

SENATE BILL NO. 164

February 23, 2021, Introduced by Senators MOSS, CHANG, ALEXANDER, BULLOCK, GEISS, BRINKS, SANTANA, POLEHANKI, MCCANN, ANANICH, BAYER, WOJNO, HERTEL and HOLLIER and referred to the Committee on Economic and Small Business Development.

A bill to prohibit an employer from taking certain actions against employees who engage in certain activities during a declared emergency related to COVID-19; to prohibit discrimination and retaliation for engaging in certain activities; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1. As used in this act:
- 2 (a) "Adverse employment action" includes, but is not limited
- 3 to, any of the following:

1 (i) Disciplinary action.

2 (ii) Termination of employment.

3 (iii) A demotion or a failure to provide a promotion.

4 (iv) An involuntary change in a work shift.

5 (v) An involuntary reduction of work hours.

6 (vi) A reduction of employment benefits.

7 (vii) A reduction in salary or wage.

8 (viii) Any other adverse change in the terms or conditions of
9 employment that is reasonably likely to deter protected activity.

10 (b) "COVID-19" means coronavirus disease 2019.

11 (c) "Employee" means an individual employed by an employer.

12 (d) "Employer" means a person or a state or local governmental
13 entity that employs 1 or more individuals.

14 (e) "Person" means an individual, partnership, corporation,
15 association, or other legal entity.

16 (f) "Principal symptoms of COVID-19" means any of the
17 following:

18 (i) Fever.

19 (ii) Atypical cough.

20 (iii) Atypical shortness of breath.

21 Sec. 3. (1) An employer shall not take adverse employment
22 action or otherwise discriminate or retaliate against an employee
23 who is absent from work during an emergency declared by the
24 governor related to COVID-19 if the employee did not attend work
25 for any of the following reasons:

26 (a) The employee was self-isolating or self-quarantining for
27 any of the following reasons:

28 (i) In response to an elevated risk from COVID-19 due to an

1 existing health condition.

2 (ii) After displaying 1 or more of the principal symptoms of
3 COVID-19.

4 (iii) While seeking a medical diagnosis from a health care
5 provider after suffering symptoms related to COVID-19.

6 (iv) After having had contact in the last 14 days with an
7 individual with a confirmed diagnosis of COVID-19.

8 (v) After having had contact in the last 14 days with an
9 individual displaying 1 or more of the principal symptoms of COVID-
10 19 who was seeking a medical diagnosis from a health care provider.

11 (vi) After having received a diagnosis of COVID-19.

12 (vii) In response to a reasonable fear related to COVID-19 due
13 to an objective condition existing at the employee's place of work.

14 (b) The employee was required to care for another individual
15 self-isolating or self-quarantining for 1 of the following reasons:

16 (i) In response to an elevated risk from COVID-19 due to an
17 existing health condition.

18 (ii) After displaying 1 or more of the principal symptoms of
19 COVID-19.

20 (iii) While seeking a medical diagnosis from a health care
21 provider after suffering symptoms related to COVID-19.

22 (iv) After having had contact in the last 14 days with an
23 individual with a confirmed diagnosis of COVID-19.

24 (v) After having had contact in the last 14 days with an
25 individual displaying 1 or more of the principal symptoms of COVID-
26 19 who was seeking a medical diagnosis from a health care provider.

27 (vi) After the individual receives a confirmed diagnosis of
28 COVID-19.

1 (c) The employee has a family care responsibility for 1 of the
2 following reasons:

3 (i) The closure of a school, day care, or other child care
4 facility or provider.

5 (ii) The closure of a nursing home or other adult care facility
6 or provider.

7 (d) The employee lacks a transportation option that would
8 enable the employee to travel to and from the employee's place of
9 work either alone or solely with other members of the employee's
10 household.

11 (2) An employer shall not take an adverse employment action or
12 otherwise discriminate or retaliate against an employee because the
13 employee does any of the following:

14 (a) Opposes a violation of this act.

15 (b) Brings an action under this act.

16 (c) Testifies, assists, or participates in an action brought
17 under this act.

18 Sec. 5. (1) An employee aggrieved by a violation of this act
19 may bring a civil action for appropriate injunctive relief or
20 damages, or both, in the circuit court for the county where the
21 alleged violation occurred or for the county where the employer
22 against whom the action is filed is located or has its principal
23 place of business.

24 (2) A court shall award to a plaintiff who prevails in an
25 action brought under this act both of the following:

26 (a) The plaintiff's actual damages or \$5,000.00, whichever is
27 greater.

28 (b) The plaintiff's reasonable costs and reasonable attorney
29 fees.