

HOUSE BILL NO. 4755

April 29, 2021, Introduced by Reps. Hood, Sabo, Koleszar, Bolden, Hope, Shannon, Haadsma, Pohutsky, Cavanagh, Steckloff, Stone, Brenda Carter, Hertel, Kuppa, Morse, Thanedar, O'Neal, Rogers, Tyrone Carter, Young, Scott, Breen, Brabec, Weiss, Tate and Cynthia Johnson and referred to the Committee on Workforce, Trades, and Talent.

A bill to prohibit an employer from taking certain actions against an employee who engages in certain activities during certain emergencies; 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:
- 4 (i) Disciplinary action.

1 (ii) Termination of employment.

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

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

4 (v) An involuntary reduction of work hours.

5 (vi) A reduction of employment benefits.

6 (vii) A reduction in salary or wage.

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

9 (b) "Employee" means an individual employed by an employer.

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

12 (d) "Person" means an individual, partnership, corporation,
13 association, or other legal entity.

14 (e) "State emergency" means either of the following:

15 (i) An emergency declared by the governor because of a
16 contagious disease.

17 (ii) The period of time that an order issued by the director of
18 the department of health and human services under section 2253 of
19 the public health code, 1978 PA 368, MCL 333.2253, is in effect.

20 Sec. 3. (1) An employer shall not take adverse employment
21 action or otherwise discriminate or retaliate against an employee
22 who is absent from work during a state emergency if the employee
23 did not attend work for any of the following reasons:

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

26 (i) In response to an elevated risk from the contagious disease
27 because of an existing health condition.

28 (ii) After displaying 1 or more of the principal symptoms of
29 the contagious disease.

1 (iii) While seeking a medical diagnosis from a health care
2 provider after suffering symptoms related to the contagious
3 disease.

4 (iv) After having had contact in the last 14 days with an
5 individual with a confirmed diagnosis of the contagious disease.

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

10 (vi) After having received a diagnosis of the contagious
11 disease.

12 (vii) In response to a reasonable fear related to the
13 contagious disease because of an objective condition existing at
14 the employee's place of work.

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

17 (i) In response to an elevated risk from the contagious disease
18 because of an existing health condition.

19 (ii) After displaying 1 or more of the principal symptoms of
20 the contagious disease.

21 (iii) While seeking a medical diagnosis from a health care
22 provider after suffering symptoms related to the contagious
23 disease.

24 (iv) After having had contact in the last 14 days with an
25 individual with a confirmed diagnosis of the contagious disease.

26 (v) After having had contact in the last 14 days with an
27 individual displaying 1 or more of the principal symptoms of the
28 contagious disease who was seeking a medical diagnosis from a
29 health care provider.

1 (vi) After the individual receives a confirmed diagnosis of the
2 contagious disease.

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

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

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

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

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

16 (a) Opposes a violation of this act.

17 (b) Brings an action under this act.

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

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

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

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

1 (b) The plaintiff's reasonable costs and reasonable attorney
2 fees.