

1 [DISCUSSION DRAFT]
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5
6 A BILL

7 To establish workplace protections for employees and applicants with covered medical
8 conditions, including cancer and other serious medical conditions requiring intensive treatment,
9 and for other purposes.

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

12 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

13 (a) SHORT TITLE.—This Act may be cited as “June’s Law: The Cancer Patient
14 Workplace Fairness Act”.

15 (b) CITATION.—This Act may be cited as “June’s Law”.

16 (c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

17 Sec. 1. Short title; table of contents.

18 Sec. 2. Findings and purpose.

19 Sec. 3. Definitions.

20 Sec. 4. Covered employers.

21 Sec. 5. Prohibited practices.

22 Sec. 6. Reasonable accommodations and interactive process.

23 Sec. 7. Medically necessary leave.

24 Sec. 8. Benefits protection.

25 Sec. 9. Restoration to position.

26 Sec. 10. Rulemaking.

27 Sec. 11. Training and compliance.

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28 Sec. 12. Notice and posting requirements.

29 Sec. 13. Enforcement and remedies.

30 Sec. 14. Limitation on employer defenses.

31 Sec. 15. Waiver of state immunity.

32 Sec. 16. Relation to other laws.

33 Sec. 17. Severability.

34 **SEC. 2. FINDINGS AND PURPOSE.**

35 (a) FINDINGS.—The Congress finds the following:

36 (1) Employees diagnosed with cancer and other life-threatening medical
37 conditions frequently require ongoing treatment, recovery time, or temporary
38 work adjustments in order to remain employed.

39 (2) Existing federal protections, including the Family and Medical Leave Act and
40 the Americans with Disabilities Act, contain eligibility thresholds and limitations
41 that leave many medically vulnerable employees without meaningful protection.

42 (3) Employees who are newly hired, part-time, or otherwise ineligible for federal
43 leave protections may be subject to termination, coercion, or other adverse
44 employment actions due to their medical condition or need for treatment.

45 (4) Retaliatory conduct is often disguised as operational necessity, staffing
46 shortages, or performance concerns, making such conduct difficult to identify and
47 prevent under existing law.

48 (5) Protecting employees during periods of serious medical vulnerability promotes
49 workforce stability, economic security, and public health.

50 (6) Serious medical conditions requiring intensive treatment, including
51 chemotherapy or radiation therapy, often result in temporary but significant

52 functional limitations similar to those experienced by individuals diagnosed with
53 cancer.

54 (b) PURPOSE.—The purpose of this Act is to—

55 (1) prohibit retaliation against employees and applicants with covered medical
56 conditions;

57 (2) require employers to engage in a good-faith interactive process and provide
58 reasonable accommodations, including medically necessary leave;

59 (3) ensure that employees are not forced to choose between maintaining
60 employment and obtaining life-saving medical treatment; and

61 (4) establish minimum protections that operate alongside existing federal law.

62 **SEC. 3. DEFINITIONS.**

63 For purposes of this Act:

64 (1) COVERED MEDICAL CONDITION.—The term “covered medical condition”
65 means—

66 (A) a medical condition that is terminal or progressive and reasonably expected to
67 result in a terminal state, including diagnoses that would typically qualify for
68 Terminal Illness (TERI) designation under applicable federal programs, defined as
69 a medical condition with a high probability of death as determined by a licensed
70 health care provider;

71 (B) a critical medical condition or serious injury, defined as an illness or injury
72 that acutely impairs one or more vital organ systems such that there is a high
73 probability of imminent or life-threatening deterioration in the patient’s condition
74 without timely medical intervention;

75 (C) cancer, including any stage of cancer, recurrence, metastasis, or ongoing
76 treatment for cancer, regardless of whether the condition independently satisfies
77 subparagraph (A) or (B); or

78 (D) any other serious medical condition requiring treatment with chemotherapy,
79 radiation therapy, or similarly intensive, life-altering medical interventions that
80 result in comparable physical or functional limitations.

81 (2) RULE OF CONSTRUCTION.—For purposes of this Act, eligibility shall be
82 determined based on the nature and intensity of treatment and its impact on the employee,
83 rather than the specific diagnosis alone.

84 (3) MEDICAL DETERMINATION STANDARD.—A determination that an individual
85 has a covered medical condition under this Act shall be made by a licensed health care
86 provider and shall be entitled to deference absent clear and convincing evidence to the
87 contrary.

88 (4) MEDICALLY NECESSARY LEAVE.—The term “medically necessary leave” means
89 leave required for diagnosis, treatment, recovery, or management of a covered medical
90 condition, as determined by a licensed health care provider.

91 (5) REASONABLE ACCOMMODATION.—The term “reasonable accommodation”
92 means a temporary adjustment to the work environment or to the manner or
93 circumstances under which work is performed that enables a qualified individual with a
94 covered medical condition to continue working or to return to work, unless such
95 accommodation would impose an undue hardship.

96 (A) INCLUSIONS.—Reasonable accommodations may include temporary
97 suspension or modification of essential job functions where the employee’s
98 inability to perform such functions is temporary, the function can be performed in
99 the near future, and the accommodation does not impose an undue hardship.

100 (B) FURTHER INCLUSIONS.—For purposes of this Act, reasonable
101 accommodation shall include, but not be limited to, job restructuring, part-time or
102 modified work schedules, reassignment to a vacant position, acquisition or
103 modification of equipment or devices, appropriate adjustment or modification of
104 policies, and the provision of leave, consistent with interpretive standards applied
105 under federal anti-discrimination laws.

106 (6) QUALIFIED INDIVIDUAL.—The term “qualified individual” means an employee
107 who, with or without reasonable accommodation, can perform the essential functions of
108 the position, except that an employee shall be considered qualified if the inability to
109 perform an essential function is for a temporary period, the essential function could be
110 performed in the near future, and the inability can be reasonably accommodated. An
111 individual shall not be deemed unqualified solely because the individual is temporarily
112 unable to perform an essential function where such inability is directly related to a
113 covered medical condition and may be addressed through reasonable accommodation.

114 (7) UNDUE HARDSHIP.—The term “undue hardship” shall be construed consistent with
115 the standards set forth under the Americans with Disabilities Act, including consideration
116 of the nature and cost of the accommodation, the overall financial resources of the facility
117 involved, the number of persons employed at such facility, the effect on expenses and
118 resources, and the impact of such accommodation upon the operation of the facility.

119 (8) RETALIATORY CONDUCT.—The term “retaliatory conduct” means any adverse
120 employment action taken, in whole or in part, because of an employee’s covered medical
121 condition, need for medically necessary leave, request for reasonable accommodation, or
122 participation in any proceeding under this Act. Retaliatory conduct includes any action
123 that might dissuade a reasonable employee from exercising rights under this Act.

124 **SEC. 4. COVERED EMPLOYERS.**

125 (a) IN GENERAL.—This Act shall apply to—

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126 (1) any employer engaged in an industry affecting commerce who has 15 or more
127 employees; and

128 (2) any public employer, including State and local government entities, regardless
129 of the number of employees.

130 (b) JOINT EMPLOYMENT AND INTEGRATED ENTERPRISES.—For purposes of
131 determining coverage under this Act, employer status shall be construed consistent with
132 applicable federal anti-discrimination laws, including principles governing joint
133 employers and integrated enterprises. Such determinations shall include consideration of
134 the degree of control exercised over employment conditions, including hiring, firing,
135 supervision, and direction of work.

136 (c) APPLICABILITY REGARDLESS OF FEDERAL ELIGIBILITY.—Coverage under
137 this Act shall apply without regard to an employee’s eligibility under the Family and
138 Medical Leave Act or any other Federal leave statute.

139 (d) RULE OF CONSTRUCTION.—Nothing in this section shall be interpreted to limit
140 broader coverage under applicable State or local law.

141 (e) EXTENDED DEFINITION.—The term “covered employer” includes any employer
142 as defined in this section, and any agent, employment agency, labor organization, or other
143 entity that acts directly or indirectly in the interest of such employer with respect to
144 employment practices covered under this Act.

145 **SEC. 5. PROHIBITED PRACTICES.**

146 (a) RETALIATION PROHIBITED.—It shall be an unlawful employment practice for an
147 employer to fail or refuse to hire, to discharge, or otherwise to discriminate against any
148 individual with respect to compensation, terms, conditions, or privileges of employment,
149 because of a covered medical condition, ongoing medical treatment, request for
150 reasonable accommodation, need for medically necessary leave, or participation in any
151 proceeding under this Act.

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152 (b) SPECIFIC PROHIBITED CONDUCT.—Retaliatory conduct includes, but is not
153 limited to—

154 (1) termination, discipline, or adverse employment action following disclosure of
155 a covered medical condition;

156 (2) coercion or pressure to delay, forgo, or interrupt medical treatment due to
157 staffing shortages or operational concerns;

158 (3) denial of reasonable accommodation or medically necessary leave where such
159 denial is used as a pretext for adverse action; and

160 (4) conditioning continued employment on the employee’s ability to work during
161 periods of medical incapacity related to a covered medical condition.

162 (c) ADDITIONAL UNLAWFUL PRACTICES.—It shall further be an unlawful
163 employment practice for an employer to—

164 (1) fail to make reasonable accommodations to the known limitations of a
165 qualified individual with a covered medical condition, unless such employer
166 demonstrates undue hardship;

167 (2) require a qualified individual to accept an accommodation other than a
168 reasonable accommodation arrived at through the interactive process;

169 (3) deny employment opportunities to a qualified individual if such denial is based
170 on the need to make reasonable accommodations;

171 (4) require an employee to take leave, whether paid or unpaid, if another
172 reasonable accommodation would enable the employee to continue working; or

173 (5) take adverse action against an employee because the employee requested or
174 used a reasonable accommodation.

175 (d) CAUSATION STANDARD.—An unlawful employment practice is established under
176 this Act when the covered medical condition, request for reasonable accommodation, or
177 need for medically necessary leave was a motivating factor for any employment practice,
178 even though other factors also motivated the practice; provided, however, that proof of
179 such motivating factor shall not be sufficient, by itself, to establish liability where the
180 employer demonstrates that the same action would have been taken in the absence of such
181 factor.

182 (e) INTERFERENCE WITH RIGHTS.—It shall be unlawful for any employer to
183 interfere with, restrain, or deny the exercise of or the attempt to exercise any right
184 provided under this Act. It shall also be unlawful to coerce, intimidate, threaten, or
185 interfere with any individual in the exercise or enjoyment of rights protected under this
186 Act.

187 **SEC. 6. REASONABLE ACCOMMODATIONS AND INTERACTIVE PROCESS.**

188 (a) INTERACTIVE PROCESS.—An employer shall engage in a timely, good-faith
189 interactive process with an employee or applicant who requests a reasonable
190 accommodation.

191 (b) OBLIGATION TO PROVIDE ACCOMMODATIONS.—An employer shall provide
192 reasonable accommodations, including medically necessary leave, to the known
193 limitations of an employee with a covered medical condition, unless such employer can
194 demonstrate that the accommodation would impose an undue hardship on the operation
195 of the business of such employer. This obligation shall apply regardless of whether the
196 employee meets eligibility requirements under any other Federal leave statute.

197 (c) TEMPORARY NATURE.—Reasonable accommodations under this Act may be
198 temporary in nature and shall be tailored to the duration and severity of the covered
199 medical condition.

200 (d) MEDICAL DOCUMENTATION.—An employer may require that a request for
201 reasonable accommodation or medically necessary leave be supported by reasonable
202 documentation from a licensed health care provider; provided that such documentation
203 shall be limited to that which is sufficient to establish the existence of a covered medical
204 condition and the functional limitations necessitating the requested accommodation or
205 leave, and shall not be used to delay or deny such request. An employer shall not require
206 second or third medical opinions except where there exists objective evidence of fraud or
207 material inconsistency. Documentation requirements shall be applied in a manner that is
208 not overly burdensome and does not unnecessarily delay the provision of reasonable
209 accommodation or medically necessary leave.

210 (e) NOTICE.—An employee shall provide the employer with such notice as is practicable
211 under the facts and circumstances of the particular case, which may include notice after
212 the need for leave or accommodation has commenced where advance notice is not
213 feasible.

214 (f) CONFIDENTIALITY OF MEDICAL INFORMATION.—Information obtained
215 regarding the medical condition or history of an employee shall be collected and
216 maintained on separate forms and in separate medical files and shall be treated as a
217 confidential medical record, except as necessary to implement the requirements of this
218 Act. Such information shall be maintained and disclosed only in accordance with
219 standards applicable to confidential medical records under federal anti-discrimination
220 laws.

221 **SEC. 7. MEDICALLY NECESSARY LEAVE.**

222 (a) ENTITLEMENT TO LEAVE.—A covered employee shall be entitled to job-protected
223 medical leave for the duration of active treatment and recovery for the covered medical
224 condition. Leave may be taken continuously or intermittently as medically necessary. An
225 employee's entitlement shall continue for the duration of the covered medical condition,
226 provided the employee remains a qualified individual under this Act.

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227 (b) ACCOMMODATION STATUS.—Leave under this Act shall be considered a form of
228 reasonable accommodation and shall not be required where another effective reasonable
229 accommodation would enable the employee to continue working.

230 (c) INTERMITTENT LEAVE.—Leave under this section may be taken intermittently or
231 on a reduced schedule when medically necessary, as determined by a licensed health care
232 provider.

233 (d) RELATIONSHIP TO REASONABLE ACCOMMODATION.—Nothing in this
234 section shall be construed to limit an employee’s right to leave as a reasonable
235 accommodation under Section 6, and such leave shall remain subject to the undue
236 hardship standard and evaluated on an individualized basis.

237 **SEC. 8. BENEFITS PROTECTION.**

238 (a) MAINTENANCE OF HEALTH BENEFITS.—During any period of medically
239 necessary leave under this Act, an employer shall maintain coverage under any group
240 health plan for the duration of such leave at the level and under the conditions coverage
241 would have been provided if the employee had continued in employment continuously for
242 the duration of such leave. Such coverage shall include the continuation of employer
243 contributions toward premiums under the same terms as if the employee had not taken
244 leave.

245 (b) OTHER BENEFITS.—The taking of leave under this Act shall not result in the loss
246 of any employment benefit accrued prior to the date on which the leave commenced.

247 (c) LIMITATION.—Nothing in this section shall be construed to require the accrual of
248 additional employment benefits during any period of leave, except as otherwise required
249 by applicable law.

250 **SEC. 9. RESTORATION TO POSITION.**

251 (a) IN GENERAL.—Except as provided in subsection (b), any employee who takes leave
252 under this Act shall be entitled, on return from such leave—

253 (1) to be restored to the position of employment held by the employee when the
254 leave commenced; or

255 (2) to be restored to an equivalent position with equivalent employment benefits,
256 pay, and other terms and conditions of employment.

257 (b) EQUIVALENT POSITION DEFINED.—An equivalent position shall mean a
258 position with equivalent pay, benefits, seniority, status, schedule, and working conditions.

259 (c) EXCEPTION.—Nothing in this section shall be construed to entitle any employee to
260 any right, benefit, or position to which the employee would not have been entitled had the
261 employee not taken the leave.

262 (d) PROHIBITION ON PRETEXTUAL ELIMINATION.—An employer shall not deny
263 restoration under this section on the basis that the position has been restructured,
264 eliminated, or reassigned, where such action was undertaken for the purpose of
265 interfering with rights under this Act.

266 **SEC. 10. RULEMAKING.**

267 (a) IN GENERAL.—Not later than 1 year after the date of enactment, the Equal
268 Employment Opportunity Commission shall issue regulations in an accessible format to
269 carry out this Act.

270 (b) SPECIFIC EXAMPLES.—Such regulations shall provide specific examples of
271 reasonable accommodations addressing covered medical conditions, including types of
272 medically necessary leave and temporary duty assignments. Such regulations shall
273 include illustrative examples of reasonable accommodations, including intermittent leave,

274 temporary reassignment, modified schedules, and temporary suspension of essential job
275 functions.

276 **SEC. 11. TRAINING AND COMPLIANCE.** An employer shall provide periodic training to
277 supervisory and human resources personnel regarding the requirements of this Act, including the
278 prohibition of retaliation, the obligation to engage in the interactive process, and the handling of
279 medical information in a confidential manner. Such training shall be conducted at reasonable
280 intervals and in a manner accessible to employees with disabilities.

281 **SEC. 12. NOTICE AND POSTING REQUIREMENTS.**

282 (a) NOTICE.—Each employer shall post and keep posted, in conspicuous places on the
283 premises of the employer where notices to employees are customarily posted, a notice
284 describing the applicable provisions of this Act. Employers shall also provide such notice
285 in an accessible format to applicants and employees upon hire and upon request.

286 (b) FAILURE TO POST.—Failure to comply with the requirements of this section may
287 be considered as evidence of interference with, restraint of, or denial of the exercise of
288 rights provided under this Act.

289 **SEC. 13. ENFORCEMENT AND REMEDIES.**

290 (a) ENFORCEMENT.—The powers, remedies, and procedures set forth in Title VII of
291 the Civil Rights Act and the Americans with Disabilities Act shall be available to
292 aggrieved individuals for violations of this Act, and the Equal Employment Opportunity
293 Commission shall have primary authority for enforcement consistent with such statutes.

294 (b) REMEDIES.—An employer who violates this Act shall be liable for such legal or
295 equitable relief as may be appropriate, including employment, reinstatement, promotion,
296 back pay, compensatory damages, punitive damages where permitted, and reasonable
297 attorney's fees and costs.

298 (c) APPLICABILITY TO FEDERAL EMPLOYEES.—Separate procedures and
299 remedies shall apply to employees covered by the Congressional Accountability Act of
300 1995 and chapter 5 of Title 3, United States Code, consistent with the protections
301 provided therein.

302 (d) GOOD FAITH LIMITATION.—Damages may not be awarded under this section if
303 the covered employer demonstrates good faith efforts, in consultation with the employee,
304 to identify and make a reasonable accommodation that would provide the employee with
305 an equally effective opportunity and would not cause an undue hardship on the operation
306 of the covered employer. In determining good faith, the court shall consider whether the
307 employer engaged in a timely, interactive process and made reasonable efforts to identify
308 an effective accommodation.

309 **SEC. 14. LIMITATION ON EMPLOYER DEFENSES.** Nothing in this Act shall be construed
310 to eliminate the defense of undue hardship; however, generalized assertions of staffing shortages
311 or operational inconvenience, without individualized analysis, shall be insufficient where a causal
312 connection exists between the covered medical condition and the adverse employment action.

313 **SEC. 15. WAIVER OF STATE IMMUNITY.** A State shall not be immune under the 11th
314 Amendment to the Constitution from an action in a Federal or State court of competent
315 jurisdiction for a violation of this Act. Remedies are available against a State to the same extent
316 as they are available against any public or private employer.

317 **SEC. 16. RELATION TO OTHER LAWS.**

318 (a) MINIMUM PROTECTIONS.—This Act establishes minimum protections and shall
319 not be construed to conflict with or preempt existing federal laws.

320 (b) CONFLICT OF LAWS.—Where federal law provides greater protection, such law
321 shall govern; where this Act provides greater protection, this Act shall govern. Nothing in
322 this Act shall be construed to diminish the rights, privileges, or remedies of any employee
323 under any other federal, state, or local law.

324 **SEC. 17. SEVERABILITY.** If any provision of this chapter or the application of that provision
325 to particular persons or circumstances is held invalid or found to be unconstitutional, the
326 remainder of this chapter and the application of that provision to other persons or circumstances
327 shall not be affected.