

SENATE BILL NO. 1022

July 23, 2020, Introduced by Senators SCHMIDT, HORN and MACGREGOR and referred to the Committee on Economic and Small Business Development.

A bill to prohibit an employer from taking certain actions against an employee who does not report to work under certain circumstances related to COVID-19; to prohibit an employee from reporting to work under certain circumstances related to COVID-19; to prohibit discrimination and retaliation for engaging in certain activities; to provide remedies; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

(a) "Adverse employment action" includes, but is not limited to, any of the following:

(i) Disciplinary action.

(ii) Termination of employment.

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

(iv) An involuntary change in a work shift.

(v) An involuntary reduction of work hours.

(vi) A reduction of employment benefits.

(vii) A reduction in salary or wage.

(viii) Any other changes in the terms or conditions of employment.

(b) "Close contact" means being within approximately 6 feet of an individual for a prolonged period of time.

(c) "COVID-19" means the novel coronavirus identified as SARS-CoV-2 or a virus mutating from SARS-CoV-2.

(d) "Damages" means any of the following:

(i) Actual injury or loss.

(ii) Reasonable attorney fees.

(iii) Reasonable court costs.

(e) "Employee" means an individual employed by an employer and whose primary workplace is not the individual's residence.

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

(g) "First responder" means any of the following:

(i) A law enforcement officer.

(ii) A firefighter.

(iii) A paramedic.

(h) "Health care facility" means the following facilities,

1 including those that may operate under shared or joint ownership,
2 and a facility used as surge capacity by any of the following
3 facilities:

4 (i) An entity listed in section 20106(1) of the public health
5 code, 1978 PA 368, MCL 333.20106.

6 (ii) A state-owned hospital or surgical center.

7 (iii) A state-operated outpatient facility.

8 (iv) A state-operated veterans' facility.

9 (i) "Person" means an individual, partnership, corporation,
10 association, or other legal entity.

11 (j) "Principal symptoms of COVID-19" means any of the
12 following:

13 (i) Fever.

14 (ii) Atypical cough.

15 (iii) Atypical shortness of breath.

16 Sec. 3. (1) Except as provided in subsections (2) and (3), an
17 employer shall not take adverse employment action or otherwise
18 discriminate or retaliate against an employee who does either of
19 the following:

20 (a) Complies with section 5.

21 (b) Opposes a violation of this act.

22 (2) An employer may discharge or discipline an employee if 1
23 or more of the following apply:

24 (a) The employee is not prohibited from reporting to work
25 under this act but the employee does not report to work. This
26 subdivision does not apply if the employee's failure to report to
27 work is otherwise protected by law.

28 (b) The employee consents to the discharge or discipline.

29 (c) There is any other lawful basis to discipline or discharge

1 the employee.

2 (3) Subsection (1) does not apply to either of the following:

3 (a) An employee described in section 5 who reports to work
4 before the end of the applicable period specified in section 5.

5 (b) An employee described in section 5 who fails to be tested
6 for COVID-19 within 3 days of displaying 1 or more of the principal
7 symptoms of COVID-19.

8 Sec. 5. (1) An employee who tests positive for COVID-19 or
9 displays 1 or more of the principal symptoms of COVID-19 shall not
10 report to work until the employee receives a negative COVID-19 test
11 result or until both of the following conditions are met:

12 (a) Three days have passed since the employee's symptoms have
13 ended.

14 (b) Seven days have passed since either of the following,
15 whichever is later:

16 (i) The date the employee's symptoms first appeared.

17 (ii) The date the employee received the test that yielded a
18 positive result for COVID-19.

19 (2) Except as provided in subsection (3), an employee who has
20 close contact with an individual who tests positive for COVID-19 or
21 with an individual who displays 1 or more of the principal symptoms
22 of COVID-19 shall not report to work until 1 of the following
23 conditions is met:

24 (a) Fourteen days have passed since the employee last had
25 close contact with the individual.

26 (b) The individual with whom the employee had close contact
27 receives a negative COVID-19 test result.

28 (3) Subsection (2) does not apply to an employee who is any of
29 the following:

1 (a) A health care professional.

2 (b) A worker at a health care facility.

3 (c) A first responder.

4 (d) A child protective service employee.

5 (e) A worker at a child caring institution, as that term is
6 defined in section 1 of 1973 PA 116, MCL 722.111.

7 (f) A worker at a correctional facility.

8 Sec. 7. (1) An employee aggrieved by a violation of this act
9 may bring a civil action for appropriate injunctive relief or
10 damages, or both, in the circuit court for the county where the
11 alleged violation occurred or for the county where the employer
12 against whom the action is filed is located or has its principal
13 place of business.

14 (2) A court shall award to a plaintiff who prevails in an
15 action brought under this act damages of not less than \$5,000.00.

16 Sec. 9. (1) This act applies to public employers and public
17 employees, except to the extent that it is inconsistent with
18 section 5 of article XI of the state constitution of 1963.

19 (2) If a collective bargaining agreement or other contract
20 that is inconsistent with this act is in effect for an employee on
21 the effective date of this act, this act applies to that employee
22 beginning on the date the collective bargaining agreement or other
23 contract expires or is amended, extended, or renewed.

24 Sec. 11. This act is repealed effective March 31, 2021.

25 Enacting section 1. This act does not take effect unless all
26 of the following bills of the 100th Legislature are enacted into
27 law:

28 (a) Senate Bill No. 1024.

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1 (b) Senate Bill No. 1023.
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