

118TH CONGRESS  
2D SESSION

# S. 3901

To provide employees with a minimum of 2 consecutive hours of paid leave  
in order to vote in Federal elections.

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## IN THE SENATE OF THE UNITED STATES

MARCH 11, 2024

Ms. HIRONO (for herself, Ms. BUTLER, Mr. CASEY, Mr. DURBIN, Mr. KAINÉ,  
Mr. PADILLA, Mr. REED, 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

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## A BILL

To provide employees with a minimum of 2 consecutive hours  
of paid leave in order to vote in Federal elections.

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 “Time Off to Vote Act”.

5 **SEC. 2. REQUIREMENT FOR 2 HOURS PAID LEAVE TO VOTE**

6 **IN FEDERAL ELECTIONS.**

7 (a) REQUIREMENT TO PROVIDE LEAVE.—Upon the  
8 request of an employee, an employer shall provide to the  
9 employee a minimum of 2 consecutive hours of paid leave

1 on a day of any Federal election, while polls are open, in  
2 order to vote, return in person a ballot that was received  
3 in the mail, or perform other voting-related activity.

4 (b) EMPLOYER RIGHT TO DETERMINE TWO-HOUR  
5 PERIOD.—For each employee taking leave under sub-  
6 section (a), the employer of such employee may specify  
7 the hours during which the employee may take such leave,  
8 including by requiring that the employee take the leave  
9 during a period designated for early voting instead of on  
10 the day of the election, as applicable under State law. Any  
11 lunch break or other break period may not be included  
12 in the 2-hour period designated for leave, but may be  
13 taken consecutively with the 2-hour period described in  
14 subsection (a).

15 (c) NO LOSS OF BENEFITS.—The taking of leave  
16 under this section shall not result in the loss of any em-  
17 ployment benefit accrued prior to the date on which the  
18 leave was taken.

19 (d) PROHIBITED ACTS.—

20 (1) INTERFERENCE WITH RIGHTS UNDER THIS  
21 ACT.—It shall be unlawful for any employer to inter-  
22 fere with, restrain, or deny the exercise of or the at-  
23 tempt to exercise, the right to take leave under this  
24 Act, or to discriminate against an employee in any  
25 manner for taking leave under this Act.

1           (2) RETALIATION.—It shall be unlawful for any  
2 employer to discharge or in any other manner dis-  
3 criminate against any individual for—

4           (A) opposing any practice made unlawful  
5 by this section;

6           (B) filing any charge, or instituting or  
7 causing to be instituted any proceeding, under  
8 or related to this section;

9           (C) giving or preparing to give any infor-  
10 mation in connection with any inquiry or pro-  
11 ceeding relating to any leave provided under  
12 this section; or

13           (D) testifying or preparing to testify in  
14 any inquiry or proceeding relating to any leave  
15 provided under this section.

16       (e) INVESTIGATIVE AUTHORITY.—The Secretary of  
17 Labor shall have investigative authority with respect to the  
18 provisions of this section in the same manner and under  
19 the same terms and conditions as the investigative author-  
20 ity provided under section 106 of the Family and Medical  
21 Leave Act of 1993 (29 U.S.C. 2616), and the require-  
22 ments of section 106 of such Act shall apply to employers  
23 under this section in the same manner as such require-  
24 ments apply to employers under section 106 of such Act.

25       (f) ENFORCEMENT.—

1           (1) IN GENERAL.—Any employer that violates  
2 this Act may be subject to a civil penalty not to ex-  
3 ceed \$10,000 per violation. Civil penalties shall be  
4 assessed by and paid to the Secretary of Labor for  
5 deposit into the Treasury of the United States and  
6 shall accrue to the United States and may be recov-  
7 ered in a civil action in the name of the United  
8 States brought in the United States district court  
9 for the district where the violation is alleged to have  
10 occurred or where the employer has its principal of-  
11 fice.

12           (2) CONSIDERATIONS.—In assessing a civil pen-  
13 alty under this Act, the Secretary shall give due con-  
14 sideration to the appropriateness of the penalty with  
15 respect to the size of the business of the employer  
16 being charged, the gravity of the violation, the good  
17 faith of the employer, and the history of previous  
18 violations.

19           (g) DEFINITIONS.—As used in this Act:

20           (1) The term “employee” has the meaning  
21 given such term in section 3 of the Fair Labor  
22 Standards Act of 1938 (29 U.S.C. 203).

23           (2) The term “employer” means any person en-  
24 gaged in commerce or in any industry or activity af-  
25 fecting commerce who employs 25 or more employ-

1       ees during a calendar year, and includes any person  
2       who acts, directly or indirectly, in the interest of an  
3       employer to any of the employees of such employer  
4       and any successor in interest of an employer. In the  
5       previous sentence, the terms “commerce” and “in-  
6       dustry or activity affecting commerce” have the  
7       meaning given such terms in section 101(1) of the  
8       Family and Medical Leave Act of 1993.

9       (h) STATE AND LOCAL LAWS.—Nothing in this Act  
10      shall be construed to supersede any provision of any State  
11      or local law that requires an employer to provide leave to  
12      an employee, for the purpose of voting in any Federal,  
13      State, or municipal election, in an amount greater than  
14      that required under this Act, or under terms more bene-  
15      ficial to an employee than those provided under this Act.

16      (i) EFFECTIVE DATE.—This section shall take effect  
17      beginning with the first Federal election held after the  
18      date of enactment of this Act.

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