

§ 2601. Findings and purposes**(a) Findings**

Congress finds that—

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

(2) it is important for the development of children and the family unit that fathers and mothers be able to participate in early child-rearing and the care of family members who have serious health conditions;

(3) the lack of employment policies to accommodate working parents can force individuals to choose between job security and parenting;

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

(5) due to the nature of the roles of men and women in our society, the primary responsibility for family caretaking often falls on women, and such responsibility affects the working lives of women more than it affects the working lives of men; and

(6) employment standards that apply to one gender only have serious potential for encouraging employers to discriminate against employees and applicants for employment who are of that gender.

(b) Purposes

It is the purpose of this Act—

(1) to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity;

(2) to entitle employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition;

(3) to accomplish the purposes described in paragraphs (1) and (2) in a manner that accommodates the legitimate interests of employers;

(4) to accomplish the purposes described in paragraphs (1) and (2) in a manner that, consistent with the Equal Protection Clause of the Fourteenth Amendment, minimizes the potential for employment discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons (including maternity-related disability) and for compelling family reasons, on a gender-neutral basis; and

(5) to promote the goal of equal employment opportunity for women and men, pursuant to such clause.

(Pub. L. 103-3, §2, Feb. 5, 1993, 107 Stat. 6.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is Pub. L. 103-3, Feb. 5, 1993, 107 Stat. 6, known as the Family and Medical Leave Act of 1993, which enacted this chapter, sections 60m and 60n of Title 2, The Congress, and sections 6381 to 6387 of Title 5, Government Organization and Employees, amended section 2105 of Title 5, and enacted provisions set out as notes below. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

EFFECTIVE DATE

Section 405 title IV of Pub. L. 103-3 provided that:

“(a) TITLE III.—Title III [enacting subchapter II of this chapter] shall take effect on the date of the enactment of this Act [Feb. 5, 1993].

“(b) OTHER TITLES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), titles I, II, and V and this title [enacting subchapters I and III of this chapter, sections 60m and 60n of Title 2, The Congress, and sections 6381 to 6387 of Title 5, Government Organization and Employees, and amending section 2105 of Title 5] shall take effect 6 months after the date of the enactment of this Act.

“(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a collective bargaining agreement in effect on the effective date prescribed by paragraph (1), title I [enacting subchapter I of this chapter] shall apply on the earlier of—

“(A) the date of the termination of such agreement; or

“(B) the date that occurs 12 months after the date of the enactment of this Act.”

SHORT TITLE

Section 1(a) of Pub. L. 103-3 provided that: “This Act [enacting this chapter, sections 60m and 60n of Title 2, The Congress, and sections 6381 to 6387 of Title 5, Government Organization and Employees, amending section 2105 of Title 5, and enacting provisions set out above] may be cited as the ‘Family and Medical Leave Act of 1993.’”

SUBCHAPTER I—GENERAL REQUIREMENTS FOR LEAVE

§ 2611. Definitions

As used in this subchapter:

(1) Commerce

The terms “commerce” and “industry or activity affecting commerce” mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and include “commerce” and any “industry affecting commerce”, as defined in paragraphs (1) and (3) of section 142 of this title.

(2) Eligible employee**(A) In general**

The term “eligible employee” means an employee who has been employed—

(i) for at least 12 months by the employer with respect to whom leave is requested under section 2612 of this title; and

(ii) for at least 1,250 hours of service with such employer during the previous 12-month period.

(B) Exclusions

The term “eligible employee” does not include—

(i) any Federal officer or employee covered under subchapter V of chapter 63 of title 5; or

(ii) any employee of an employer who is employed at a worksite at which such employer employs less than 50 employees if the total number of employees employed by that employer within 75 miles of that worksite is less than 50.

(C) Determination

For purposes of determining whether an employee meets the hours of service require-

ment specified in subparagraph (A)(ii), the legal standards established under section 207 of this title shall apply.

(3) Employ; employee; State

The terms “employ”, “employee”, and “State” have the same meanings given such terms in subsections (c), (e), and (g) of section 203 of this title.

(4) Employer

(A) In general

The term “employer”—

(i) means any person engaged in commerce or in any industry or activity affecting commerce who employs 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year;

(ii) includes—

(I) any person who acts, directly or indirectly, in the interest of an employer to any of the employees of such employer; and

(II) any successor in interest of an employer;

(iii) includes any “public agency”, as defined in section 203(x) of this title; and

(iv) includes the Government Accountability Office and the Library of Congress.

(B) Public agency

For purposes of subparagraph (A)(iii), a public agency shall be considered to be a person engaged in commerce or in an industry or activity affecting commerce.

(5) Employment benefits

The term “employment benefits” means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an “employee benefit plan”, as defined in section 1002(3) of this title.

(6) Health care provider

The term “health care provider” means—

(A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or

(B) any other person determined by the Secretary to be capable of providing health care services.

(7) Parent

The term “parent” means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter.

(8) Person

The term “person” has the same meaning given such term in section 203(a) of this title.

(9) Reduced leave schedule

The term “reduced leave schedule” means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

(10) Secretary

The term “Secretary” means the Secretary of Labor.

(11) Serious health condition

The term “serious health condition” means an illness, injury, impairment, or physical or mental condition that involves—

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

(B) continuing treatment by a health care provider.

(12) Son or daughter

The term “son or daughter” means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is—

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

(13) Spouse

The term “spouse” means a husband or wife, as the case may be.

(Pub. L. 103-3, title I, §101, Feb. 5, 1993, 107 Stat. 7; Pub. L. 104-1, title II, §202(c)(1)(A), Jan. 23, 1995, 109 Stat. 9; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

AMENDMENTS

2004—Par. (4)(A)(iv). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

1995—Par. (4)(A)(iv). Pub. L. 104-1 added cl. (iv).

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-1 effective one year after transmission to Congress of the study under section 1371 of Title 2, The Congress, see section 1312(e)(2) of Title 2. The study required under section 1371 of Title 2, dated Dec. 31, 1996, was transmitted to Congress by the Board of Directors of the Office of Compliance on Dec. 30, 1996.

EFFECTIVE DATE

Subchapter effective 6 months after Feb. 5, 1993, except that, in the case of collective bargaining agreements in effect on that effective date, subchapter applicable on the earlier of (1) the date of termination of such agreement, or (2) the date that occurs 12 months after Feb. 5, 1993, see section 405(b) of Pub. L. 103-3, set out as a note under section 2601 of this title.

§ 2612. Leave requirement

(a) In general

(1) Entitlement to leave

Subject to section 2613 of this title, an eligible employee shall be entitled to a total of 12 workweeks of leave during any 12-month period for one or more of the following:

(A) Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.

(B) Because of the placement of a son or daughter with the employee for adoption or foster care.

(C) In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.