

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1175

A bill to amend 2018 PA 338, entitled
"Earned sick time act,"
by amending the title and sections 1, 2, 3, 4, 5, 7, 8, 10, 11, and
14 (MCL 408.961, 408.962, 408.963, 408.964, 408.965, 408.967,
408.968, 408.970, 408.971, and 408.974); and to repeal acts and
parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An ~~initiation of legislation~~ **ACT** to **REQUIRE CERTAIN EMPLOYERS**
TO provide ~~workers~~ **CERTAIN EMPLOYEES** with ~~the right to earn sick~~
~~time~~ **PAID MEDICAL LEAVE** for personal or family health needs, as
well as purposes related to domestic violence and sexual assault;
~~and school meetings needed as the result of a child's disability,~~

1 ~~health issues or issues due to domestic violence and sexual~~
 2 ~~assault;~~ to specify the conditions for accruing and using earned
 3 ~~sick time;~~ to prohibit retaliation against an employee for
 4 ~~requesting, exercising, or enforcing rights granted in this act;~~
 5 **PAID MEDICAL LEAVE;** to prescribe powers and duties of certain state
 6 departments, agencies, and officers; ~~to provide for promulgation of~~
 7 ~~rules;~~ and to provide remedies and sanctions.

8 Sec. 1. This act shall be known and may be cited as the
 9 ~~"earned sick time act".~~ **"PAID MEDICAL LEAVE ACT"**.

10 Sec. 2. As used in this act:

11 **(A) "BENEFIT YEAR" MEANS ANY CONSECUTIVE 12-MONTH PERIOD USED**
 12 **BY AN EMPLOYER TO CALCULATE AN ELIGIBLE EMPLOYEE'S BENEFITS.**

13 **(B)** ~~(a)~~ "Department" means the department of licensing and
 14 regulatory affairs.

15 **(C)** ~~(b)~~ "Director" means the director of the department of
 16 ~~licensing and regulatory affairs or his or her~~ **THE DIRECTOR'S**
 17 designee.

18 ~~(c) "Domestic partner" means an adult in a committed~~
 19 ~~relationship with another adult, including both same-sex and~~
 20 ~~different-sex relationships. "Committed relationship" means one in~~
 21 ~~which the employee and another individual share responsibility for~~
 22 ~~a significant measure of each other's common welfare, such as any~~
 23 ~~relationship between individuals of the same or different sex that~~
 24 ~~is granted legal recognition by a state, political subdivision, or~~
 25 ~~the District of Columbia as a marriage or analogous relationship,~~
 26 ~~including, but not limited to, a civil union.~~

27 (d) "Domestic violence" ~~has the same meaning~~ **MEANS THAT TERM**

1 as provided ~~DEFINED~~ in section 1 of 1978 PA 389, MCL 400.1501.
 2 ~~— (e) "Earned sick time" means time off from work that is~~
 3 ~~provided by an employer to an employee, whether paid or unpaid,~~
 4 ~~that can be used for the purposes described in subsection (1) of~~
 5 ~~section 4 of this act.~~

6 **(E) ~~(f) "Employee"~~ "ELIGIBLE EMPLOYEE"** means an individual
 7 engaged in service to an employer in the business of the employer ~~7~~
 8 ~~except that employee does not include an individual employed by the~~
 9 ~~United States government.~~ **AND FROM WHOM AN EMPLOYER IS REQUIRED TO**
 10 **WITHHOLD FOR FEDERAL INCOME TAX PURPOSES. ELIGIBLE EMPLOYEE DOES**
 11 **NOT INCLUDE ANY OF THE FOLLOWING:**

12 **(i) AN INDIVIDUAL WHO IS EXEMPT FROM OVERTIME REQUIREMENTS**
 13 **UNDER SECTION 13(A) (1) OF THE FAIR LABOR STANDARDS ACT, 29 USC**
 14 **213(A) (1) .**

15 **(ii) AN INDIVIDUAL WHO IS NOT EMPLOYED BY A PUBLIC AGENCY, AS**
 16 **THAT TERM IS DEFINED IN SECTION 3 OF THE FAIR LABOR STANDARDS ACT,**
 17 **29 USC 203, AND WHO IS COVERED BY A COLLECTIVE BARGAINING AGREEMENT**
 18 **THAT IS IN EFFECT.**

19 **(iii) AN INDIVIDUAL EMPLOYED BY THE UNITED STATES GOVERNMENT,**
 20 **ANOTHER STATE, OR A POLITICAL SUBDIVISION OF ANOTHER STATE.**

21 **(iv) AN INDIVIDUAL EMPLOYED BY AN AIR CARRIER AS A FLIGHT DECK**
 22 **OR CABIN CREW MEMBER THAT IS SUBJECT TO TITLE II OF THE RAILWAY**
 23 **LABOR ACT, 45 USC 151 TO 188.**

24 **(v) AN EMPLOYEE AS DESCRIBED IN SECTION 201 OF THE RAILWAY**
 25 **LABOR ACT, 45 USC 181.**

26 **(vi) AN EMPLOYEE AS DEFINED IN SECTION 1 OF THE RAILROAD**
 27 **UNEMPLOYMENT INSURANCE ACT, 45 USC 351.**

1 (vii) AN INDIVIDUAL WHOSE PRIMARY WORK LOCATION IS NOT IN THIS
2 STATE.

3 (viii) AN INDIVIDUAL WHOSE MINIMUM HOURLY WAGE RATE IS
4 DETERMINED UNDER SECTION 4B OF THE IMPROVED WORKFORCE OPPORTUNITY
5 WAGE ACT, 2018 PA 337, MCL 408.934B.

6 (ix) AN INDIVIDUAL DESCRIBED IN SECTION 29(1) (l) OF THE
7 MICHIGAN EMPLOYMENT SECURITY ACT, 1936 (EX SESS) PA 1, MCL 421.29.

8 (x) AN INDIVIDUAL EMPLOYED BY AN EMPLOYER FOR 25 WEEKS OR
9 FEWER IN A CALENDAR YEAR FOR A JOB SCHEDULED FOR 25 WEEKS OR FEWER.

10 (xi) A VARIABLE HOUR EMPLOYEE AS DEFINED IN 26 CFR 54.4980H-1.

11 (xii) AN INDIVIDUAL WHO WORKED, ON AVERAGE, FEWER THAN 25
12 HOURS PER WEEK DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR.

13 (F) ~~(g)~~ "Employer" means any person, firm, business,
14 educational institution, nonprofit agency, corporation, limited
15 liability company, government entity, or other entity that employs
16 ~~4~~50 or more individuals. ~~, except that employer~~ **EMPLOYER** does not
17 include the United States government, **ANOTHER STATE, OR A POLITICAL**
18 **SUBDIVISION OF ANOTHER STATE.**

19 (G) ~~(h)~~ "Family member" includes all of the following:

20 (i) A biological, adopted or foster child, stepchild or legal
21 ward, ~~a child of a domestic partner,~~ or a child to whom the
22 **ELIGIBLE** employee stands in loco parentis.

23 (ii) A biological parent, foster parent, stepparent, or
24 adoptive parent or a legal guardian of an **ELIGIBLE** employee or an
25 **ELIGIBLE** employee's spouse ~~or domestic partner or a person~~ **AN**
26 **INDIVIDUAL** who stood in loco parentis when the **ELIGIBLE** employee
27 was a minor child.

1 (iii) ~~A person~~ **AN INDIVIDUAL** to whom the **ELIGIBLE** employee is
2 legally married under the laws of any state. ~~or a domestic partner.~~

3 (iv) A grandparent.

4 (v) A grandchild.

5 (vi) A biological, foster, or adopted sibling.

6 ~~(vii) Any other individual related by blood or affinity whose~~
7 ~~close association with the employee is the equivalent of a family~~
8 ~~relationship.~~

9 **(H) ~~(i)~~ "Health care professional" PROVIDER** means any of the
10 following: **THAT TERM AS DEFINED IN SECTION 101 OF THE FAMILY AND**
11 **MEDICAL LEAVE ACT, 29 USC 2611.**

12 ~~(i) Any person licensed under federal law or the law of this~~
13 ~~state to provide health care services, including, but not limited~~
14 ~~to, nurses, doctors, and emergency room personnel.~~

15 ~~(ii) A certified midwife.~~

16 ~~(j) "Retaliatory personnel action" means any of the following:~~

17 ~~(i) Denial of any right guaranteed under this act.~~

18 ~~(ii) A threat, discharge, suspension, demotion, reduction of~~
19 ~~hours, or other adverse action against an employee or former~~
20 ~~employee for exercise of a right guaranteed under this act.~~

21 ~~(iii) Sanctions against an employee who is a recipient of~~
22 ~~public benefits for exercise of a right guaranteed under this act.~~

23 ~~(iv) Interference with, or punishment for, an individual's~~
24 ~~participation in any manner in an investigation, proceeding, or~~
25 ~~hearing under this act.~~

26 **(I) "PAID MEDICAL LEAVE" MEANS TIME OFF FROM WORK THAT IS**
27 **PROVIDED BY AN EMPLOYER TO AN ELIGIBLE EMPLOYEE THAT CAN BE USED**

1 **FOR THE PURPOSES DESCRIBED IN SECTION 4(1).**

2 (J) ~~(k)~~ "Sexual assault" means any act that ~~constitutes a~~
3 ~~violation of~~ **VIOLATES** section 520b, 520c, 520d, 520e, 520f, ~~or 520g~~
4 of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c,
5 750.520d, 750.520e, ~~750.520f,~~ and 750.520g.

6 ~~(l) "Small business" means an employer for which fewer than 10~~
7 ~~individuals work for compensation during a given week. In~~
8 ~~determining the number of individuals performing work for~~
9 ~~compensation during a given week, all individuals performing work~~
10 ~~for compensation on a full-time, part-time, or temporary basis~~
11 ~~shall be counted, including individuals made available to work~~
12 ~~through the services of a temporary services or staffing agency or~~
13 ~~similar entity. An employer is not a small business if it~~
14 ~~maintained 10 or more employees on its payroll during any 20 or~~
15 ~~more calendar workweeks in either the current or the preceding~~
16 ~~calendar year.~~

17 Sec. 3. (1) ~~Each~~ **AN** employer shall provide ~~earned sick time~~
18 **PAID MEDICAL LEAVE** to each of the employer's **ELIGIBLE** employees in
19 this state.

20 ~~(a) Employees of a small business shall accrue a minimum of~~
21 ~~one hour of earned sick time for every 30 hours worked but shall~~
22 ~~not be entitled to use more than 40 hours of paid earned sick time~~
23 ~~in a year unless the employer selects a higher limit. If an~~
24 ~~employee of a small business accrues more than 40 hours of earned~~
25 ~~sick time in a calendar year, the employee shall be entitled to use~~
26 ~~an additional 32 hours of unpaid earned sick time in that year,~~
27 ~~unless the employer selects a higher limit. Employees of a small~~

1 ~~business must be entitled to use paid earned sick time before using~~
2 ~~unpaid earned sick time.~~

3 (2) ~~(b) All other employees shall~~ **EXCEPT AS OTHERWISE PROVIDED**
4 **IN SUBSECTION (3), AN ELIGIBLE EMPLOYEE MUST** accrue a ~~minimum PAID~~
5 **MEDICAL LEAVE AT A RATE of AT LEAST** one hour of ~~paid earned sick~~
6 ~~time~~ **MEDICAL LEAVE** for every ~~30-35~~ hours worked. ~~but shall~~ **AN**
7 **EMPLOYER IS** ~~not be entitled to use~~ **REQUIRED TO ALLOW AN ELIGIBLE**
8 **EMPLOYEE TO ACCRUE** more than ~~72-1~~ **HOUR OF PAID MEDICAL LEAVE IN A**
9 **CALENDAR WEEK. AN EMPLOYER MAY LIMIT AN ELIGIBLE EMPLOYEE'S ACCRUAL**
10 **OF PAID MEDICAL LEAVE TO NOT LESS THAN 40** hours of ~~paid earned sick~~
11 ~~time per~~ **BENEFIT year.** ~~, unless the employer selects a higher~~
12 ~~limit.~~ **AN EMPLOYER IS NOT REQUIRED TO ALLOW AN ELIGIBLE EMPLOYEE TO**
13 **CARRY OVER MORE THAN 40 HOURS OF UNUSED ACCRUED PAID MEDICAL LEAVE**
14 **FROM ONE BENEFIT YEAR TO ANOTHER BENEFIT YEAR. AN EMPLOYER IS NOT**
15 **REQUIRED TO ALLOW AN ELIGIBLE EMPLOYEE TO USE MORE THAN 40 HOURS OF**
16 **PAID FAMILY MEDICAL LEAVE IN A SINGLE BENEFIT YEAR.**

17 (3) **AS AN ALTERNATIVE TO SUBSECTION (2), AN EMPLOYER MAY**
18 **PROVIDE AT LEAST 40 HOURS OF PAID MEDICAL LEAVE TO AN ELIGIBLE**
19 **EMPLOYEE AT THE BEGINNING OF A BENEFIT YEAR. FOR ELIGIBLE EMPLOYEES**
20 **HIRED DURING A BENEFIT YEAR, AN EMPLOYER MAY PRORATE PAID MEDICAL**
21 **LEAVE PROVIDED UNDER THIS SUBSECTION. IF AN EMPLOYER ELECTS TO**
22 **PROVIDE PAID MEDICAL LEAVE TO AN ELIGIBLE EMPLOYEE PURSUANT TO THIS**
23 **SUBSECTION, THE EMPLOYER IS NOT REQUIRED TO ALLOW THE ELIGIBLE**
24 **EMPLOYEE TO CARRY OVER ANY OF THAT PAID MEDICAL LEAVE TO ANOTHER**
25 **BENEFIT YEAR.**

26 ~~—— (c) Earned sick time shall carry over from year to year, but a~~
27 ~~small business is not required to permit an employee to use more~~

1 ~~than 40 hours of paid earned sick time and 32 hours of unpaid~~
2 ~~earned sick time in a single year, and other employers are not~~
3 ~~required to permit an employee to use more than 72 hours of paid~~
4 ~~earned sick time in a single year.~~

5 (4) ~~(2) Earned sick time~~ **PAID MEDICAL LEAVE** as provided in
6 this section shall begin to accrue on the effective date of this
7 law, or upon commencement of the employee's employment, whichever
8 is later. An employee may use accrued ~~earned sick time~~ **PAID MEDICAL**
9 **LEAVE** as it is accrued, except that an employer may require an
10 employee hired ~~after April 1, 2019,~~ to wait until the ninetieth
11 calendar day after commencing employment before using accrued
12 ~~earned sick time.~~ **PAID MEDICAL LEAVE.**

13 ~~—— (3) For purposes of subsection (1), "year" shall mean a~~
14 ~~regular and consecutive twelve-month period, as determined by an~~
15 ~~employer.~~

16 ~~—— (4) For purposes of earned sick time accrual under this act,~~
17 ~~an employee who is exempt from overtime requirements under section~~
18 ~~13(a) (1) of the Fair Labor Standards Act, 29 USC 213(a) (1), is~~
19 ~~assumed to work 40 hours in each workweek unless the employee's~~
20 ~~normal work week is less than 40 hours, in which case earned sick~~
21 ~~time accrues based upon that normal workweek.~~

22 (5) An ~~THERE IS A REBUTTABLE PRESUMPTION THAT AN~~ employer
23 ~~other than an small business~~ is in compliance with this section ~~ACT~~
24 if the employer provides any paid leave in at least the same
25 amounts as that provided under this act that may be used for the
26 same purposes and under the same conditions provided in this act
27 and that is accrued at a rate equal to or greater than the rate

1 ~~described in subsections (1) and (2). An employer that is a small~~
 2 ~~business is in compliance with this section if the employer~~
 3 ~~provides paid leave in at least the same amounts as that provided~~
 4 ~~under this act that may be used for the same purposes and under the~~
 5 ~~same conditions provided in this act and that is accrued at a rate~~
 6 ~~equal to or greater than the rate described in subsections (1) and~~
 7 ~~(2) provided further that that employees of the small business are~~
 8 ~~entitled to use paid earned sick time before using unpaid earned~~
 9 ~~sick time. For purposes of this subsection, "paid leave" includes~~
 10 ~~but is not limited to paid vacation days, personal days, and paid~~
 11 ~~time off.~~ **40 HOURS OF PAID LEAVE TO AN ELIGIBLE EMPLOYEE EACH**

12 **BENEFIT YEAR.**

13 (6) An employer shall pay each **ELIGIBLE** employee using paid
 14 ~~earned sick time~~ **MEDICAL LEAVE** at a pay rate equal to the greater
 15 of either the normal hourly wage **OR BASE WAGE** for that **ELIGIBLE**
 16 employee or the minimum wage **RATE** established ~~under~~ **IN SECTION 4 OF**
 17 the **IMPROVED** workforce opportunity wage act, 2014 PA 138, MCL
 18 408.411 to 408.424, but not less than the minimum wage rate
 19 established in section 4 of the workforce opportunity wage act,
 20 2014, PA 138, MCL 408.414. For any employee whose hourly wage
 21 varies depending on the work performed, the "normal hourly wage"
 22 means the average hourly wage of the employee in the pay period
 23 immediately prior to the pay period in which the employee used paid
 24 earned sick time.

25 ~~—— (7) An employer shall not require an employee to search for or~~
 26 ~~secure a replacement worker as a condition for using earned sick~~
 27 ~~time.~~ **2018 PA 337, MCL 408.934. AN EMPLOYER IS NOT REQUIRED TO**

1 INCLUDE OVERTIME PAY, HOLIDAY PAY, BONUSES, COMMISSIONS,
2 SUPPLEMENTAL PAY, PIECE-RATE PAY, OR GRATUITIES IN THE CALCULATION
3 OF AN ELIGIBLE EMPLOYEE'S NORMAL HOURLY WAGE OR BASE WAGE.

4 (7) AS USED IN THIS SECTION:

5 (A) "HOURS WORKED" DOES NOT INCLUDE, UNLESS OTHERWISE INCLUDED
6 BY AN EMPLOYER, HOURS TAKEN OFF FROM WORK BY AN ELIGIBLE EMPLOYEE
7 FOR PAID LEAVE.

8 (B) "PAID LEAVE" INCLUDES, BUT IS NOT LIMITED TO, PAID
9 VACATION DAYS, PAID PERSONAL DAYS, AND PAID TIME OFF.

10 Sec. 4. (1) An employer shall ~~permit~~ **ALLOW** an **ELIGIBLE**
11 employee to use ~~the earned sick time~~ **PAID MEDICAL LEAVE** accrued
12 under section 3 for any of the following:

13 (a) The **ELIGIBLE** employee's mental or physical illness,
14 injury, or health condition; medical diagnosis, care, or treatment
15 of the **ELIGIBLE** employee's mental or physical illness, injury, or
16 health condition; or preventative medical care for the **ELIGIBLE**
17 employee.

18 (b) ~~For the~~ **THE ELIGIBLE** employee's family member's mental or
19 physical illness, injury, or health condition; medical diagnosis,
20 care, or treatment of the **ELIGIBLE** employee's family member's
21 mental or physical illness, injury, or health condition; or
22 preventative medical care for a family member of the **ELIGIBLE**
23 employee.

24 (c) If the **ELIGIBLE** employee ~~of~~ **OR** the **ELIGIBLE** employee's
25 family member is a victim of domestic violence or sexual assault,
26 ~~for~~ **THE** medical care or psychological or other counseling for
27 physical or psychological injury or disability; to obtain services

1 from a victim services organization; to relocate due to domestic
 2 violence or sexual assault; to obtain legal services; or to
 3 participate in any civil or criminal proceedings related to or
 4 resulting from the domestic violence or sexual assault.

5 ~~—— (d) For meetings at a child's school or place of care related~~
 6 ~~to the child's health or disability, or the effects of domestic~~
 7 ~~violence or sexual assault on the child; or~~

8 (D) ~~(e)~~ For closure of the **ELIGIBLE** employee's place of
 9 business **PRIMARY WORKPLACE** by order of a public official due to a
 10 public health emergency; for an **ELIGIBLE** employee's need to care
 11 for a child whose school or place of care has been closed by order
 12 of a public official due to a public health emergency; or ~~when~~ **IF**
 13 it has been determined by the health authorities having
 14 jurisdiction or by a health care provider that the **ELIGIBLE**
 15 employee's or **ELIGIBLE** employee's family member's presence in the
 16 community would jeopardize the health of others because of the
 17 **ELIGIBLE** employee's or family member's exposure to a communicable
 18 disease, whether or not the **ELIGIBLE** employee or family member has
 19 actually contracted the communicable disease.

20 (2) ~~If the employee's need to use earned sick time is~~
 21 ~~foreseeable, an employer may require advance notice, not to exceed~~
 22 ~~7 days prior to the date the earned sick time is to begin, of the~~
 23 ~~intention to use the earned sick time. If the employee's need for~~
 24 ~~the earned sick time is not foreseeable, an employer may require~~
 25 ~~the employee to give notice of the intention as soon as~~
 26 ~~practicable.~~ **AN ELIGIBLE EMPLOYEE SHALL, WHEN REQUESTING TO USE PAID**
 27 **MEDICAL LEAVE, COMPLY WITH HIS OR HER EMPLOYER'S USUAL AND**

1 CUSTOMARY NOTICE, PROCEDURAL, AND DOCUMENTATION REQUIREMENTS FOR
2 REQUESTING LEAVE. AN EMPLOYER SHALL GIVE AN ELIGIBLE EMPLOYEE AT
3 LEAST 3 DAYS TO PROVIDE THE EMPLOYER WITH DOCUMENTATION. THIS ACT
4 DOES NOT PROHIBIT AN EMPLOYER FROM DISCIPLINING OR DISCHARGING AN
5 ELIGIBLE EMPLOYEE FOR FAILING TO COMPLY WITH THE EMPLOYER'S USUAL
6 AND CUSTOMARY NOTICE, PROCEDURAL, AND DOCUMENTATION REQUIREMENTS
7 FOR REQUESTING LEAVE.

8 (3) ~~Earned sick time may~~ **PAID MEDICAL LEAVE MUST** be used in
9 ~~the smaller of hourly 1-HOUR increments or the smallest increment~~
10 ~~that the employer's payroll system uses to account for absences or~~
11 ~~use of other time.~~ **UNLESS THE EMPLOYER HAS A DIFFERENT INCREMENT**
12 **POLICY AND THE POLICY IS IN WRITING IN AN EMPLOYEE HANDBOOK OR**
13 **OTHER EMPLOYEE BENEFITS DOCUMENT.**

14 (4) ~~For earned sick time of more than 3 consecutive days, an~~
15 ~~employer may require reasonable documentation that the earned sick~~
16 ~~time has been used for a purpose described in subsection (1). Upon~~
17 ~~the employer's request, the employee must provide the documentation~~
18 ~~to the employer in a timely manner. The employer shall not delay~~
19 ~~the commencement of earned sick time on the basis that the employer~~
20 ~~has not yet received documentation. Documentation signed by a~~
21 ~~health care professional indicating that earned sick time is~~
22 ~~necessary is reasonable documentation for purposes of this~~
23 ~~subsection. In cases~~ **AN EMPLOYER MAY REQUIRE AN ELIGIBLE EMPLOYEE**
24 **WHO IS USING PAID MEDICAL LEAVE BECAUSE** of domestic violence or
25 sexual assault, ~~one of the~~ **TO PROVIDE DOCUMENTATION THAT THE PAID**
26 **MEDICAL LEAVE HAS BEEN USED FOR THAT PURPOSE. THE** following types
27 of documentation ~~selected by the employee shall be considered~~

1 ~~reasonable documentation~~ **ARE SATISFACTORY FOR PURPOSES OF THIS**
 2 **SUBSECTION:**

3 (a) ~~a~~**A** police report indicating that the **ELIGIBLE** employee or
 4 the **ELIGIBLE** employee's family member was a victim of domestic
 5 violence or sexual assault. †

6 (b) ~~a~~**A** signed statement from a victim and witness advocate
 7 affirming that the **ELIGIBLE** employee or **ELIGIBLE** employee's family
 8 member is receiving services from a victim services organization. †
 9 ~~or~~

10 (c) ~~a~~**A** court document indicating that the **ELIGIBLE** employee
 11 or **ELIGIBLE** employee's family member is involved in legal action
 12 related to domestic violence or sexual assault. ~~An employer shall~~
 13 ~~not require that the documentation explain the nature of the~~
 14 ~~illness or the details of the violence. If an employer chooses to~~
 15 ~~require documentation for earned sick time, the employer is~~
 16 ~~responsible for paying all out-of-pocket expenses the employee~~
 17 ~~incurs in obtaining the documentation. If the employee does have~~
 18 ~~health insurance, the employer is responsible for paying any costs~~
 19 ~~charged to the employee by the health care provider for providing~~
 20 ~~the specific documentation required by the employer.~~

21 (5) **AN EMPLOYER SHALL NOT REQUIRE THAT THE DOCUMENTATION**
 22 **PROVIDED UNDER SUBSECTION (4) EXPLAIN THE DETAILS OF THE VIOLENCE.**
 23 An employer shall not require disclosure of details relating to
 24 domestic violence or sexual assault or the details of an **ELIGIBLE**
 25 employee's or an **ELIGIBLE** employee's family member's medical
 26 condition as a condition of providing ~~earned sick time~~**PAID MEDICAL**
 27 **LEAVE** under this act. If an employer possesses health information

1 or information pertaining to domestic violence or sexual assault
2 about an **ELIGIBLE** employee or **ELIGIBLE** employee's family member,
3 the employer shall treat that information as confidential and shall
4 not disclose that information except to the affected **ELIGIBLE**
5 employee or with the permission of the affected **ELIGIBLE** employee.

6 (6) This act does not require an employer to provide earned
7 ~~sick time~~ **PAID MEDICAL LEAVE** for any purposes other than as
8 described in this section.

9 Sec. 5. (1) If an **ELIGIBLE** employee is transferred to a
10 separate division, entity, or location, but remains employed by the
11 same employer, the **ELIGIBLE** employee ~~shall retain~~ **RETAINS** all
12 ~~earned sick time~~ **PAID MEDICAL LEAVE** that was accrued at the prior
13 division, entity, or location and may use ~~all~~ **THE** accrued earned
14 ~~sick time as provided in~~ **PAID MEDICAL LEAVE PURSUANT TO** section 4.
15 If an **ELIGIBLE** employee separates from employment and is rehired by
16 the same employer, ~~within 6 months of the separation,~~ the employer
17 ~~shall reinstate previously accrued,~~ **IS NOT REQUIRED TO ALLOW THE**
18 **ELIGIBLE EMPLOYEE TO RETAIN ANY** unused ~~earned sick time and shall~~
19 ~~permit the reinstated employee to use that earned sick time and~~
20 ~~accrue additional earned sick time upon reinstatement.~~ **PAID MEDICAL**
21 **LEAVE THAT THE ELIGIBLE EMPLOYEE PREVIOUSLY ACCUMULATED WHILE**
22 **WORKING FOR THE EMPLOYER.**

23 ~~—— (2) If a different employer succeeds or takes the place of an~~
24 ~~existing employer, the successor employer assumes the~~
25 ~~responsibility for the earned sick time rights that employees who~~
26 ~~remain employed by the successor employer accrued under the~~
27 ~~original employer. Those employees are entitled to use earned sick~~

1 ~~time previously accrued on the terms provided in this act.~~

2 (2) ~~(3)~~ This act does not require an employer to provide
3 financial or other reimbursement to an **ELIGIBLE** employee for
4 accrued ~~earned sick time~~ **PAID MEDICAL LEAVE** that was not used upon
5 **BEFORE** the employee's **END OF A BENEFIT YEAR OR BEFORE THE ELIGIBLE**
6 **EMPLOYEE'S** termination, resignation, retirement, or other
7 separation from employment.

8 Sec. 7. (1) If an employer violates this act, the **ELIGIBLE**
9 employee affected by the violation, at any time within ~~3 years~~ **6**
10 **MONTHS** after the violation ~~or the date when the employee knew of~~
11 ~~the violation, whichever is later, may do any of the following:~~
12 ~~—— (a) Bring a civil action for appropriate relief, including,~~
13 ~~but not limited to, payment for used earned sick time; rehiring or~~
14 ~~reinstatement to the employee's previous job; payment of back~~
15 ~~wages; reestablishment of employee benefits to which the employee~~
16 ~~otherwise would have been eligible if the employee had not been~~
17 ~~subjected to retaliatory personnel action or discrimination; and an~~
18 ~~equal additional amount as liquidated damages together with costs~~
19 ~~and reasonable attorney fees as the court allows.~~

20 ~~—— (b) File **MAY FILE** a claim with the department. , which shall~~
21 ~~investigate the claim. Filing a claim with the department is~~
22 ~~neither a prerequisite nor a bar to bringing a civil action.~~

23 (2) ~~(a)~~ The director shall enforce ~~the provisions of this act.~~
24 ~~In effectuating such enforcement, the~~ **THE** director shall establish
25 a system utilizing multiple means of communication to receive
26 complaints regarding non-compliance with this act and investigate
27 complaints received by the department in a timely manner.

~~1 (b) Any person alleging a violation of this chapter shall have
2 the right to file a complaint with the department. The department
3 shall encourage reporting pursuant to this subsection by keeping
4 confidential, to the maximum extent permitted by applicable laws,
5 the name and other identifying information of the employee or
6 person reporting the violation, provided, however, that with the
7 authorization of such person, the department may disclose his or
8 her name and identifying information as necessary to enforce this
9 chapter or for other appropriate purposes.~~

10 (3) ~~(e)~~ Upon receiving a complaint alleging a violation of
11 this ~~chapter, ACT~~, the department shall investigate ~~such~~ **THE**
12 complaint and attempt to resolve it through mediation between the
13 complainant and the subject of the complaint, or other means. The
14 department shall keep complainants notified regarding the status of
15 their complaint and any resultant investigation. If the department
16 ~~believes~~ **DETERMINES** that a violation has occurred, it shall issue
17 to the offending person ~~or entity~~ a notice of violation and the
18 relief required of the offending person. ~~or entity~~. The department
19 shall prescribe the form and wording of ~~such~~ notices of violation,
20 ~~including any~~ **WHICH MUST INCLUDE THE** method of appealing the
21 ~~decision~~ **DETERMINATION** of the department.

22 (4) ~~(d)~~ The department shall ~~have the power to~~ **MAY** impose
23 penalties and ~~to~~ grant an **ELIGIBLE** employee or former **ELIGIBLE**
24 employee all ~~appropriate relief including but not limited to~~
25 payment of all ~~earned sick time~~ **PAID MEDICAL LEAVE** improperly
26 withheld. ~~, any and all damages incurred by the complainant as the~~
27 ~~result of violation of this act, back pay and reinstatement in the~~

1 ~~ease of job loss.~~ **THE DEPARTMENT IS THE TRUSTEE FOR THE ELIGIBLE**
 2 **EMPLOYEE OR FORMER ELIGIBLE EMPLOYEE AND SHALL DISTRIBUTE AND**
 3 **ACCOUNT FOR MONEY COLLECTED UNDER THIS SUBSECTION.**

4 ~~—— (3) If the director determines that there is reasonable cause~~
 5 ~~to believe that an employer violated this act and the department is~~
 6 ~~subsequently unable to obtain voluntary compliance by the employer~~
 7 ~~within a reasonable time, the department shall bring a civil action~~
 8 ~~as provided in subsection (1)(a) on behalf of the employee. The~~
 9 ~~department may investigate and file a civil action under subsection~~
 10 ~~(1)(a) on behalf of all employees that employer who are similarly~~
 11 ~~situated at the same work site and who have not brought a civil~~
 12 ~~action under subsection (1)(a). A contract or agreement between the~~
 13 ~~employer and the employee or any acceptance by the employee of a~~
 14 ~~paid or unpaid leave policy that provides fewer rights or benefits~~
 15 ~~than provided by this act is void and unenforceable.~~

16 (5) ~~(4) In addition to liability for civil remedies described~~
 17 ~~in this section, an **AN** employer who **THAT** fails to provide earned~~
 18 ~~sick time **PAID MEDICAL LEAVE** in violation of this act or takes~~
 19 ~~retaliatory personnel action against an employee or former employee~~
 20 ~~is subject to a civil **AN ADMINISTRATIVE** fine of not more than~~
 21 ~~\$1,000.00.~~

22 (6) ~~(5) An employer that willfully violates a notice or **THE**~~
 23 ~~posting requirement of section 8 is subject to a civil **AN**~~
 24 ~~**ADMINISTRATIVE** fine of not more than \$100.00 for each separate~~
 25 ~~violation.~~

26 Sec. 8. (1) An employer ~~subject to this act shall provide~~
 27 ~~written notice to each employee at the time of hiring or by April~~

1 ~~1, 2019, whichever is later, including, but not limited to, DISPLAY~~
2 **A POSTER AT THE EMPLOYER'S PLACE OF BUSINESS, IN A CONSPICUOUS**
3 **PLACE THAT IS ACCESSIBLE TO ELIGIBLE EMPLOYEES, THAT CONTAINS** all
4 of the following **INFORMATION:**

5 (a) The amount of ~~earned sick time~~ **PAID MEDICAL LEAVE** required
6 to be provided to an **ELIGIBLE** employee under this act.

7 ~~— (b) The employer's choice of how to calculate a "year"~~
8 ~~according to subsection 3 of section 3.~~

9 **(B)** ~~(e)~~ The terms under which ~~earned sick time~~ **PAID MEDICAL**
10 **LEAVE** may be used.

11 ~~— (d) That retaliatory personnel action by the employer against~~
12 ~~an employee for requesting or using earned sick time for which the~~
13 ~~employee is eligible is prohibited.~~

14 **(C)** ~~(e)~~ The **ELIGIBLE** employee's right to ~~bring a civil action~~
15 ~~or~~ file a complaint with the department for any violation of this
16 act.

17 ~~— (2) The notice required under subsection (1) shall be in~~
18 ~~English, Spanish, and any language that is the first language~~
19 ~~spoken by at least 10% of the employer's workforce, as long as the~~
20 ~~department has translated the notice into such language.~~

21 ~~— (3) An employer shall display a poster at the employer's place~~
22 ~~of business, in a conspicuous place that is accessible to~~
23 ~~employees, that contains the information in subsection (1). The~~
24 ~~poster displayed should be in English, Spanish, and any language~~
25 ~~that is the first language spoken by at least 10% of the employer's~~
26 ~~workforce, as long as the department has translated the poster into~~
27 ~~such language.~~

1 (2) ~~(4)~~ The department shall create and make available to
 2 employers, ~~notices and~~ **AT NO COST**, posters that contain the
 3 information required under subsection (1) for employers' use in
 4 complying with this section. ~~The department shall provide such~~
 5 ~~notices and posters in English, Spanish, and any other languages~~
 6 ~~deemed appropriate by the department.~~

7 Sec. 10. An employer shall retain for not less than ~~3 years~~ **1**
 8 **YEAR** records documenting the hours worked and ~~earned sick time~~ **PAID**
 9 **MEDICAL LEAVE** taken by **ELIGIBLE** employees. ~~To monitor compliance~~
 10 ~~with the requirements of this act, an employer shall allow the~~
 11 ~~department access to those records, with appropriate notice and at~~
 12 ~~a mutually agreeable time. If a question arises as to whether an~~
 13 ~~employer has violated an employee's right to earned sick time under~~
 14 ~~this act and the employer does not maintain or retain adequate~~
 15 ~~records documenting the hours worked and earned sick time taken by~~
 16 ~~the employee or does not allow the department reasonable access to~~
 17 ~~those records, there is a presumption that the employer has~~
 18 ~~violated the act, which can be rebutted only by clear and~~
 19 ~~convincing evidence.~~ **THOSE RECORDS SHALL BE OPEN TO INSPECTION BY**
 20 **THE DIRECTOR AT ANY REASONABLE TIME.**

21 Sec. 11. ~~(1)~~ This act provides minimum requirements pertaining
 22 to ~~earned sick time and shall not be construed to preempt, limit,~~
 23 ~~or otherwise affect the applicability of any other law, regulation,~~
 24 ~~requirement, policy, or standard, including a collective bargaining~~
 25 ~~agreement, that provides for greater accrual or use of time off,~~
 26 ~~whether paid or unpaid, or that extends other protections to~~
 27 ~~employees.~~

1 ~~——(2) This act does not do any of the following:~~

2 (a) Prohibit an employer from providing more ~~earned sick time~~
3 **PAID MEDICAL LEAVE** than is required under this act.

4 (b) Diminish any **OTHER** rights provided to any **ELIGIBLE**
5 employee under a collective bargaining agreement.

6 (c) Subject to section 12, preempt or override the terms of
7 any collective bargaining agreement in effect prior to the
8 effective date of this act.

9 (d) Prohibit an employer from establishing a policy that
10 permits an **ELIGIBLE** employee to donate unused accrued ~~earned sick~~
11 ~~time~~ **PAID MEDICAL LEAVE** to another **ELIGIBLE** employee.

12 Sec. 14. If any portion of this act or the application thereof
13 to any person or circumstances shall be found to be invalid by a
14 court, such invalidity shall not affect, impair, or invalidate the
15 other portions or applications of the act that can be given effect
16 without the invalid portion or application, and to this end the
17 provisions of this act are declared to be severable. **IF A FEDERAL**
18 **PAID MEDICAL LEAVE MANDATE IS ENACTED, THIS ACT DOES NOT APPLY AS**
19 **OF THE EFFECTIVE DATE OF THE MANDATE.**

20 Enacting section 1. Sections 6, 9, and 13 of 2018 PA 338, MCL
21 408.966, 408.969, and 408.973, are repealed.