119TH CONGRESS
2D SESSION

S. _____

To protect employees from discrimination based on family caregiver responsibilities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. BOOKER introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To protect employees from discrimination based on family caregiver responsibilities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Protecting Family Caregivers from Discrimination Act of 2026''.

SEC. 2. DEFINITIONS.

In this Act:

(1) ADVERSE ACTION.—The term ''adverse action'' means—

(A) to threaten, penalize, fail or refuse to hire, or to discharge any individual, or otherwise to discriminate against any individual with respect to the individual's compensation, advancement, terms, conditions, scheduling or work hours, or privileges of employment;

(B) to limit, segregate, or classify employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect an individual's status as an employee;

(C) to make a communication regarding immigration status, as described in section 4(a)(3); or

(D) any other act or practice that is considered an adverse action under title VII of the 1964 Civil Rights Act (42 U.S.C. 2000e et seq.).

(2) COMMERCE.—The term ''commerce'' has the meaning given such term in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(3) COMMISSION.—The term ''Commission'' means the Equal Employment Opportunity Commission.

(4) EMPLOYEE.—The term ''employee'' means—

(A) an employee, as defined in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203), who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce; or

(B) an individual who is engaged by—

(i) an employer; or

(ii) an individual or entity that is not acting as an employer and engages the services of a worker to perform services or work as an independent contractor (regardless of the label or classification assigned or used by the employer or an individual or entity that is not acting as an employer and engages the services of a worker).

(5) EMPLOYER; ENTERPRISE ENGAGED IN COMMERCE OR IN THE PRODUCTION OF GOODS FOR COMMERCE.—The terms ''employer'' and ''enterprise engaged in commerce or in the production of goods for commerce'' have the meanings given such terms

in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(6) FAMILY CAREGIVER RESPONSIBILITIES.—The term ''family caregiver responsibilities'', with respect to an employee having such responsibilities, means the responsibilities of the employee as being responsible, or being regarded as being responsible, as a contributor to the support or care of one or more family members of the individual, regardless of the age of the family member.

(7) FAMILY MEMBER.—

(A) IN GENERAL.—The term ''family member'' means, with respect to an individual—

(i) a spouse (including a domestic partner in a civil union or other registered domestic partnership recognized by a State) and a spouse's parent;

(ii) a child and a child's spouse;

(iii) a parent and a parent's spouse;

(iv) a sibling and a sibling's spouse;

(v) a grandparent, a grandchild, or a spouse of a grandparent or grandchild; and

(vi) any other individual who is related by blood or affinity and whose asso-

ciation with the individual involved is equivalent of a family relationship.

(B) RELATIONSHIP.—A relationship described in clauses (i) through (vi) of subparagraph (A) may be acquired through adoption, marriage, or a dependent or custodial relationship.

SEC. 3. PROHIBITION ON DISCRIMINATION.

It shall be unlawful for an employer or an individual or entity described in section 2(4)(B)(ii) to—

(1) fail or refuse to hire an applicant as an employee of such employer, or such individual or entity, because of the family caregiver responsibilities of the applicant; or

(2) take adverse action against an employee of such employer or such individual or entity, or otherwise discriminate against such an employee, including by harassing the employee, with respect to the compensation, advancement, terms, conditions, scheduling or work hours, or privileges, of employment or engagement of the employee because of the family caregiver responsibilities of the employee.

SEC. 4. PROHIBITION ON RETALIATION.

(a) INTERFERENCE WITH RIGHTS.—

(1) EXERCISE OF RIGHTS.—It shall be unlawful for any employer or an individual or entity described in section 2(4)(B)(ii) to retaliate against, interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this section.

(2) ADVERSE ACTION.—It shall be unlawful for any employer or an individual or entity described in section 2(4)(B)(ii) to take any adverse action against any employee or applicant because the employee or applicant has exercised in good faith the rights protected under this section.

(3) IMMIGRATION STATUS.—It shall be unlawful for any employer or an individual or entity described in section 2(4)(B)(ii) to communicate to an employee or applicant exercising rights protected under this section, directly or indirectly, the willingness to inform a government employee that the employee or applicant is not lawfully in the United States, or to report, or to make an implied or express assertion of a willingness to report, suspected citizenship or immigration status of an employee or applicant or family member of the employee or applicant to a Federal, State, or local agency because the employee has exercised a right under this section.

(b) RIGHTS OF EMPLOYEES.—The rights of an employee or applicant shall include the right to—

(1) inform the employee's employer, union, or similar organization, or the applicant or employee's legal counsel or any other person about an alleged violation of this Act;

(2) file any charge, or institute or cause to be instituted any proceeding, under or related to this Act, or otherwise take action in accordance with section 6 relating to the enforcement of this Act;

(3) cooperate in investigations under or relating to this Act, including by giving or preparing to give information in connection with any inquiry or proceeding under or related to this Act;

(4) testify in any inquiry or proceeding under or related to this Act; and

(5) refuse to participate in, or otherwise oppose, any policy, practice, or act that is unlawful under this Act.

(c) PRESUMPTION OF RETALIATION.—There shall be a rebuttable presumption that retaliation has occurred in violation of this section if an employer or an individual or entity described in section 2(4)(B)(ii) takes an adverse action against an employee or applicant during the period that is 2 years after the date on which that employee or

applicant exercised rights protected under this section. In the case of seasonal work, the presumption also applies if the employer or individual or entity described in section 2(4)(B)(ii) fails to rehire a former employee at the next opportunity for work in the same position. The employer or individual or entity described in section 2(4)(B)(ii) may rebut the presumption with clear and convincing evidence that the adverse action was taken for a permissible purpose.

(d) PROTECTIONS FOR GOOD FAITH ALLEGATIONS.—The protections afforded under this section shall apply to any individual who mistakenly but in good faith alleges a violation of this section or section 3.

(e) EXPLICIT REFERENCE NOT REQUIRED.—A complaint or other communication by an employee or any applicant may be an action described in subsection (b) that gives rise to the protections described in this section regardless of whether the complaint or communication is in writing or makes explicit reference to this Act.

SEC. 5. POSTING OF NOTICES.

(a) IN GENERAL.—Each employer shall, not later than 180 days after the date of enactment of this Act, post, and keep posted, in a conspicuous place upon the premises of the employer a notice, to be prepared or approved by the Commission, setting forth information as

the Commission determines appropriate to effectuate the purposes of this Act, including the pertinent provisions of this Act and information pertinent to the filing of a charge with the Commission.

(b) PENALTY.—A willful violation of this section shall be punishable by a fine of not more than $100 for each day on which the violation continues.

SEC. 6. ENFORCEMENT.

(a) IN GENERAL.—Subject to subsection (c), sections 3 and 4 of this Act shall be enforced by the Commission in the same manner and by the same means, including with the same jurisdiction, as the enforcement of a violation of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.). Violations of this Act may be established through proof of disparate treatment, harassment, or disparate impact.

(b) ACTION BY THE COMMISSION.—Except as otherwise specified in this Act, the Commission shall receive, investigate, attempt to resolve, and otherwise enforce a charge of a violation of section 3 or 4 of this Act in the same manner that the Commission receives, investigates, attempts to resolve, and enforces a charge of a violation of title VII of the Civil Rights Act of 1964.

(c) PRIVATE RIGHT OF ACTION.—Notwithstanding subsection (a) and section 706 of the Civil Rights Act of

1964 (42 U.S.C. 2000e–5), a private right of action shall also be available to an applicant or individual who alleges a violation of section 3 or 4 of this Act. Such applicant or individual shall not be required to file a charge with the Commission or pursue or exhaust any administrative remedies before instituting a civil action.

(d) PENALTIES.—

(1) IN GENERAL.—In addition to sums that may otherwise be collected by an aggrieved individual or collected by the Commission and paid to an aggrieved individual, any person who willfully violates section 3 or 4 shall upon conviction thereof be subject to a penalty of an amount not to exceed—

(A) $10,000 for each violation of section 3; and

(B) $5,000 for each violation of section 4.

(2) TRANSFER OF FUNDS.—Any penalties collected by the Commission under this subsection shall be transferred to the Family Caregiver Antidiscrimination Fund.

(e) FAMILY CAREGIVER ANTIDISCRIMINATION FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a revolving fund, to be known as the ''Family Caregiver Antidiscrimina-

tion Fund'' (referred to in this Act as the ''Fund''), consisting of the amount of penalties transferred to the Fund under subsection (d)(2).

(2) USE OF FUNDS.—Amounts in the Fund shall be available for the purpose of awarding grants under section 7.

SEC. 7. GRANTS.

(a) IN GENERAL.—

(1) GRANT PROGRAM ESTABLISHED.—The Commission, shall award grants, on a competitive basis, to eligible entities to enable those eligible entities to assist in preventing and combating discrimination against applicants and employees who have family caregiver responsibilities.

(2) DURATION.—A grant awarded under this section shall be for a period of 3 years.

(b) ELIGIBLE ENTITY.—In this section, the term ''eligible entity'' means—

(1) a nonprofit organization with expertise in family caregiver discrimination;

(2) an institution of higher education or research center that employs faculty with relevant expertise or that has expertise in family caregiver discrimination; or

(3) a consortium of entities described in paragraphs (1) and (2) that submit a single application to carry out activities under the grant jointly.

(c) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application to the Commission at such time, in such manner, and containing such information as the Commission may require.

(d) USE OF FUNDS.—An eligible entity receiving a grant under this section shall use grant funds to carry out one or more of the following activities:

(1) Educate employees about the prohibited actions under section 3, caregiver rights, and the rights provided under this Act.

(2) Conduct educational training for employers regarding caregiver discrimination.

(3) Provide support to applicants and employees who are facing or who have faced discrimination based on family caregiver responsibilities.

(4) Produce and disseminate outreach and training materials relating to the prohibited actions under section 3, caregiver rights, and the rights provided under this Act.

(5) Recruit and hire staff and volunteers to carry out the activities described in this subsection.

(6) Any other activities that the Commission determines are reasonable.

(e) REPORT.—Not later than 12 months after the completion of the programs and activities funded under grants awarded under this section, the Commission shall submit to Congress, and all appropriate agencies, a report concerning an evaluation of the results of such programs and activities, including best practices, and lessons derived from the experiences of grantees.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 8. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to supersede any other provision of Federal, State, or local law that provides greater protection against employment discrimination or greater remedies to employees than the protection or remedies provided to employees under this Act, including any such provision in the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), or section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)).