

117TH CONGRESS  
2D SESSION

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

To permit employees to request changes to their work schedules without fear of retaliation and to ensure that employers consider these requests, and to require employers to provide more predictable and stable schedules for employees in certain occupations with evidence of unpredictable and unstable scheduling practices that negatively affect employees, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Ms. WARREN (for herself, Mr. BLUMENTHAL, Mr. VAN HOLLEN, Ms. BALDWIN, Mr. BROWN, Mr. DURBIN, Mr. REED, Mr. BOOKER, Mrs. FEINSTEIN, Mr. MARKEY, Mr. SANDERS, Mr. WHITEHOUSE, Mr. MURPHY, Ms. KLOBUCHAR, Ms. DUCKWORTH, Mr. LEAHY, Mr. SCHUMER, Ms. HIRONO, Mr. MERKLEY, Mr. WYDEN, Mrs. MURRAY, Mr. CASEY, and Mr. PADILLA) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To permit employees to request changes to their work schedules without fear of retaliation and to ensure that employers consider these requests, and to require employers to provide more predictable and stable schedules for employees in certain occupations with evidence of unpredictable and unstable scheduling practices that negatively affect employees, 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,*

1 **SECTION 1. SHORT TITLE; FINDINGS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Schedules That Work Act”.

4 (b) FINDINGS.—Congress finds the following:

5 (1) The vast majority of the United States  
6 workforce today is juggling responsibilities at home  
7 and at work. Women are primary breadwinners or  
8 co-breadwinners in  $\frac{2}{3}$  of families with children in  
9 the United States.

10 (2) Despite the dual responsibilities of today’s  
11 workforce, many workers have little notice of their  
12 work schedules and lack the ability to make changes  
13 to the work hours in such schedules, which under-  
14 mines their ability to accommodate family respon-  
15 sibilities.

16 (3)(A) Mothers working in low-paid jobs are  
17 more likely to be the primary or sole breadwinner for  
18 their families than mothers working in higher-paid  
19 jobs. For example, nearly 7 in 10 mothers in the  $\frac{1}{5}$   
20 of households in the United States with the lowest  
21 incomes bring home all or most of their families’ in-  
22 come, compared to less than  $\frac{1}{3}$  of their counterparts  
23 in the highest-income quintile.

24 (B) At the same time, low-paid workers often  
25 have the least control over their work hours and face  
26 the most unpredictable schedules. In some indus-

1 tries, “just-in-time” scheduling practices, which base  
2 workers’ schedules on perceived consumer demand to  
3 minimize labor costs, are particularly common. Em-  
4 ployers using these practices often post work sched-  
5 ules with little notice, vary work hours widely from  
6 week to week, cancel shifts at the last minute, and  
7 schedule employees for “on call” shifts (requiring an  
8 employee to call in to work to find out whether the  
9 employee will have to work later that day) or  
10 “clopening” shifts (requiring an employee to work a  
11 closing shift at night followed by an opening shift a  
12 few hours later). For example, national survey data  
13 show that—

14 (i) about  $\frac{2}{3}$  of hourly retail and food serv-  
15 ice workers receive their work schedules with  
16 less than 2 weeks’ advance notice and about  $\frac{1}{3}$   
17 receive their schedule with less than 1 week’s  
18 notice;

19 (ii) more than 1 in 5 hourly retail and food  
20 service workers have been scheduled for on-call  
21 shifts, and more than 1 in 3 have worked  
22 “clopening” shifts; and

23 (iii) 65 percent of hourly retail and food  
24 service workers would like a more stable and  
25 predictable schedule.

1           (4) Unfair work scheduling practices make it  
2 difficult for low-paid workers to—

3           (A) provide necessary care for children and  
4 other family members, including securing and  
5 maintaining stable child care;

6           (B) access and receive needed care for the  
7 workers' own serious health conditions;

8           (C) pursue workforce training;

9           (D) get or keep a second job, which many  
10 workers need to make ends meet;

11           (E) plan for and access transportation to  
12 reach worksites; and

13           (F) qualify for and maintain eligibility for  
14 needed public benefits and work supports, such  
15 as child care subsidies and benefits under the  
16 supplemental nutrition assistance program, due  
17 to fluctuations in income and work hours.

18           (5) Unstable work schedules pre-date the pan-  
19 demic and economic recession caused by COVID-19,  
20 but the harm of these workplace practices is exacer-  
21 bated as millions of workers risk their own health  
22 and safety at jobs with few protections, volatile  
23 schedules, and inadequate hours, in an effort to sup-  
24 port themselves and their families. Employers have  
25 continued to use “just-in-time” scheduling practices

1 throughout the pandemic, even as workers face addi-  
2 tional caregiving challenges due to school and child  
3 care closures and quarantines.

4 (6) A growing body of research demonstrates  
5 that unstable and unpredictable work schedules have  
6 significant detrimental impacts on sleep quality,  
7 mental health, and happiness, and are associated  
8 with unstable child care arrangements and negative  
9 health and behavioral outcomes for children. And  
10 impacts are likely to be the most severe for workers  
11 of color and their families, as workers of color are  
12 more likely than their White counterparts—even  
13 compared to White coworkers at the same com-  
14 pany—to experience unstable work schedules. Unsta-  
15 ble and unpredictable work schedules—and the  
16 work-family conflict they produce—are also associ-  
17 ated with higher rates of turnover, which creates  
18 further instability for employers and workers. Some  
19 examples of the detrimental impacts of unstable and  
20 unpredictable work schedules are as follows:

21 (A) Unstable work schedules lead to more  
22 household economic strain and time conflicts  
23 and undermine the well-being of parents, all of  
24 which can negatively impact children’s health  
25 and behavior.

1 (B) Workers with the most severe insta-  
2 bility in their work schedules also face the high-  
3 est risk of negative behavior and health out-  
4 comes for their children.

5 (C) The exposure of a parent to on-call  
6 shifts and last-minute shift changes are associ-  
7 ated with more unstable child care arrange-  
8 ments and with the use of siblings to provide  
9 care.

10 (D) Work schedule instability causes more  
11 work-family conflict, which increases the chance  
12 that a worker will be forced to leave his or her  
13 job, which is associated with downward mobility  
14 of the earnings of the worker.

15 (E)(i) Relative to White workers, workers  
16 of color are more likely to—

17 (I) have cancelled shifts;

18 (II) have on-call shifts;

19 (III) be involuntary part-time work-  
20 ers;

21 (IV) have trouble getting time off;

22 and

23 (V) work “clopensing” shifts, as de-  
24 scribed in paragraph (3)(B).

1           (ii) The statistics described in clause (i) re-  
2           main true after controlling for demographics,  
3           human capital, worker power, firm segregation,  
4           and discordance with the race or ethnicity of  
5           the worker and the manager. Race gaps in job  
6           quality are greater for women of color.

7           (F) Workers who receive shorter advanced  
8           notice, who work on-call shifts, who experience  
9           last-minute shift cancellation and timing  
10          changes, or with more volatile work hours are  
11          more likely to experience hunger, residential  
12          hardships, and more overall economic hardship.

13          (7) Unpredictable and unstable work schedules  
14          are common in a wide range of occupations, with  
15          evidence of particular concentration in food service,  
16          retail, cleaning, hospitality, and warehouse occupa-  
17          tions. These occupations are critically important to  
18          the United States economy.

19          (8) Employers that have implemented fair work  
20          scheduling policies that allow workers to have more  
21          control over their work schedules, and provide more  
22          predictable and stable schedules, have experienced  
23          significant benefits, including reductions in absentee-  
24          ism and workforce turnover, and increased worker  
25          morale and engagement. For example, when Gap

1 Inc. piloted strategies to make work schedules more  
2 stable and predictable for employees, the Gap Inc.  
3 stores that implemented these strategies experienced  
4 higher productivity and a 7 percent increase in sales,  
5 compared to those Gap Inc. stores that did not im-  
6 plement these strategies.

7 (9) This Act is a first step in responding to the  
8 needs of workers for a voice in the timing of their  
9 work hours and for more predictable schedules.

10 **SEC. 2. DEFINITIONS.**

11 In this Act:

12 (1) BONA FIDE BUSINESS REASON.—The term  
13 “bona fide business reason” means—

14 (A) the identifiable burden of additional  
15 costs to an employer, including the cost of pro-  
16 ductivity loss, retraining or hiring employees, or  
17 transferring employees from one facility to an-  
18 other facility;

19 (B) a significant detrimental effect on the  
20 employer’s ability to meet organizational needs  
21 or customer demand;

22 (C) a significant inability of the employer,  
23 despite best efforts, to reorganize work among  
24 existing (as of the date of the reorganization)  
25 staff;



1 (D) a significant detrimental effect on  
2 business performance;

3 (E) insufficiency of work during the peri-  
4 ods an employee proposes to work;

5 (F) the need to balance competing sched-  
6 uling requests when it is not possible to grant  
7 all such requests without a significant detri-  
8 mental effect on the employer's ability to meet  
9 organizational needs; or

10 (G) such other reason as may be specified  
11 by the Secretary of Labor (or, as applicable, the  
12 corresponding administrative officer specified in  
13 section 7(e)).

14 (2) CAREER-RELATED EDUCATIONAL OR TRAIN-  
15 ING PROGRAM.—The term “career-related edu-  
16 cational or training program” means an educational  
17 or training program or program of study offered by  
18 a public, private, or nonprofit career and technical  
19 education school, institution of higher education, or  
20 other entity that provides academic education, career  
21 and technical education, or training (including reme-  
22 dial education or English as a second language, as  
23 appropriate), that is a program that leads to a rec-  
24 ognized postsecondary credential (as identified under  
25 section 122(d) of the Workforce Innovation and Op-

1 portunity Act (29 U.S.C. 3152(d)), and provides ca-  
2 reer awareness information. The term includes a  
3 program allowable under the Workforce Innovation  
4 and Opportunity Act (29 U.S.C. 3101 et seq.), the  
5 Carl D. Perkins Career and Technical Education  
6 Act of 2006 (20 U.S.C. 2301 et seq.), or the Higher  
7 Education Act of 1965 (20 U.S.C. 1001 et seq.),  
8 without regard to whether or not the program is  
9 funded under the corresponding Act.

10 (3) CAREGIVER.—The term “caregiver” means  
11 an individual with the status of being a significant  
12 provider of—

13 (A) ongoing care or education, including  
14 responsibility for securing the ongoing care or  
15 education, of a child; or

16 (B) ongoing care, including responsibility  
17 for securing the ongoing care, of—

18 (i) a person with a serious health con-  
19 dition who is in a family relationship with  
20 the individual; or

21 (ii) a parent of the individual, who is  
22 age 65 or older.

23 (4) CHILD.—The term “child” means a biologi-  
24 cal, adopted, or foster child, a stepchild, a legal

1 ward, or a child of a person standing in loco  
2 parentis to that child, who is—

3 (A) under age 18; or

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

6 (5) COMMERCE TERMS.—The terms “com-  
7 merce” and “industry or activity affecting com-  
8 merce” have the meanings given the terms in section  
9 101 of the Family and Medical Leave Act of 1993  
10 (29 U.S.C. 2611).

11 (6) COVERED EMPLOYER.—

12 (A) IN GENERAL.—The term “covered em-  
13 ployer”—

14 (i) means any person engaged in com-  
15 merce or in any industry or activity affect-  
16 ing commerce who employs 15 or more em-  
17 ployees (described in paragraph (9)(A));

18 (ii) includes any person who acts, di-  
19 rectly or indirectly, in the interest of such  
20 an employer to any of the employees (de-  
21 scribed in paragraph (9)(A)) of such em-  
22 ployer;

23 (iii) includes any successor in interest  
24 of such an employer; and

1 (iv) includes an agency described in  
2 subparagraph (A)(iii) of section 101(4) of  
3 the Family and Medical Leave Act of 1993  
4 (29 U.S.C. 2611(4)), to which subpara-  
5 graph (B) of such section shall apply.

6 (B) RULE.—For purposes of determining  
7 the number of employees who work for a person  
8 described in subparagraph (A)(i), all employees  
9 (described in paragraph (9)(A)) performing  
10 work for compensation on a full-time, part-time,  
11 or temporary basis shall be counted, except that  
12 if the number of such employees who perform  
13 work for such a person for compensation fluctuates,  
14 the number may be determined for a  
15 calendar year based upon the average number  
16 of such employees who performed work for the  
17 person for compensation during the preceding  
18 calendar year.

19 (C) PERSON.—In this paragraph, the term  
20 “person” has the meaning given the term in  
21 section 3 of the Fair Labor Standards Act of  
22 1938 (29 U.S.C. 203).

23 (7) DOMESTIC PARTNER.—The term “domestic  
24 partner” means the individual recognized as being in  
25 a relationship with an employee under any domestic

1 partnership, civil union, or similar law of the State  
2 or political subdivision of a State in which the em-  
3 ployee resides.

4 (8) EMPLOY.—The term “employ” has the  
5 meaning given the term in section 3 of the Fair  
6 Labor Standards Act of 1938 (29 U.S.C. 203).

7 (9) EMPLOYEE.—The term “employee” means  
8 an individual who is—

9 (A) an employee, as defined in section 3(e)  
10 of the Fair Labor Standards Act of 1938 (29  
11 U.S.C. 203(e)), who is not described in any of  
12 subparagraphs (B) through (G);

13 (B) a State employee described in section  
14 304(a) of the Government Employee Rights Act  
15 of 1991 (42 U.S.C. 2000e–16c(a));

16 (C) a covered employee, as defined in sec-  
17 tion 101 of the Congressional Accountability  
18 Act of 1995 (2 U.S.C. 1301), other than an ap-  
19 plicant for employment;

20 (D) a covered employee, as defined in sec-  
21 tion 411(c) of title 3, United States Code;

22 (E) a Federal officer or employee covered  
23 under subchapter V of chapter 63 of title 5,  
24 United States Code;

1 (F) an employee of the Library of Con-  
2 gress; or

3 (G) an employee of the Government Ac-  
4 countability Office.

5 (10) EMPLOYER.—The term “employer” means  
6 a person—

7 (A) who is—

8 (i) a covered employer, as defined in  
9 paragraph (6), who is not described in any  
10 of clauses (ii) through (vii);

11 (ii) an entity employing a State em-  
12 ployee described in section 304(a) of the  
13 Government Employee Rights Act of 1991;

14 (iii) an employing office, as defined in  
15 section 101 of the Congressional Account-  
16 ability Act of 1995;

17 (iv) an employing office, as defined in  
18 section 411(c) of title 3, United States  
19 Code;

20 (v) an employing agency covered  
21 under subchapter V of chapter 63 of title  
22 5, United States Code;

23 (vi) the Librarian of Congress; or

24 (vii) the Comptroller General of the  
25 United States; and

1 (B) who is engaged in commerce (including  
2 government), in the production of goods for  
3 commerce, or in an enterprise engaged in com-  
4 merce (including government) or in the produc-  
5 tion of goods for commerce.

6 (11) FAMILY RELATIONSHIP.—The term “fam-  
7 ily relationship” means a relationship with—

8 (A) a child, spouse, domestic partner, par-  
9 ent, grandchild, grandparent, sibling, or parent  
10 of a spouse or domestic partner; or

11 (B) any individual related to the employee  
12 involved by blood or affinity, whose close asso-  
13 ciation with the employee is the equivalent of a  
14 family relationship described in subparagraph  
15 (A).

16 (12) GRANDCHILD.—The term “grandchild”  
17 means the child of a child.

18 (13) GRANDPARENT.—The term “grandparent”  
19 means the parent of a parent.

20 (14) HOSPITALITY ESTABLISHMENT.—The  
21 term “hospitality establishment” means a hotel,  
22 motel, inn, or similar transient lodging establish-  
23 ment.

24 (15) MINIMUM NUMBER OF EXPECTED WORK  
25 HOURS.—The term “minimum number of expected

1 work hours” means the minimum number of hours  
2 an employee will be assigned to work on a weekly or  
3 monthly basis.

4 (16) NONEXEMPT EMPLOYEE.—The term “non-  
5 exempt employee” means an employee who is not  
6 employed in a bona fide executive, administrative, or  
7 professional capacity, as defined for purposes of sec-  
8 tion 13(a)(1) of the Fair Labor Standards Act of  
9 1938 (29 U.S.C. 213(a)(1)).

10 (17) ON-CALL SHIFT.—The term “on-call shift”  
11 means any time during which an employer requires  
12 an employee to—

13 (A) be available to work; and

14 (B) contact the employer or the designee  
15 of the employer, or wait to be contacted by the  
16 employer or designee, to determine whether the  
17 employee is required to report to work at that  
18 time.

19 (18) PARENT.—The term “parent” means a bi-  
20 ological or adoptive parent, a stepparent, or a person  
21 who stood in a parental relationship to an employee  
22 when the employee was a child.

23 (19) PARENTAL RELATIONSHIP.—The term  
24 “parental relationship” means a relationship in  
25 which a person assumed the obligations incident to



1       parenthood for a child and discharged those obliga-  
2       tions before the child reached adulthood.

3               (20) RETAIL, FOOD SERVICE, CLEANING, HOS-  
4       PITALITY, OR WAREHOUSE EMPLOYEE.—The term  
5       “retail, food service, cleaning, hospitality, or ware-  
6       house employee” means a nonexempt employee who  
7       is employed in a hospitality establishment, in a  
8       warehouse establishment, or in any of the following  
9       occupations, as described by the Bureau of Labor  
10      Statistics Standard Occupational Classification Sys-  
11      tem (as in effect on the day before the date of enact-  
12      ment of this Act):

13               (A) Retail sales occupations consisting of  
14      occupations described in 41–1010 and 41–  
15      2000, and all subdivisions thereof, of such Sys-  
16      tem, which includes first-line supervisors of  
17      sales workers, cashiers, gambling change per-  
18      sons and booth cashiers, counter and rental  
19      clerks, parts salespersons, and retail sales-  
20      persons.

21               (B) Food preparation and serving related  
22      occupations as described in 35–0000, and all  
23      subdivisions thereof, of such System, which in-  
24      cludes supervisors of food preparation and serv-  
25      ing workers, cooks and food preparation work-

1           ers, food and beverage serving workers, and  
2           other food preparation and serving related  
3           workers.

4           (C) Cleaning occupations as described in  
5           37–2011, 37–2012, and 37–2019 of such Sys-  
6           tem, which includes janitors and cleaners,  
7           maids and housekeeping cleaners, and building  
8           cleaning workers.

9           (21) SECRETARY.—The term “Secretary”  
10          means the Secretary of Labor.

11          (22) SECRETARY’S DESIGNATED EMPLOYEE.—  
12          The term “Secretary’s designated employee” means  
13          an employee employed in an occupation, other than  
14          a retail, food service, cleaning, hospitality, or ware-  
15          house occupation, that is designated by the Sec-  
16          retary under section 9(a)(2) as appropriate for cov-  
17          erage under section 4.

18          (23) SERIOUS HEALTH CONDITION.—The term  
19          “serious health condition” has the meaning given  
20          the term in section 101 of the Family and Medical  
21          Leave Act of 1993 (29 U.S.C. 2611).

22          (24) SIBLING.—The term “sibling” means a  
23          brother or sister, whether related by half blood,  
24          whole blood, or adoption, or as a stepsibling.

1           (25) SPLIT SHIFT.—The term “split shift”  
2 means a schedule of daily hours in which the hours  
3 worked are not consecutive, except that—

4           (A) a schedule in which the total time out  
5 for meals does not exceed one hour shall not be  
6 treated as a split shift; and

7           (B) a schedule in which the break in the  
8 employee’s work shift is requested by the em-  
9 ployee shall not be treated as a split shift.

10          (26) SPOUSE.—

11           (A) IN GENERAL.—The term “spouse”  
12 means a person with whom an individual en-  
13 tered into—

14           (i) a marriage as defined or recog-  
15 nized under State law in the State in  
16 which the marriage was entered into; or

17           (ii) in the case of a marriage entered  
18 into outside of any State, a marriage that  
19 is recognized in the place where entered  
20 into and could have been entered into in at  
21 least 1 State.

22           (B) SAME-SEX OR COMMON LAW MAR-  
23 RIAGE.—Such term includes an individual in a  
24 same-sex or common law marriage that meets  
25 the requirements of subparagraph (A).

1           (27) STATE.—The term “State” has the mean-  
2           ing given the term in section 3 of the Fair Labor  
3           Standards Act of 1938 (29 U.S.C. 203).

4           (28) WAREHOUSE ESTABLISHMENT.—The term  
5           “warehouse establishment” means any business that  
6           engages primarily in the storage of goods, wares, or  
7           commodities for hire or compensation, and, in con-  
8           nection with such storage, may include the loading,  
9           packing, sorting, stacking, wrapping, distribution, or  
10          delivery of those goods, wares, or commodities.

11          (29) WORK SCHEDULE.—The term “work  
12          schedule” means all of an employee’s work shifts  
13          and on-call shifts, including specific start and end  
14          times for each shift, during a consecutive 7-day pe-  
15          riod.

16          (30) WORK SCHEDULE CHANGE.—The term  
17          “work schedule change” means any modification to  
18          an employee’s work schedule, such as an addition or  
19          reduction of hours, cancellation of a shift, or a  
20          change in the date or time of a work shift, by an  
21          employer.

22          (31) WORK SHIFT.—The term “work shift”  
23          means the specific hours of the workday during  
24          which an employee works.

1 **SEC. 3. RIGHT TO REQUEST AND RECEIVE A FLEXIBLE,**  
2 **PREDICTABLE, OR STABLE WORK SCHEDULE.**

3 (a) **RIGHT TO REQUEST.**—An employee may apply to  
4 the employee’s employer to request a change in the terms  
5 and conditions of employment as they relate to—

6 (1) the number of hours the employee is re-  
7 quired to work or be on call for work;

8 (2) the times when the employee is required to  
9 work or be on call for work;

10 (3) the location where the employee is required  
11 to work;

12 (4) the amount of notification the employee re-  
13 ceives of work schedule assignments; and

14 (5) minimizing fluctuations in the number of  
15 hours the employee is scheduled to work on a daily,  
16 weekly, or monthly basis.

17 (b) **EMPLOYER OBLIGATION TO ENGAGE IN AN**  
18 **INTERACTIVE PROCESS.**—

19 (1) **IN GENERAL.**—If an employee applies to the  
20 employee’s employer to request a change in the  
21 terms and conditions of employment as set forth in  
22 subsection (a), the employer shall engage in a time-  
23 ly, good-faith interactive process with the employee  
24 that includes a discussion of potential schedule  
25 changes that would meet the employee’s needs.

26 (2) **RESULT.**—Such process shall result in—

1 (A) subject to subsections (c) and (d), ei-  
2 ther granting or denying the request; and

3 (B) in the event of a denial—

4 (i) considering alternatives to the pro-  
5 posed change that might meet the employ-  
6 ee’s needs and granting or denying a re-  
7 quest for an alternative change in the  
8 terms and conditions of employment as set  
9 forth in subsection (a); and

10 (ii) stating the reason for denial, in-  
11 cluding whether any such reason is a bona  
12 fide business reason.

13 (3) INFORMATION.—If information provided by  
14 the employee making a request under this section re-  
15 quires clarification, the employer shall explain what  
16 further information is needed and give the employee  
17 reasonable time to produce the information.

18 (c) REQUESTS RELATED TO CAREGIVING, ENROLL-  
19 MENT IN EDUCATION OR TRAINING, OR A SECOND JOB.—

20 If an employee makes a request for a change in the terms  
21 and conditions of employment as set forth in subsection  
22 (a) because of a serious health condition of the employee,  
23 due to the employee’s responsibilities as a caregiver, or  
24 due to the employee’s enrollment in a career-related edu-  
25 cational or training program, or if an employee makes a

1 request for such a change for a reason related to a second  
 2 job, the employer shall grant the request, unless the em-  
 3 ployer has a bona fide business reason for denying the re-  
 4 quest.

5 (d) OTHER REQUESTS.—If an employee makes a re-  
 6 quest for a change in the terms and conditions of employ-  
 7 ment as set forth in subsection (a), for a reason other than  
 8 those reasons set forth in subsection (c), the employer may  
 9 deny the request for any reason that is not unlawful. If  
 10 the employer denies such a request, the employer shall  
 11 provide the employee with the reason for the denial, in-  
 12 cluding whether any such reason is a bona fide business  
 13 reason.

14 **SEC. 4. REQUIREMENTS FOR ADVANCE NOTICE OF WORK**  
 15 **SCHEDULES, PREDICTABILITY PAY, AND**  
 16 **SPLIT SHIFT PAY FOR RETAIL, FOOD SERV-**  
 17 **ICE, CLEANING, HOSPITALITY, WAREHOUSE,**  
 18 **OR SECRETARY'S DESIGNATED EMPLOYEES.**

19 (a) ADVANCE NOTICE REQUIREMENT.—

20 (1) PROVIDING NOTICE OF WORK SCHED-  
 21 ULES.—

22 (A) IN GENERAL.—An employer shall pro-  
 23 vide a retail, food service, cleaning, hospitality,  
 24 or warehouse employee, or Secretary's des-

1           ignated employee, with the work schedule of the  
2           employee—

3                   (i) not less than 14 days before the  
4                   first day of such work schedule; or

5                   (ii) in the case of a new retail, food  
6                   service, cleaning, hospitality, or warehouse  
7                   employee, or Secretary's designated em-  
8                   ployee, on or before the first day of work  
9                   of such employee.

10           (B) COMPENSATION FOR FAILURE TO PRO-  
11           VIDE NOTICE OF WORK SCHEDULE.—An em-  
12           ployer that violates subparagraph (A) shall  
13           compensate each affected employee in the  
14           amount of \$75 per day that a work schedule is  
15           not provided in violation of such subparagraph.

16           (C) WORK SCHEDULE CHANGE.—An em-  
17           ployer may make a work schedule change for  
18           the work schedule of a retail, food service,  
19           cleaning, hospitality, or warehouse employee, or  
20           Secretary's designated employee, provided in ac-  
21           cordance with subparagraph (A) if—

22                   (i) such work schedule change is made  
23                   not less than 14 days prior to the first day  
24                   on which the change is to take effect; or



1                   (ii) the employer provides predict-  
2                   ability pay for such change in accordance  
3                   with subsection (b).

4                   (D) MINIMUM EXPECTED WORK HOURS.—

5                   (i) IN GENERAL.—An employer shall  
6                   inform a retail, food service, cleaning, hos-  
7                   pitality, or warehouse employee, or Sec-  
8                   retary’s designated employee, of an esti-  
9                   mate of the minimum number of expected  
10                  work hours the employee will be assigned  
11                  to work per month for the following 12-  
12                  month period—

13                  (I) in the case of a new retail,  
14                  food service, cleaning, hospitality, or  
15                  warehouse employee, or Secretary’s  
16                  designated employee, on or before the  
17                  first day of work of such employee; or

18                  (II) in the case of a retail, food  
19                  service, cleaning, hospitality, or ware-  
20                  house employee, or Secretary’s des-  
21                  ignated employee, who is employed by  
22                  the employer on the date of enactment  
23                  of this Act, not later than 90 days  
24                  after such date.

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1 (ii) UPDATING MINIMUM EXPECTED  
2 WORK HOURS.—An employer shall, not less  
3 than once each year, provide each employee  
4 an updated estimate of the minimum num-  
5 ber of expected work hours the employee  
6 will be assigned to work per month for the  
7 following 12-month period. Such a revised  
8 estimate shall be provided not later than  
9 the earlier of (as applicable)—

10 (I) 1 year after the date on which  
11 the estimate was provided under  
12 clause (i) or the most recent update of  
13 an estimate was provided under this  
14 clause; or

15 (II) the day before the effective  
16 date of a significant change to the  
17 minimum expected work hours of the  
18 employee due to changes in the avail-  
19 ability of the employee or to the busi-  
20 ness needs of the employer.

21 (2) NOTIFICATIONS IN WRITING.—The notifica-  
22 tions required under subparagraphs (A) and (D) of  
23 paragraph (1) shall be made to the employee in-  
24 volved in writing.

25 (3) SCHEDULE POSTING REQUIREMENT.—

1           (A) IN GENERAL.—Every employer em-  
2           ploying any retail, food service, cleaning, hospi-  
3           tality, or warehouse employee, or Secretary’s  
4           designated employee, shall post a copy of the  
5           work schedule of each such employee and keep  
6           it posted in a conspicuous place in every estab-  
7           lishment where such employee is employed so as  
8           to permit the employee involved to readily ob-  
9           serve the copy. Availability of that schedule by  
10          electronic means accessible to all retail, food  
11          service, cleaning, hospitality, or warehouse em-  
12          ployees, or Secretary’s designated employees, of  
13          that employer shall be considered compliance  
14          with this subparagraph.

15          (B) RIGHT TO DECLINE.—A retail, food  
16          service, cleaning, hospitality, or warehouse em-  
17          ployee, or Secretary’s designated employee, may  
18          decline, without penalty, to work any hours not  
19          included in the work schedule posted under sub-  
20          paragraph (A) as work hours for the employee.

21          (C) CONSENT.—Except as described in  
22          subsection (b)(2), if a retail, food service, clean-  
23          ing, hospitality, or warehouse employee, or Sec-  
24          retary’s designated employee, voluntarily con-  
25          sents to work any hours not posted under sub-

1 paragraph (A), such consent must be recorded  
2 in writing.

3 (4) RULE OF CONSTRUCTION.—Nothing in this  
4 subsection shall be construed to prohibit an em-  
5 ployer from—

6 (A) providing greater advance notice of the  
7 work schedule of a retail, food service, cleaning,  
8 hospitality, or warehouse employee, or Sec-  
9 retary’s designated employee, than is required  
10 under this subsection; or

11 (B) using any means, in addition to the  
12 written means required under paragraph (2), of  
13 notifying a retail, food service, cleaning, hospi-  
14 tality, or warehouse employee, or Secretary’s  
15 designated employee, of the work schedule of  
16 the employee.

17 (b) PREDICTABILITY PAY FOR WORK SCHEDULE  
18 CHANGES MADE WITH LESS THAN 14 DAYS’ NOTICE.—

19 (1) IN GENERAL.—Except as provided in para-  
20 graph (2), for each work schedule change provided  
21 to a retail, food service, cleaning, hospitality, or  
22 warehouse employee, or Secretary’s designated em-  
23 ployee, that occurs less than 14 days prior to the  
24 first day on which the change is to take effect, the  
25 employer of the affected employee shall be required

1 to provide the affected employee with pay (referred  
2 to in this subsection as “predictability pay”) at the  
3 following rates:

4 (A) The employee’s regular rate of pay per  
5 hour that the employee works plus one addi-  
6 tional hour at such regular rate per work sched-  
7 ule change if the employer—

8 (i) adds any hours to the hours the  
9 employee is scheduled to work under sub-  
10 section (a); or

11 (ii) changes the date, time, or location  
12 of the work shift the employee is scheduled  
13 to work under subsection (a) with no loss  
14 of hours.

15 (B) Not less than  $\frac{1}{2}$  times the employee’s  
16 regular rate of pay per hour for any hour that  
17 the employee is scheduled to work under sub-  
18 section (a) and does not work due to the em-  
19 ployer reducing or canceling such scheduled  
20 hours of work.

21 (2) EXCEPTIONS TO PREDICTABILITY PAY.—An  
22 employer shall not be required to pay predictability  
23 pay under paragraph (1), or to obtain written con-  
24 sent pursuant to subsection (a)(3)(C), under any of  
25 the following circumstances:

1 (A) A retail, food service, cleaning, hospi-  
2 tality, or warehouse employee, or Secretary's  
3 designated employee, requests a shift change in  
4 writing, including through the use of sick leave,  
5 vacation leave, or any other leave policy offered  
6 by the employer.

7 (B) A schedule change is the result of a  
8 mutually agreed upon shift trade or coverage  
9 arrangement between retail, food service, clean-  
10 ing, hospitality, or warehouse employees, or  
11 Secretary's designated employees, subject to  
12 any policy of the employer regarding required  
13 conditions for employees to exchange shifts.

14 (C) The employer's operations cannot  
15 begin or continue due to—

16 (i) a threat to the property of an em-  
17 ployee or the employer;

18 (ii) the failure of a public utility or  
19 the shutdown of public transportation;

20 (iii) a fire, flood, or other natural dis-  
21 aster;

22 (iv) a state of emergency declared by  
23 the President of the United States or by  
24 the governor of the State, or the mayor of

1 the city, in which the operations are lo-  
2 cated; or

3 (v) a severe weather condition that  
4 poses a threat to employee safety.

5 (c) SPLIT SHIFT PAY REQUIREMENT.—An employer  
6 shall pay a retail, food service, cleaning, hospitality, or  
7 warehouse employee, or Secretary’s designated employee,  
8 for 1 additional hour at the employee’s regular rate of pay  
9 for each day during which the employee works a split shift.

10 (d) PAY STUB TRANSPARENCY.—Any pay provided  
11 to an employee pursuant to subsection (a), (b), or (c) (re-  
12 ferred to in this subsection as “additional pay”) shall be  
13 included in the employee’s regular paycheck. The employer  
14 shall identify, in the corresponding written wage statement  
15 or pay stub, the total number of hours of additional pay  
16 provided for the pay period involved and whether the addi-  
17 tional pay was due to the requirements of subsection (a),  
18 the requirements of subsection (b), or the requirements  
19 of subsection (c).

20 **SEC. 5. RIGHT TO REST BETWEEN WORK SHIFTS.**

21 (a) IN GENERAL.—An employee employed by a cov-  
22 ered employer may decline, without penalty, to work any  
23 work shift or on-call shift that is scheduled or otherwise  
24 occurs—

1           (1) less than 11 hours after the end of the work  
2 shift or on-call shift for the previous day; or

3           (2) during the 11 hours following the end of a  
4 work shift or on-call shift that spanned 2 days.

5           (b) CONSENT.—

6           (1) IN GENERAL.—A covered employer shall ob-  
7 tain written consent from an employee in order for  
8 the employee to work any shift described in sub-  
9 section (a). Such consent may be for each such shift  
10 or for multiple shifts.

11           (2) REVOCATION.—An employee may revoke the  
12 consent provided under paragraph (1), in writing, at  
13 any time during the employment.

14           (c) COMPENSATION.—For each instance that an em-  
15 ployee employed by a covered employer works a shift de-  
16 scribed in subsection (a), the covered employer shall com-  
17 pensate the employee at 1.5 times the employee’s sched-  
18 uled rate of pay for the hours worked that are less than  
19 11 hours apart from the hours worked during the previous  
20 shift.

21 **SEC. 6. PROHIBITED ACTS.**

22           (a) INTERFERENCE WITH RIGHTS.—It shall be un-  
23 lawful for any employer to interfere with, restrain, or deny  
24 the exercise or the attempt to exercise, any right of—

25           (1) an employee as set forth in section 3;



1           (2) a retail, food service, cleaning, hospitality,  
2           or warehouse employee, or Secretary's designated  
3           employee, as set forth in section 4; or

4           (3) an employee of a covered employer as set  
5           forth in section 5.

6           (b) RETALIATION PROHIBITED.—It shall be unlawful  
7           for any employer to discharge, threaten to discharge, de-  
8           mote, suspend, reduce work hours of, or take any other  
9           adverse employment action against any employee in retal-  
10          iation for exercising the rights of an employee under this  
11          Act or opposing any practice made unlawful by this Act.  
12          For purposes of section 3, such retaliation shall include  
13          taking an adverse employment action against any em-  
14          ployee on the basis of that employee's request for a change  
15          in work schedule, or because of an employee's eligibility  
16          or perceived eligibility to request or receive a change in  
17          the terms and conditions of employment, as described in  
18          such section, on the basis of a reason set forth in section  
19          3(c).

20          (c) INTERFERENCE WITH PROCEEDINGS OR INQUIR-  
21          IES.—It shall be unlawful for any person to discharge or  
22          in any other manner discriminate against any individual  
23          because such individual—

1           (1) has filed any charge, or has instituted or  
2           caused to be instituted any proceeding, under or re-  
3           lated to this Act;

4           (2) has given or is about to give, any informa-  
5           tion in connection with any inquiry or proceeding re-  
6           lating to any right provided under this Act; or

7           (3) has testified, or is about to testify, in any  
8           inquiry or proceeding relating to any right provided  
9           under this Act.

10 **SEC. 7. REMEDIES AND ENFORCEMENT.**

11       (a) INVESTIGATIVE AUTHORITY.—

12           (1) IN GENERAL.—To ensure compliance with  
13           this Act, or any regulation or order issued under  
14           this Act, the Secretary shall have, subject to para-  
15           graph (3), the investigative authority provided under  
16           section 11(a) of the Fair Labor Standards Act of  
17           1938 (29 U.S.C. 211(a)).

18           (2) OBLIGATION TO KEEP AND PRESERVE  
19           RECORDS.—Each employer shall make, keep, and  
20           preserve records pertaining to compliance with this  
21           Act in accordance with regulations issued by the  
22           Secretary under section 9.

23           (3) REQUIRED SUBMISSIONS GENERALLY LIM-  
24           ITED TO AN ANNUAL BASIS.—The Secretary shall  
25           not require, under the authority of this subsection,

1 any employer to submit to the Secretary any books  
2 or records more than once during any 12-month pe-  
3 riod, unless the Secretary has reasonable cause to  
4 believe there may exist a violation of this Act or any  
5 regulation or order issued pursuant to this Act, or  
6 is investigating a charge pursuant to subsection (c).

7 (4) SUBPOENA POWERS.—For the purposes of  
8 any investigation provided for in this section, the  
9 Secretary shall have the subpoena authority provided  
10 for under section 9 of the Fair Labor Standards Act  
11 of 1938 (29 U.S.C. 209).

12 (b) CIVIL ACTION BY EMPLOYEES.—

13 (1) LIABILITY.—

14 (A) IN GENERAL.—Any employer who vio-  
15 lates section 6(a)(2) (with respect to a right set  
16 forth in subsection (a), (b), or (c) of section 4),  
17 section 5, or subsection (b) or (c) of section 6  
18 (each such provision referred to in this section  
19 as a “covered provision”) shall be liable to any  
20 employee affected for—

21 (i) damages equal to the amount of—

22 (I) any wages, salary, employ-  
23 ment benefits (as defined in section  
24 101 of the Family and Medical Leave  
25 Act of 1993 (29 U.S.C. 2611)), or

1 other compensation denied, lost, or  
2 owed to such employee by reason of  
3 the violation; or

4 (II) in a case in which wages,  
5 salary, employment benefits (as so de-  
6 fined), or other compensation have  
7 not been denied, lost, or owed to the  
8 employee, any actual monetary losses  
9 sustained by the employee as a direct  
10 result of the violation;

11 (ii) interest on the amount described  
12 in clause (i) calculated at the prevailing  
13 rate;

14 (iii) except as described in subpara-  
15 graph (B), an additional amount as liq-  
16 uidated damages equal to the sum of the  
17 amount described in clause (i) and the in-  
18 terest described in clause (ii); and

19 (iv) such equitable relief as may be  
20 appropriate, including employment, rein-  
21 statement, and promotion.

22 (B) EXCEPTION FOR LIQUIDATED DAM-  
23 AGES.—If an employer who has violated a cov-  
24 ered provision proves to the satisfaction of the  
25 court that the act or omission which violated

1           the covered provision was in good faith and that  
2           the employer had reasonable grounds for believ-  
3           ing that the act or omission was not a violation  
4           of a covered provision, such court may, in the  
5           discretion of the court, waive such liquidated  
6           damages.

7           (2) RIGHT OF ACTION.—An action to recover  
8           the damages, interest, or equitable relief set forth in  
9           paragraph (1) may be maintained against any em-  
10          ployer (including a public agency) in any Federal or  
11          State court of competent jurisdiction by any one or  
12          more employees for and on behalf of—

13                   (A) the employees; or

14                   (B) the employees and any other employees  
15           similarly situated.

16          (3) FEES AND COSTS.—The court in such an  
17          action shall, in addition to any judgment awarded to  
18          the plaintiff, allow a reasonable attorney's fee, rea-  
19          sonable expert witness fees, and other costs of the  
20          action to be paid by the defendant.

21          (4) LIMITATIONS.—The right provided by para-  
22          graph (2) to bring an action by or on behalf of any  
23          employee shall terminate on the filing of a complaint  
24          by the Secretary in an action under subsection (c)(4)  
25          in which a recovery is sought of the damages, inter-

1 est, or equitable relief described in paragraph (1)(A)  
2 owing to an employee by an employer liable under  
3 paragraph (1) unless the action described is dis-  
4 missed without prejudice on motion of the Secretary.

5 (c) ACTIONS BY THE SECRETARY.—

6 (1) ADMINISTRATIVE ACTION.—The Secretary  
7 shall receive, investigate, and attempt to resolve  
8 complaints of violations of this Act in the same man-  
9 ner that the Secretary receives, investigates, and at-  
10 tempts to resolve complaints of violations of sections  
11 6 and 7 of the Fair Labor Standards Act of 1938  
12 (29 U.S.C. 206 and 207), and may issue an order  
13 making determinations, and assessing a civil penalty  
14 described in paragraph (3) (in accordance with para-  
15 graph (3)), with respect to such an alleged violation.

16 (2) ADMINISTRATIVE REVIEW.—An affected  
17 person who takes exception to an order issued under  
18 paragraph (1) may request review of and a decision  
19 regarding such an order by an administrative law  
20 judge. In reviewing the order, the administrative law  
21 judge may hold an administrative hearing con-  
22 cerning the order, in accordance with the require-  
23 ments of sections 554, 556, and 557 of title 5,  
24 United States Code. Such hearing shall be conducted  
25 expeditiously. If no affected person requests such re-

1 view within 60 days after the order is issued under  
2 paragraph (1), the order shall be considered to be a  
3 final order that is not subject to judicial review.

4 (3) CIVIL PENALTY.—An employer who willfully  
5 and repeatedly violates—

6 (A) section 4 or 5 shall be subject to a civil  
7 penalty in an amount to be determined by the  
8 Secretary, but not to exceed \$100 per violation;  
9 and

10 (B) subsection (b) or (c) of section 6 shall  
11 be subject to a civil penalty in an amount to be  
12 determined by the Secretary, but not to exceed  
13 \$1,100 per violation.

14 (4) CIVIL ACTION.—The Secretary may bring  
15 an action in any court of competent jurisdiction on  
16 behalf of aggrieved employees to—

17 (A) restrain violations of this Act;

18 (B) award such equitable relief as may be  
19 appropriate, including employment, reinstatement,  
20 and promotion; and

21 (C) in the case of a violation of a covered  
22 provision, recover the damages and interest described  
23 in clauses (i) through (iii) of subsection  
24 (b)(1)(A).

25 (d) LIMITATION.—

1           (1) IN GENERAL.—Except as provided in para-  
2           graph (2), an action may be brought under this sec-  
3           tion not later than 2 years after the date of the last  
4           event constituting the alleged violation for which the  
5           action is brought.

6           (2) WILLFUL VIOLATION.—In the case of such  
7           action brought for a willful violation of section 6,  
8           such action may be brought within 3 years of the  
9           date of the last event constituting the alleged viola-  
10          tion for which such action is brought.

11          (3) COMMENCEMENT.—In determining when an  
12          action is commenced by the Secretary or by an em-  
13          ployee under this section for the purposes of this  
14          subsection, it shall be considered to be commenced  
15          on the date when the complaint is filed.

16          (e) OTHER ADMINISTRATIVE OFFICERS.—

17               (1) BOARD.—In the case of employees described  
18               in section 2(9)(C), the authority of the Secretary  
19               under this Act shall be exercised by the Board of Di-  
20               rectors of the Office of Congressional Workplace  
21               Rights.

22               (2) PRESIDENT; MERIT SYSTEMS PROTECTION  
23               BOARD.—In the case of employees described in sec-  
24               tion 2(9)(D), the authority of the Secretary under



1       this Act shall be exercised by the President and the  
2       Merit Systems Protection Board.

3               (3) OFFICE OF PERSONNEL MANAGEMENT.—In  
4       the case of employees described in section 2(9)(E),  
5       the authority of the Secretary under this Act shall  
6       be exercised by the Office of Personnel Management.

7               (4) LIBRARIAN OF CONGRESS.—In the case of  
8       employees of the Library of Congress, the authority  
9       of the Secretary under this Act shall be exercised by  
10      the Librarian of Congress.

11              (5) COMPTROLLER GENERAL.—In the case of  
12      employees of the Government Accountability Office,  
13      the authority of the Secretary under this Act shall  
14      be exercised by the Comptroller General of the  
15      United States.

16 **SEC. 8. NOTICE AND POSTING.**

17      (a) IN GENERAL.—Each employer shall post and  
18      keep posted, in conspicuous places on the premises of the  
19      employer where notices to employees and applicants for  
20      employment are customarily posted, a notice, to be pre-  
21      pared or approved by the Secretary (or, as applicable, the  
22      corresponding administrative officer specified in section  
23      7(e)) setting forth excerpts from, or summaries of, the  
24      pertinent provisions of this Act and information pertaining  
25      to the filing of a complaint under this Act.

1 (b) PENALTY.—Any employer that willfully violates  
2 this section may be assessed a civil money penalty not to  
3 exceed \$100 for each separate offense.

4 **SEC. 9. REGULATIONS.**

5 (a) SECRETARY OF LABOR.—

6 (1) IN GENERAL.—Except as provided in sub-  
7 sections (b) through (f), not later than 180 days  
8 after the date of enactment of this Act, the Sec-  
9 retary shall issue such regulations as may be nec-  
10 essary to implement this Act.

11 (2) REGULATIONS REGARDING ADDITIONAL OC-  
12 CUPATIONS TO BE COVERED.—

13 (A) IN GENERAL.—In carrying out para-  
14 graph (1), the Secretary shall issue regulations  
15 that specify a process the Secretary will follow,  
16 in accordance with subparagraph (B), to iden-  
17 tify and designate occupations in addition to re-  
18 tail, food service, cleaning, hospitality, or ware-  
19 house occupations that are appropriate for cov-  
20 erage under section 4. Nonexempt employees in  
21 occupations designated under this subparagraph  
22 shall be Secretary's designated employees.

23 (B) CRITERIA.—The regulations under  
24 subparagraph (A) shall provide that the Sec-

1           retary shall so designate an additional occupa-  
2           tion—

3                   (i) in which not less than 10 percent  
4                   of workers employed in the occupation gen-  
5                   erally—

6                           (I) receive advance notice of their  
7                           work schedules less than 14 days be-  
8                           fore the first day of the work sched-  
9                           ules; or

10                           (II) experience fluctuations in the  
11                           number of hours the employees are  
12                           scheduled to work on a daily, weekly,  
13                           or monthly basis; or

14                           (ii) for which the Secretary deter-  
15                           mines such designation is appropriate.

16                   (C) DATA REVIEW.—In issuing regulations  
17                   under subparagraph (A), the Secretary shall  
18                   specify the process by which the Department of  
19                   Labor will review data from stakeholders, and  
20                   data collected or generated by the Department,  
21                   in designating occupations.

22           (b) BOARD.—

23                   (1) IN GENERAL.—Not later than 180 days  
24                   after the date of enactment of this Act, the Board  
25                   of Directors of the Office of Congressional Work-

1 place Rights shall issue such regulations as may be  
2 necessary to implement this Act with respect to em-  
3 ployees described in section 2(9)(C). The procedures  
4 applicable to regulations of the Board issued for the  
5 implementation of the Congressional Accountability  
6 Act of 1995 (2 U.S.C. 1301 et seq.), prescribed in  
7 section 304 of that Act (2 U.S.C. 1384), shall be the  
8 procedures applicable to regulations issued under  
9 this subsection.

10 (2) CONSIDERATION.—In prescribing the regu-  
11 lations, the Board shall take into consideration the  
12 enforcement and remedies provisions concerning the  
13 Office, and applicable to rights and protections  
14 under the Family and Medical Leave Act of 1993  
15 (29 U.S.C. 2601 et seq.), under the Congressional  
16 Accountability Act of 1995 (2 U.S.C. 1301 et seq.).

17 (3) MODIFICATIONS.—The regulations issued  
18 under paragraph (1) to implement this Act shall be  
19 the same as substantive regulations issued by the  
20 Secretary to implement this Act, except to the extent  
21 that the Board may determine, for good cause  
22 shown and stated together with the regulations  
23 issued by the Board, that a modification of such  
24 substantive regulations would be more effective for  
25 the implementation of the rights and protections

1 under this Act with respect to the employees de-  
2 scribed in section 2(9)(C).

3 (c) PRESIDENT.—

4 (1) IN GENERAL.—Not later than 180 days  
5 after the date of enactment of this Act, the Presi-  
6 dent shall issue such regulations as may be nec-  
7 essary to implement this Act with respect to employ-  
8 ees described in section 2(9)(D).

9 (2) CONSIDERATION.—In prescribing the regu-  
10 lations, the President shall take into consideration  
11 the enforcement and remedies provisions concerning  
12 the President and the Merit Systems Protection  
13 Board, and applicable to rights and protections  
14 under the Family and Medical Leave Act of 1993,  
15 under chapter 5 of title 3, United States Code.

16 (3) MODIFICATIONS.—The regulations issued  
17 under paragraph (1) to implement this Act shall be  
18 the same as substantive regulations issued by the  
19 Secretary to implement this Act, except to the extent  
20 that the President may determine, for good cause  
21 shown and stated together with the regulations  
22 issued by the President, that a modification of such  
23 substantive regulations would be more effective for  
24 the implementation of the rights and protections

1 under this Act with respect to the employees de-  
2 scribed in section 2(9)(D).

3 (d) OFFICE OF PERSONNEL MANAGEMENT.—

4 (1) IN GENERAL.—Not later than 180 days  
5 after the date of enactment of this Act, the Office  
6 of Personnel Management shall issue such regula-  
7 tions as may be necessary to implement this Act  
8 with respect to employees described in section  
9 2(9)(E).

10 (2) CONSIDERATION.—In prescribing the regu-  
11 lations, the Office shall take into consideration the  
12 enforcement and remedies provisions concerning the  
13 Office under subchapter V of chapter 63 of title 5,  
14 United States Code.

15 (3) MODIFICATIONS.—The regulations issued  
16 under paragraph (1) to implement this Act shall be  
17 the same as substantive regulations issued by the  
18 Secretary to implement this Act, except to the extent  
19 that the Office may determine, for good cause shown  
20 and stated together with the regulations issued by  
21 the Office, that a modification of such substantive  
22 regulations would be more effective for the imple-  
23 mentation of the rights and protections under this  
24 Act with respect to the employees described in sec-  
25 tion 2(9)(E).

1 (e) LIBRARIAN OF CONGRESS.—

2 (1) IN GENERAL.—Not later than 180 days  
3 after the date of enactment of this Act, the Librar-  
4 ian of Congress shall issue such regulations as may  
5 be necessary to implement this Act with respect to  
6 employees of the Library of Congress.

7 (2) CONSIDERATION.—In prescribing the regu-  
8 lations, the Librarian shall take into consideration  
9 the enforcement and remedies provisions concerning  
10 the Librarian of Congress under title I of the Fam-  
11 ily and Medical Leave Act of 1993 (29 U.S.C. 2611  
12 et seq.).

13 (3) MODIFICATIONS.—The regulations issued  
14 under paragraph (1) to implement this Act shall be  
15 the same as substantive regulations issued by the  
16 Secretary to implement this Act, except to the extent  
17 that the Librarian may determine, for good cause  
18 shown and stated together with the regulations  
19 issued by the Librarian, that a modification of such  
20 substantive regulations would be more effective for  
21 the implementation of the rights and protections  
22 under this Act with respect to employees of the Li-  
23 brary of Congress.

24 (f) COMPTROLLER GENERAL.—

1           (1) IN GENERAL.—Not later than 180 days  
2 after the date of enactment of this Act, the Comp-  
3 troller General shall issue such regulations as may  
4 be necessary to implement this Act with respect to  
5 employees of the Government Accountability Office.

6           (2) CONSIDERATION.—In prescribing the regu-  
7 lations, the Comptroller General shall take into con-  
8 sideration the enforcement and remedies provisions  
9 concerning the Comptroller General under title I of  
10 the Family and Medical Leave Act of 1993 (29  
11 U.S.C. 2611 et seq.).

12           (3) MODIFICATIONS.—The regulations issued  
13 under paragraph (1) to implement this Act shall be  
14 the same as substantive regulations issued by the  
15 Secretary to implement this Act, except to the extent  
16 that the Comptroller General may determine, for  
17 good cause shown and stated together with the regu-  
18 lations issued by the Comptroller General, that a  
19 modification of such substantive regulations would  
20 be more effective for the implementation of the  
21 rights and protections under this Act with respect to  
22 employees of the Government Accountability Office.



1 **SEC. 10. RESEARCH, EDUCATION, AND TECHNICAL ASSIST-**  
2 **ANCE PROGRAM AND SURVEYS.**

3 (a) IN GENERAL.—The Secretary shall provide infor-  
4 mation and technical assistance to employers, labor orga-  
5 nizations, and the general public concerning compliance  
6 with this Act.

7 (b) PROGRAM.—In order to achieve the objectives of  
8 this Act—

9 (1) the Secretary, acting through the Adminis-  
10 trator of the Wage and Hour Division of the Depart-  
11 ment of Labor, shall issue guidance on compliance  
12 with this Act regarding providing a flexible, predict-  
13 able, or stable work environment through changes in  
14 the terms and conditions of employment as provided  
15 in section 3(a); and

16 (2) the Secretary shall carry on a continuing  
17 program of research, education, and technical assist-  
18 ance, including—

19 (A)(i) conducting pilot programs that im-  
20 plement fairer work schedules, including by pro-  
21 moting cross training, providing 3 weeks or  
22 more advance notice of schedules, providing em-  
23 ployees with a minimum number of hours of  
24 work, and using electronic workforce manage-  
25 ment systems to provide more flexible, predict-  
26 able, and stable schedules for employees; and

1           (ii) evaluating the results of such pilot pro-  
2           grams for employees, employee's families, and  
3           employers;

4           (B) publishing and otherwise making avail-  
5           able to employers, labor organizations, profes-  
6           sional associations, educational institutions, the  
7           various communication media, and the general  
8           public the findings of studies regarding fair  
9           work scheduling policies and other materials for  
10          promoting compliance with this Act;

11          (C) sponsoring and assisting State and  
12          community informational and educational pro-  
13          grams; and

14          (D) providing technical assistance to em-  
15          ployers, labor organizations, professional asso-  
16          ciations, and other interested persons on means  
17          of achieving and maintaining compliance with  
18          the provisions of this Act.

19          (c) CURRENT POPULATION SURVEY.—The Secretary,  
20          acting through the Commissioner of the Bureau of Labor  
21          Statistics, and the Director of the Bureau of the Census  
22          shall—

23                 (1) include in the Current Population Survey  
24                 questions on—

1 (A) the magnitude of fluctuation in the  
2 number of hours the employee is scheduled to  
3 work on a daily, weekly, or monthly basis;

4 (B) the extent of advance notice an em-  
5 ployee receives of the employee's work schedule;

6 (C) the extent to which an employee has  
7 input in the employee's work schedule; and

8 (D) the number of hours that an employee  
9 would prefer to work, relative to the number of  
10 hours the employee is currently working; and

11 (2) at regular intervals, update and conduct the  
12 Contingent Worker Supplement, the Work Schedules  
13 and Work at Home Supplement, and other relevant  
14 supplements (as determined by the Secretary), to  
15 the Current Population Survey and the American  
16 Time Use Survey.

17 **SEC. 11. RIGHTS RETAINED BY EMPLOYEES.**

18 This Act provides minimum requirements and shall  
19 not be construed to preempt, limit, or otherwise affect the  
20 applicability of any other law, requirement, policy, or  
21 standard that provides for greater rights for employees  
22 than are required in this Act.

23 **SEC. 12. EXEMPTION.**

24 This Act shall not apply to any employee covered by  
25 a valid collective bargaining agreement if—

1           (1) the terms of the collective bargaining agree-  
2           ment include terms that govern work scheduling  
3           practices; and

4           (2) the provisions of this Act are expressly  
5           waived in such collective bargaining agreement.

6 **SEC. 13. EFFECT ON OTHER LAW.**

7           (a) **IN GENERAL.**—Nothing in this Act shall be con-  
8           strued as superseding, or creating or imposing any re-  
9           quirement in conflict with, any Federal, State, or local  
10          regulation or other law (including the Americans with Dis-  
11          abilities Act of 1990 (42 U.S.C. 12101 et seq.), the Fam-  
12          ily and Medical Leave Act of 1993 (29 U.S.C. 2601 et  
13          seq.), the National Labor Relations Act (29 U.S.C. 151  
14          et seq.), the Fair Labor Standards Act of 1938 (29 U.S.C.  
15          201 et seq.), and title VII of the Civil Rights Act of 1964  
16          (42 U.S.C. 2000e et seq.)).

17          (b) **RELATIONSHIP TO COLLECTIVE BARGAINING**  
18          **RIGHTS.**—Nothing in this Act (including section 12) shall  
19          be construed to diminish or impair the rights of an em-  
20          ployee under any valid collective bargaining agreement.