of an unmarried employee  
22 who lives in a State where a person cannot  
23 marry a person of the same sex under the laws  
24 of the State, a single, unmarried adult person  
25 of the same sex as the employee who is in a

1 committed, personal (as defined in regulations  
2 issued by the Secretary) relationship with the  
3 employee, who is not a domestic partner to any  
4 other person, and who is designated to the em-  
5 ployer by such employee as that employee's do-  
6 mestic partner;

7 “(14) the term ‘grandchild’, used with respect  
8 to an employee, means any person who is a son or  
9 daughter of a son or daughter of the employee;

10 “(15) the term ‘grandparent’, used with respect  
11 to an employee, means a parent of a parent of the  
12 employee;

13 “(16) the term ‘parent-in-law’, used with re-  
14 spect to an employee, means a parent of the spouse  
15 or domestic partner of the employee;

16 “(17) the term ‘sibling’, used with respect to an  
17 employee, means any person who is a son or daugh-  
18 ter of the employee's parent;

19 “(18) the term ‘son-in-law or daughter-in-law’,  
20 used with respect to an employee, means any person  
21 who is a spouse or domestic partner of a son or  
22 daughter of the employee; and

23 “(19) the term ‘spouse’, used with respect to an  
24 employee, includes a same-sex spouse as determined  
25 under applicable State law.”.

1 (b) LEAVE REQUIREMENT.—Section 6382 of title 5,  
2 United States Code, is amended—

3 (1) in subsection (a)(1)—

4 (A) in subparagraph (C), by striking  
5 “spouse, or a son, daughter, or parent, of the  
6 employee, if such spouse, son, daughter, or par-  
7 ent” and inserting “spouse or domestic partner,  
8 or a son, daughter, parent, parent-in-law,  
9 grandparent, or sibling, of the employee, if such  
10 spouse, domestic partner, son, daughter, parent,  
11 parent-in-law, grandparent, or sibling”; and

12 (B) in subparagraph (E), by striking  
13 “spouse, or a son, daughter, or parent” and in-  
14 serting “spouse or domestic partner, or a son,  
15 daughter, parent, parent-in-law, grandparent,  
16 or sibling,”;

17 (2) in subsection (a)(3), by striking “spouse,  
18 son, daughter, parent,” and inserting “spouse or do-  
19 mestic partner, son, daughter, parent, son-in-law or  
20 daughter-in-law, grandchild, sibling,”; and

21 (3) in subsection (e)—

22 (A) in paragraph (2)(A), by striking  
23 “spouse, parent” and inserting “spouse, domes-  
24 tic partner, parent, parent-in-law, grandparent,  
25 sibling”; and

1           (B) in paragraph (3), by striking “spouse,  
2           or a son, daughter, or parent,” and inserting  
3           “spouse or domestic partner, or a son, daugh-  
4           ter, parent, parent-in-law, grandparent, or sib-  
5           ling”.

6           (c) CERTIFICATION.—Section 6383 of title 5, United  
7 States Code, is amended—

8           (1) in subsection (a), by striking “spouse, or  
9           parent” and inserting “spouse, domestic partner,  
10          parent, parent-in-law, grandparent, or sibling”; and

11          (2) in subsection (b)(4)(A), by striking “spouse,  
12          or parent, and an estimate of the amount of time  
13          that such employee is needed to care for such son,  
14          daughter, spouse, or parent” and inserting “spouse,  
15          domestic partner, parent, parent-in-law, grand-  
16          parent, or sibling and an estimate of the amount of  
17          time that such employee is needed to care for such  
18          son, daughter, spouse, domestic partner, parent,  
19          parent-in-law, grandparent, or sibling”.

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