

104TH CONGRESS
1ST SESSION

H. R. 2237

To provide equal leave benefits for parents who adopt a child or provide foster care for a child.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 4, 1995

Mr. OBERSTAR (for himself, Mr. SMITH of New Jersey, Mr. BARRETT of Wisconsin, Mr. BURTON of Indiana, Mr. FRANK of Massachusetts, Ms. PELOSI, Mr. JACOBS, Mr. FROST, Mrs. MEEK of Florida, and Mr. UNDERWOOD) introduced the following bill; which was referred to the Committee on Economic and Educational Opportunities

A BILL

To provide equal leave benefits for parents who adopt a child or provide foster care for a child.

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 “Leave Equity for
5 Adoptive Families Act of 1995”.

6 **SEC. 2. LEAVE REQUIREMENT.**

7 (a) IN GENERAL.—An employee who needs leave be-
8 cause of the placement of a son or daughter with the em-
9 ployee for adoption or foster care shall be entitled to any

1 leave benefit provided by the employee's employer to an
2 employee who needs leave—

3 (1) to care for the employee's newborn biologi-
4 cal child, or

5 (2) to recover from the employee's own illness,
6 injury, or disability.

7 (b) EXPIRATION OF ENTITLEMENT.—Leave because
8 of the placement of a son or daughter with the employee
9 for adoption or foster care under subsection (a) shall com-
10 mence no later than 12 months after the placement of a
11 child with the employee for adoption or foster care.

12 **SEC. 3. CIVIL ACTION.**

13 (a) IN GENERAL.—Subject to the limitations con-
14 tained in this section, any person may bring a civil action
15 against an employer to enforce the provisions of section
16 2 in any appropriate court of the United States or in any
17 State court of competent jurisdiction.

18 (b) TIMING OF COMMENCEMENT OF CIVIL ACTION.—
19 No civil action may be commenced under subsection (a)
20 later than 1 year after the date of the last event that con-
21 stitutes the alleged violation of section 2.

22 (c) VENUE.—An action brought under subsection (a)
23 in a district court of the United States may be brought
24 in any appropriate judicial district under section 1391 of
25 title 28, United States Code.

1 (d) RELIEF.—In any civil action brought under sub-
2 section (a), the court may—

3 (1) grant as relief against any respondent that
4 violates section 2—

5 (A) any permanent or temporary injunc-
6 tion, temporary restraining order, or other equi-
7 table relief as the court determines appropriate,

8 (B) damages in an amount equal to any
9 wages, salary, employment benefits, or other
10 compensation denied or lost to the employee
11 bringing the action by reason of the violation of
12 section 2 or in a case in which wages, salary,
13 employment benefits, or other compensation
14 have not been denied or lost to the employee,
15 any actual monetary losses sustained by the
16 employee as a direct result of such violation, in-
17 cluding the cost of providing care, up to an
18 amount equal to 12 weeks of wages or salary
19 for the employee, and

20 (C) interest at the prevailing rate on the
21 total monetary damages calculated under sub-
22 paragraph (B), and

23 (2) award to a prevailing party (other than the
24 United States) in the action a reasonable attorney's
25 fee and expert witness fee.

1 **SEC. 4. CONSTRUCTION.**

2 Nothing in this Act shall be construed to require an
3 employer to provide any leave benefit that the employer
4 would not otherwise have provided to an employee to care
5 for a newborn biological child or to recover from the em-
6 ployee's illness, injury, or disability.

7 **SEC. 5. DEFINITIONS.**

8 As used in this Act:

9 (1) EMPLOYEE.—The term “employee” means
10 any individual employed by an employer.

11 (2) EMPLOYER.—The term “employer” means
12 any person engaged in commerce or in any industry
13 or activity affecting commerce. The terms “com-
14 merce” and “industry affecting commerce” mean
15 any activity, business, or industry in commerce or in
16 which a labor dispute would hinder or obstruct com-
17 merce or the free flow of commerce and includes
18 such terms as defined in section 120 of the Labor
19 Management Relations Act, 1947.

20 (3) EMPLOYMENT BENEFITS.—The term “em-
21 ployment benefits” means all benefits provided or
22 made available to employees by an employer, includ-
23 ing health insurance, sick leave, annual leave, paren-
24 tal leave, and disability leave regardless of whether
25 such benefits are provided by a policy or practice of
26 an employer or through an “employee welfare bene-

1 fit plan”, as defined in section 3(3) of the Employee
2 Retirement Income Security Act of 1974 (29 U.S.C.
3 1002(1)).

4 (4) LEAVE BENEFIT.—The term “leave benefit”
5 means—

6 (A) any sick or parental leave provided by
7 an employer,

8 (B) any right to reemployment with the
9 employer after the leave described in subpara-
10 graph (A); and

11 (C) any right to the receipt of pay or em-
12 ployment benefits, or the accrual of seniority,
13 during the leave described in subparagraph (A).

14 (5) PARENT.—The term “parent” means the
15 biological parent, adoptive parent, prospective adop-
16 tive parent, foster parent, legal guardian, or step-
17 parent, of a child.

18 (6) PARENTAL LEAVE.—The term “parental
19 leave” means any leave to enable a parent to care
20 for a newborn biological child.

21 (7) PLACEMENT.—The term “placement”
22 means the introduction of a child into a family or
23 the process to bring about the introduction of a child
24 into a family.

1 (8) SICK LEAVE.—The term “sick leave” means
2 any leave provided by an employer to enable an em-
3 ployee to recover from an illness, injury, or disabil-
4 ity.

5 (9) SON OR DAUGHTER.—The term “son or
6 daughter” means a biological or adopted child, a fos-
7 ter child, a stepchild, a legal ward, or a child placed
8 for adoption.

○