

# HOUSE BILL NO. 4677

April 21, 2021, Introduced by Reps. Hammoud, Kahle, Slagh, Posthumus, Tyrone Carter, Aiyash and Yancey and referred to the Committee on Rules and Competitiveness.

A bill to amend 2018 PA 338, entitled  
"Paid medical leave act,"  
by amending the title and sections 2 and 4 (MCL 408.962 and  
408.964), as amended by 2018 PA 369.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE  
2 An act to require certain employers to provide certain  
3 employees with paid medical leave for personal or family health  
4 needs, as well as purposes related to ~~domestic violence and sexual~~

1 ~~assault;~~ **certain acts or crimes;** to specify the conditions for  
 2 accruing and using paid medical leave; to prescribe powers and  
 3 duties of certain state departments, agencies, and officers; and to  
 4 provide remedies and sanctions.

5 Sec. 2. As used in this act:

6 (a) "Benefit year" means any consecutive 12-month period used  
 7 by an employer to calculate an eligible employee's benefits.

8 (b) "Department" means the department of ~~licensing and~~  
 9 ~~regulatory affairs.~~ **labor and economic opportunity.**

10 (c) "Director" means the director of the department or the  
 11 director's designee.

12 (d) "Domestic violence" means that term as defined in section  
 13 1 of 1978 PA 389, MCL 400.1501.

14 (e) "Eligible employee" means an individual engaged in service  
 15 to an employer in the business of the employer and from whom an  
 16 employer is required to withhold for federal income tax purposes.  
 17 Eligible employee does not include any of the following:

18 (i) An individual who is exempt from overtime requirements  
 19 under ~~section 13(a)(1) of the fair labor standards act,~~ 29 USC  
 20 213(a)(1).

21 (ii) An individual who is not employed by a public agency, as  
 22 that term is defined in ~~section 3 of the fair labor standards act,~~  
 23 29 USC 203, and who is covered by a collective bargaining agreement  
 24 that is in effect.

25 (iii) An individual employed by the United States government,  
 26 another state, or a political subdivision of another state.

27 (iv) An individual employed by an air carrier as a flight deck  
 28 or cabin crew member that is subject to ~~title II of the railway~~  
 29 ~~labor act,~~ 45 USC 151 to 188.

(v) An employee as described in ~~section 201 of the railway labor act,~~ 45 USC 181.

(vi) An employee as defined in ~~section 1 of the railroad unemployment insurance act,~~ 45 USC 351.

(vii) An individual whose primary work location is not in this state.

(viii) An individual whose minimum hourly wage rate is determined under section 4b of the improved workforce opportunity wage act, 2018 PA 337, MCL 408.934b.

(ix) An individual described in section 29(1)(l) of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.29.

(x) An individual employed by an employer for 25 weeks or fewer in a calendar year for a job scheduled for 25 weeks or fewer.

(xi) A variable hour employee as defined in 26 CFR 54.4980H-1.

(xii) An individual who worked, on average, fewer than 25 hours per week during the immediately preceding calendar year.

(f) "Employer" means any person, firm, business, educational institution, nonprofit agency, corporation, limited liability company, government entity, or other entity that employs 50 or more individuals. Employer does not include the United States government, another state, or a political subdivision of another state.

(g) "Family member" includes all of the following:

(i) A biological, adopted or foster child, stepchild or legal ward, or a child to whom the eligible employee stands in loco parentis.

(ii) A biological parent, foster parent, stepparent, or adoptive parent or a legal guardian of an eligible employee or an eligible employee's spouse or an individual who stood in loco

parentis when the eligible employee was a minor child.

(iii) An individual to whom the eligible employee is legally married under the laws of any state.

(iv) A grandparent.

(v) A grandchild.

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

**(vii) An individual to whom the eligible employee is engaged to be married or an individual who resides with the eligible employee in an intimate or romantic relationship.**

**(viii) Any other individual with whom the eligible employee is related by blood or affinity and who meets 1 of the following conditions:**

**(A) Resides with the eligible employee.**

**(B) Resided with the eligible employee for a period of not less than 2 years.**

(h) "Health care provider" means that term as defined in ~~section 101 of the family and medical leave act,~~ 29 USC 2611.

(i) "Paid medical leave" means time off from work that is provided by an employer to an eligible employee that can be used for the purposes described in section 4(1).

(j) "Sexual assault" means any act that violates section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

**(k) "Victim" means an individual who meets 1 of the following conditions:**

**(i) One or more of the following is committed or attempted against the individual:**

**(A) An act of domestic violence, sexual assault, or stalking.**

**(B) A crime, regardless of whether the perpetrator is arrested**

1 or charged, if the crime causes 1 or more of the following to the  
2 individual:

3 (I) Physical injury or death.

4 (II) Psychological injury accompanied by a reasonably  
5 perceived or actual threat of physical injury or death.

6 (ii) The individual is physically present at the scene of and  
7 witnesses an act described in subparagraph (i) or (ii) and who as a  
8 result meets 1 of the following conditions:

9 (A) Suffers physical or psychological injury.

10 (B) Reasonably believes that he or she is threatened with  
11 imminent harm.

12 (l) "Victim and witness advocate" means an individual who  
13 provides services to victims, whether paid or unpaid, under the  
14 auspices or supervision of a victim services organization, court,  
15 or law enforcement or prosecution agency.

16 (m) "Victim services organization" means an agency or  
17 organization that provides services to victims, including, but not  
18 limited to, a rape crisis center, domestic violence shelter, or  
19 faith-based or other agency or organization with a documented  
20 history of providing services to victims.

21 Sec. 4. (1) An employer shall allow an eligible employee to  
22 use paid medical leave accrued under section 3 for any of the  
23 following:

24 (a) The eligible employee's mental or physical illness,  
25 injury, or health condition; medical diagnosis, care, or treatment  
26 of the eligible employee's mental or physical illness, injury, or  
27 health condition; or preventative medical care for the eligible  
28 employee.

29 (b) The eligible employee's family member's mental or physical

1 illness, injury, or health condition; medical diagnosis, care, or  
2 treatment of the eligible employee's family member's mental or  
3 physical illness, injury, or health condition; or preventative  
4 medical care for a family member of the eligible employee.

5 (c) If the eligible employee or the eligible employee's family  
6 member is a victim, ~~of domestic violence or sexual assault,~~ the  
7 medical care or psychological or other counseling for physical or  
8 psychological injury or disability; to obtain services from a  
9 victim services organization; to relocate ~~due to domestic violence~~  
10 ~~or sexual assault;~~ **because of the act that results in the eligible**  
11 **employee or the eligible employee's family member becoming a**  
12 **victim;** to obtain legal services; **to participate in planning to**  
13 **increase the safety of the eligible employee or eligible employee's**  
14 **family member from future violence; to grieve the loss of a victim**  
15 **that is deceased;** or to participate in any civil or criminal  
16 proceedings related to or resulting from the ~~domestic violence or~~  
17 ~~sexual assault.~~ **act that results in the eligible employee or the**  
18 **eligible employee's family member becoming a victim.**

19 (d) For closure of the eligible employee's primary workplace  
20 by order of a public official ~~due to~~ **because of** a public health  
21 emergency; for an eligible employee's need to care for a child  
22 whose school or place of care has been closed by order of a public  
23 official ~~due to~~ **because of** a public health emergency; or if it has  
24 been determined by the health authorities having jurisdiction or by  
25 a health care provider that the eligible employee's or eligible  
26 employee's family member's presence in the community would  
27 jeopardize the health of others because of the eligible employee's  
28 or family member's exposure to a communicable disease, whether or  
29 not the eligible employee or family member has actually contracted

1 the communicable disease.

2 (2) An eligible employee shall, when requesting to use paid  
3 medical leave, comply with his or her employer's usual and  
4 customary notice, procedural, and documentation requirements for  
5 requesting leave. An employer shall give an eligible employee at  
6 least 3 days to provide the employer with documentation. This act  
7 does not prohibit an employer from disciplining or discharging an  
8 eligible employee for failing to comply with the employer's usual  
9 and customary notice, procedural, and documentation requirements  
10 for requesting leave.

11 (3) Paid medical leave must be used in 1-hour increments  
12 unless the employer has a different increment policy and the policy  
13 is in writing in an employee handbook or other employee benefits  
14 document.

15 (4) An employer may require an eligible employee who is using  
16 paid medical leave ~~because of domestic violence or sexual assault~~  
17 **under subsection (1) (c)** to provide documentation that the paid  
18 medical leave has been used for that purpose. The following types  
19 of documentation are satisfactory for purposes of this subsection:

20 (a) A police report indicating that the eligible employee or  
21 the eligible employee's family member was a victim. ~~of domestic~~  
22 ~~violence or sexual assault.~~

23 (b) A signed statement from a victim and witness advocate  
24 affirming that the eligible employee or eligible employee's family  
25 member is receiving services from a victim services organization.

26 (c) A court document **including, but not limited to, a personal**  
27 **protection order**, indicating that the eligible employee or eligible  
28 employee's family member is involved in legal action related to  
29 domestic violence or ~~sexual assault.~~**victimization.**

1           (d) A death certificate, obituary, or other form of death  
2 verification if the eligible employee's family member is a deceased  
3 victim.

4           (e) A signed statement from a health care provider indicating  
5 that the eligible employee or eligible employee's family member  
6 suffered a physical or psychological injury as a victim.

7           (5) An employer shall not require that the documentation  
8 provided under subsection (4) explain the details of the ~~violence~~  
9 **qualifying act or crime**. An employer shall not require disclosure  
10 of details relating to ~~domestic violence or sexual assault~~ **a**  
11 **qualifying act or crime** or the details of an eligible employee's or  
12 an eligible employee's family member's medical condition as a  
13 condition of providing paid medical leave under this act. If an  
14 employer possesses health information or information pertaining to  
15 ~~domestic violence or sexual assault~~ **a qualifying act or crime** about  
16 an eligible employee or eligible employee's family member, the  
17 employer shall treat that information as confidential and shall not  
18 disclose that information except to the affected eligible employee  
19 or with the permission of the affected eligible employee.

20           (6) This act does not require an employer to provide paid  
21 medical leave for any purposes other than as described in this  
22 section.