

119TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend the Family and Medical Leave Act of 1993 to provide leave for the spontaneous loss of an unborn child, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. COTTON introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Family and Medical Leave Act of 1993 to provide leave for the spontaneous loss of an unborn child, and for other purposes.

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 “Helping with Equal  
5 Access to Leave and Investing in Needs for Grieving  
6 Mothers and Fathers Act” or the “HEALING Mothers  
7 and Fathers Act”.

1 **SEC. 2. LEAVE FOR SPONTANEOUS LOSS OF AN UNBORN**  
2 **CHILD.**

3 (a) DEFINITION OF SPONTANEOUS LOSS OF AN UN-  
4 BORN CHILD.—Section 101 of the Family and Medical  
5 Leave Act of 1993 (29 U.S.C. 2611) is amended—

6 (1) by redesignating paragraphs (13) through  
7 (19) as paragraphs (14) through (20), respectively;

8 (2) by inserting after paragraph (12) the fol-  
9 lowing:

10 “(13) SPONTANEOUS LOSS OF AN UNBORN  
11 CHILD.—The term ‘spontaneous loss of an unborn  
12 child’ means the loss of a child in the womb that  
13 does not result from a purposeful act and is un-  
14 planned.”; and

15 (3) in paragraph (19)(B), as redesignated, by  
16 striking “paragraph (15)(B)” and inserting “para-  
17 graph (16)(B)”.

18 (b) ENTITLEMENT TO LEAVE.—Section 102(a)(1) of  
19 such Act (29 U.S.C. 2612(a)(1)) is amended by adding  
20 at the end the following:

21 “(G) Because of the spontaneous loss of an  
22 unborn child of the employee or spouse of the  
23 employee.”.

24 (c) SCHEDULE.—Section 102(b)(1) of such Act (29  
25 U.S.C. 2612(b)(1)) is amended by inserting after the third  
26 sentence the following: “Subject to subsection (e)(4) and

1 section 103(g), leave under subsection (a)(1)(G) may be  
2 taken intermittently or on a reduced leave schedule when  
3 medically necessary.”.

4 (d) SUBSTITUTION OF PAID LEAVE.—Section  
5 102(d)(2)(B) of such Act (29 U.S.C. 2612(d)(2)(B)) is  
6 amended in the first sentence by striking “(C) or (D)”  
7 and inserting “(C), (D), or (G)”.

8 (e) NOTICE.—Section 102(e) of such Act (29 U.S.C.  
9 2612(e)) is amended by adding at the end the following  
10 new paragraph:

11 “(4) NOTICE FOR LEAVE DUE TO SPONTA-  
12 NEOUS LOSS OF AN UNBORN CHILD.—For leave  
13 under subsection (a)(1)(G), the employee shall pro-  
14 vide such notice to the employer as is reasonable and  
15 practicable.”.

16 (f) CERTIFICATION.—Section 103 of such Act (29  
17 U.S.C. 2613) is amended—

18 (1) in subsection (c)(1)—

19 (A) by inserting “or subsection (g)(1) for  
20 leave under section 102(a)(1)(G)” after “sec-  
21 tion 102(a)(1)”;

22 (B) by striking “under subsection (b) for  
23 such leave” and inserting “under subsection (b)  
24 for leave under subparagraph (C) or (D) of sec-

1           tion 102(a)(1) or subsection (g)(2) for leave  
2           under section 102(a)(1)(G), respectively”;

3           (2) in subsection (d)—

4                 (A) in paragraph (1)—

5                     (i) by inserting “or subsection (g)(1)”  
6                     after “under subsection (a)”;

7                     (ii) by inserting “or subsection (g)(2),  
8                     respectively” after “under subsection (b)”;  
9                     and

10                 (B) in paragraph (2), by inserting “or sub-  
11                 section (g)(2)” after “under subsection (b)”;  
12                 and

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

14                 “(g) CERTIFICATION FOR LEAVE DUE TO SPONTA-  
15                 NEOUS LOSS OF AN UNBORN CHILD.—

16                     “(1) IN GENERAL.—An employer may require  
17                     that a request for leave under section 102(a)(1)(G)  
18                     be supported by a certification issued by the health  
19                     care provider of the eligible employee or of the  
20                     spouse of the eligible employee, as appropriate. The  
21                     employee shall provide, in a timely manner, a copy  
22                     of such certification to the employer.

23                     “(2) SUFFICIENT CERTIFICATION.—Certifi-  
24                     cation provided under paragraph (1) shall be suffi-  
25                     cient if it includes the information described in para-

1 graphs (1), (2), (3), and (5) of subsection (b), with  
2 respect to spontaneous loss of an unborn child or  
3 bodily side effects of that loss, as appropriate.”.

4 **SEC. 3. LEAVE FOR SPONTANEOUS LOSS OF AN UNBORN**  
5 **CHILD, FOR CIVIL SERVICE EMPLOYEES.**

6 (a) DEFINITIONS.—Section 6381 of title 5, United  
7 States Code, is amended—

8 (1) by redesignating paragraphs (7) through  
9 (12) as paragraphs (8) through (13), respectively;

10 (2) by inserting after paragraph (6) the fol-  
11 lowing:

12 “(7) the term ‘spontaneous loss of an unborn  
13 child’ means the loss of a child in the womb that  
14 does not result from a purposeful act and is un-  
15 planned;”; and

16 (3) in paragraph (12)(B), as redesignated, by  
17 striking “paragraph (8)(B)” and inserting “para-  
18 graph (9)(B)”.

19 (b) ENTITLEMENT TO LEAVE.—Section 6382(a)(1)  
20 of title 5, United States Code, is amended by adding at  
21 the end the following:

22 “(F) Because of the spontaneous loss of an un-  
23 born child of the employee or spouse of the em-  
24 ployee.”.

1 (c) SCHEDULE.—Section 6382(b)(1) of title 5,  
2 United States Code, is amended by inserting after the  
3 third sentence the following: “Subject to subsection (e)(4),  
4 and section 103(g), leave under subsection (a)(1)(G) may  
5 be taken intermittently or on a reduced leave schedule  
6 when medically necessary.”.

7 (d) SUBSTITUTION OF PAID LEAVE.—Section  
8 6382(d)(1) of title 5, United States Code, is amended in  
9 the first sentence by striking “or (E)” and inserting “(E),  
10 or (F)”.

11 (e) NOTICE.—Section 6382(e) of title 5, United  
12 States Code, is amended by adding at the end the fol-  
13 lowing:

14 “(4) For leave under subsection (a)(1)(F), the em-  
15 ployee shall provide such notice to the employing agency  
16 as is reasonable and practicable.”.

17 (f) CERTIFICATION.—Section 6383 of title 5, United  
18 States Code, is amended—

19 (1) in subsection (c)(1)—

20 (A) by inserting “or subsection (g)(1) for  
21 leave under section 6382(a)(1)(F)” after “sec-  
22 tion 6382(a)(1)”; and

23 (B) by striking “under subsection (b) for  
24 such leave” and inserting “under subsection (b)  
25 for leave under subparagraph (C) or (D) of sec-

1           tion 6382(a)(1) or subsection (g)(2) for leave  
2           under section 6382(a)(1)(F), respectively”;

3           (2) in subsection (d)—

4           (A) in paragraph (1)—

5           (i) by inserting “or subsection (g)(1)”  
6           after “under subsection (a)”;

7           (ii) by inserting “or subsection (g)(2),  
8           respectively” after “under subsection (b)”;  
9           and

10          (B) in paragraph (2), by inserting “or sub-  
11          section (g)(2)” after “under subsection (b)”;  
12          and

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

14          “(g)(1) An employing agency may require that a re-  
15          quest for leave under section 6382(a)(1)(F) be supported  
16          by a certification issued by the health care provider of the  
17          employee or of the spouse of the employee, as appropriate.  
18          The employee shall provide, in a timely manner, a copy  
19          of such certification to the employing agency.

20          “(2) Certification provided under paragraph (1) shall  
21          be sufficient if it includes the information described in  
22          paragraphs (1), (2), (3), and (5) of subsection (b), with  
23          respect to spontaneous loss of an unborn child or bodily  
24          side effects of that loss, as appropriate.”.

1 **SEC. 4. REFUNDABLE PERSONAL CREDIT FOR INDIVIDUALS**  
2 **WHO HAVE SUFFERED A STILLBIRTH.**

3 (a) IN GENERAL.—Subpart C of part IV of sub-  
4 chapter A of chapter 1 of the Internal Revenue Code of  
5 1986 is amended by inserting after section 36B the fol-  
6 lowing new section:

7 **“SEC. 36C. STILLBIRTHS.**

8 “(a) ALLOWANCE OF CREDIT.—

9 “(1) IN GENERAL.—In the case of an eligible  
10 individual, there shall be allowed as a credit against  
11 the tax imposed by this subtitle for the taxable year  
12 an amount equal to the applicable amount.

13 “(2) APPLICABLE AMOUNT.—For purposes of  
14 paragraph (1), the applicable amount shall be equal  
15 to the dollar amount in effect for such taxable year  
16 under subsection (a) of section 24.

17 “(b) ELIGIBLE INDIVIDUAL.—For purposes of this  
18 section, the term ‘eligible individual’ means any indi-  
19 vidual—

20 “(1) who suffered during the taxable year the  
21 stillbirth of a child who would have been a qualifying  
22 child of the taxpayer (within the meaning of section  
23 152) for the taxable year if such child had been born  
24 live, and

25 “(2) for whom a certificate of birth resulting in  
26 stillbirth has been issued under applicable State law.

1           “(c) STILLBIRTH.—For purposes of this section, the  
2 term ‘stillbirth’ means the delivery of a child where there  
3 was a spontaneous death of the child, not induced by any  
4 purposeful act, before the complete delivery from the  
5 child’s mother.

6           “(d) IDENTIFICATION REQUIREMENT.—

7           “(1) IN GENERAL.—No credit shall be allowed  
8 under this section to a taxpayer unless the taxpayer  
9 includes the social security number of such taxpayer  
10 on the return of tax for the taxable year. In the case  
11 of a joint return, the requirements of this subsection  
12 shall be treated as met as long as 1 spouse includes  
13 a social security number on the return of tax for the  
14 taxable year.

15           “(2) SOCIAL SECURITY NUMBER.—For pur-  
16 poses of this subsection, the term ‘social security  
17 number’ means a social security number issued to an  
18 individual by the Social Security Administration, but  
19 only if the social security number is issued—

20           “(A) to a citizen of the United States or  
21 pursuant to subclause (I) (or that portion of  
22 subclause (III) that relates to subclause (I)) of  
23 section 205(c)(2)(B)(i) of the Social Security  
24 Act, and

25           “(B) before the due date for such return.”.

1           (b) CLERICAL AMENDMENT.—The table of sections  
2 for subpart C of part IV of subchapter A of chapter 1  
3 of such Code is amended by inserting after the item relat-  
4 ing to section 36B the following new item:

“Sec. 36C. Stillbirths.”

5           (c) CONFORMING AMENDMENTS.—

6               (1) INTERNAL REVENUE CODE OF 1986.—Sec-  
7 tion 6211(b)(4)(A) of such Code is amended by in-  
8 serting “36C,” after “36B,”.

9               (2) REFUNDS.—Paragraph (2) of section  
10 1324(b) of title 31, United States Code, is amended  
11 by inserting “, 36C” after “36B”.

12           (d) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to taxable years beginning after  
14 the date of the enactment of this Act.