AMENDMENT TO RULES COMMITTEE PRINT 116-22

OFFERED BY MS. SPEIER OF CALIFORNIA

Strike section 303 and insert the following new section:

SEC. 303. PAID FAMILY AND MEDICAL LEAVE.

(a) PURPOSE.—The purpose of this section is to—

(1) help the intelligence community recruit and retain a dynamic, multi-talented, and diverse workforce capable of meeting the security goals of the United States; and

(2) establish best practices and processes for other elements of the Federal Government seeking to pursue similar policies.

(b) AUTHORIZATION OF PAID FAMILY AND MEDICAL LEAVE FOR INTELLIGENCE COMMUNITY EMPLOYEES.—

(1) IN GENERAL.—Title III of the National Security Act of 1947 (50 U.S.C. 3071 et seq.) is amended by inserting after section 304 the following:

“SEC. 305. PAID FAMILY AND MEDICAL LEAVE.

“(a) PAID FAMILY AND MEDICAL LEAVE.—Notwithstanding any other provision of law, a civilian employee...
of an element of the intelligence community shall have available a total of 12 administrative workweeks of paid family and medical leave in the event of a circumstance specified in any of subparagraphs (A) through (E) of section 6382(a)(1) of title 5, United States Code. With respect to parental leave described in such subparagraphs (A) and (B), such paid family and medical leave shall be used during the 12-month period beginning on the date of the birth or adoption or foster placement. Nothing in this section shall be construed to modify or otherwise affect the eligibility of an employee of an element of the intelligence community for benefits relating to leave under any other provision of law.

“(b) Treatment of Family and Medical Leave Request.—Notwithstanding any other provision of law—

“(1) an element of the intelligence community shall accommodate an employee’s leave request under subsection (a), including a request to use such leave intermittently or to create a reduced work schedule, to the extent that the requested leave schedule does not unduly disrupt operations; and

“(2) with respect to parental leave described in subparagraph (A) of section 6382(a)(1) of title 5, United States Code, to the extent that an employee’s requested leave described in paragraph (1) arises out
of medical necessity related to a serious health condition connected to the birth of a son or daughter,
the employing element shall handle the scheduling consistent with the treatment of employees who are using leave under subparagraph (C) or (D) of such section.

“(c) RULES RELATING TO PAID LEAVE.—Notwithstanding any other provision of law—

“(1) an employee may not be required to first use all or any portion of any unpaid leave available to the employee before being allowed to use the paid family and medical leave described in subsection (a); and

“(2) paid family and medical leave under subsection (a)—

“(A) shall be payable from any appropriation or fund available for salaries or expenses for positions within the employing element;

“(B) may not be considered to be annual or vacation leave for purposes of section 5551 or 5552 of title 5, United States Code, or for any other purpose;

“(C) with respect to parental leave described in subparagraph (A) or (B) of section 6382(a)(1) of title 5, United States Code—
“(i) if not used by the employee before the end of the 12-month period beginning on the date of the birth or adoption or foster placement to which the leave relates, may not be available for any subsequent use and may not be converted into a cash payment;

“(ii) may be granted only to the extent that the employee does not receive a total of more than 12 weeks of paid family and medical leave in any 12-month period beginning on the date of a birth or placement;

“(iii) may not be granted—

“(I) in excess of a lifetime aggregate total of 30 administrative workweeks based on placements of a foster child for any individual employee; or

“(II) in connection with temporary foster care placements expected to last less than 1 year; and

“(iv) may not be granted for a child being placed for foster care or adoption if such leave was previously granted to the same employee when the same child was
placed with the employee for foster care in the past;

“(D) shall be used in increments of hours (or fractions thereof), with 12 administrative workweeks equal to 480 hours for employees with a regular full-time work schedule and converted to a proportional number of hours for employees with part-time, seasonal, or uncommon tours of duty; and

“(E) may not be used during off-season (nonpay status) periods for employees with seasonal work schedules.

“(d) Employment and Benefits Protection.—

“(1) Restoration.—Any employee who takes leave under this section for the intended purpose of the leave shall be entitled, upon return from such leave—

“(A) to be restored by the employing element of the intelligence community to the position held by the employee when the leave commenced; or

“(B) to be restored to an equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment.
“(2) NO LOSS OF PRIOR BENEFITS.—The taking of leave under this section shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

“(3) BENEFITS DURING LEAVE.—Except as otherwise provided by this section or under other provisions of law, nothing in this section shall be construed to entitle any restored employee to—

“(A) the accrual of any employment benefits during any period of leave; or

“(B) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

“(4) CERTIFICATIONS.—As a condition to restoration under paragraph (1) for an employee who takes leave under this section, the employing element of the intelligence community may have a uniformly applied practice or policy that requires each such employee to receive certification from the health care provider of the employee that the employee is able to resume work.

“(5) PERIODIC REPORTING.—Nothing in this subsection shall be construed to prohibit an employing element of the intelligence community from re-
quiring an employee on leave under this section to report periodically to the employing element on the status and intention of the employee to return to work.

“(e) PROHIBITION ON COERCION.—

“(1) PROHIBITION.—An employee of an element of the intelligence community shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with the exercise of any rights which such other employee may have under this section.

“(2) DEFINITION.—In this subsection, the term ‘intimidate, threaten, or coerce’ includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or taking or threatening to take any reprisal (such as deprivation of appointment, promotion, or compensation).

“(f) IMPLEMENTATION PLAN.—Not later than 1 year after the date of the enactment of this section, the Director of National Intelligence shall submit to the congressional intelligence committees an implementation plan that includes—
“(1) processes and procedures for implementing the paid family and medical leave policies under subsections (a) through (c);

“(2) an explanation of how the implementation of subsections (a) through (c) will be reconciled with policies of other elements of the Federal Government, including the impact on elements funded by the National Intelligence Program that are housed within agencies outside the intelligence community; and

“(3) all costs or operational expenses associated with the implementation of subsections (a) through (c).

“(g) DIRECTIVE.—Not later than 180 days after the Director of National Intelligence submits the implementation plan under subsection (f), the Director of National Intelligence shall issue a written directive to implement this section, which directive shall take effect on the date of issuance.

“(h) ANNUAL REPORT.—The Director of National Intelligence shall submit to the congressional intelligence committees an annual report that—

“(1) details the number of employees of each element of the intelligence community who applied
for and took paid family and medical leave under subsection (a) during the year covered by the report;

“(2) details the number of—

“(A) employees of each element of the intelligence community stationed abroad who applied for and took paid family and medical leave under subsection (a) during the year covered by the report; and

“(B) employees of each element of the intelligence community stationed abroad who applied for paid family and medical leave but such application was not granted because of an undue impact on operations as specified in subsection (b)(1); and

“(3) includes updates on major implementation challenges or costs associated with paid family and medical leave.

“(i) DEFINITION OF SON OR DAUGHTER.—For purposes of this section, the term ‘son or daughter’ has the meaning given the term in section 6381 of title 5, United States Code.”.

(2) CLERICAL AMENDMENT.—The table of contents in the matter preceding section 2 of the National Security Act of 1947 (50 U.S.C. 3002) is
amended by inserting after the item relating to section 304 the following:

“Sec. 305. Paid family and medical leave.”.

(c) APPLICABILITY.—Section 305 of the National Security Act of 1947, as added by subsection (b), shall apply with respect to leave taken in connection with a circumstance specified in any of subparagraphs (A) through (E) of section 6382(a)(1) of title 5, United States Code, occurring on or after the date on which the Director of National Intelligence issues the written directive under subsection (e) of such section 305.