

SENATE BILL NO. 15

January 08, 2025, Introduced by Senator SINGH and referred to Committee on Regulatory Affairs.

A bill to amend 2018 PA 338, entitled
"Earned sick time act,"
by amending sections 2, 3, 4, 6, and 7 (MCL 408.962, 408.963,
408.964, 408.966, and 408.967).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2. As used in this act:
- 2 (a) "Department" means the department of ~~licensing~~ **labor** and
- 3 ~~regulatory affairs.~~ **economic opportunity.**
- 4 (b) "Director" means the director of the department of
- 5 ~~licensing and regulatory affairs or his or her~~ **the director's**
- 6 designee.

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

(d) "Domestic violence" ~~has the same meaning~~ **means that term** as ~~provided~~ **defined** in section 1 of 1978 PA 389, MCL 400.1501.

(e) "Earned sick time" means time off from work that is provided by an employer to an employee, whether paid or unpaid, that can be used for the purposes described in ~~subsection (1) of section 4 of this act.~~ **section 4(1).**

(f) "Employee" means an individual engaged in service to an employer in the business of the employer, except that employee does not include an individual employed by the United States government.

(g) "Employer" means any person, firm, business, educational institution, nonprofit agency, corporation, limited liability company, government entity, or other entity that employs 1 or more individuals, except that employer does not include the United States government.

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

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

(ii) ~~(ii)~~ A biological parent, foster parent, stepparent, or

1 adoptive parent or a legal guardian of an employee or an employee's
 2 spouse or domestic partner or ~~a person~~ **an individual** who stood in
 3 loco parentis when the employee was a minor child.

4 **(iii)** ~~(iii) A person~~ **An individual** to whom the employee is
 5 legally married under the laws of any state or a domestic partner.

6 **(iv)** ~~(iv)~~ A grandparent.

7 **(v)** ~~(v)~~ A grandchild.

8 **(vi)** ~~(vi)~~ A biological, foster, or adopted sibling.

9 **(vii)** ~~(vii) Any other~~ **An individual** related by blood ~~or~~
 10 ~~affinity to the employee.~~

11 **(viii)** **An individual** whose close association with the employee
 12 is the equivalent of a family relationship.

13 (i) "Health care professional" means any of the following:

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

17 **(ii)** ~~(ii)~~ A certified midwife.

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

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

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

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

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

28 (k) "Sexual assault" means any act that ~~constitutes a~~
 29 ~~violation of~~ **violates** section 520b, 520c, 520d, 520e, ~~520f,~~ or 520g

of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, ~~750.520f~~, and 750.520g.

(1) ~~(1)~~—"Small business" means an employer for which fewer than ~~10~~**25** individuals work for compensation during a given week. In determining the number of individuals performing work for compensation during a given week, all individuals performing work for compensation on a full-time, part-time, or temporary basis ~~shall~~**must** be counted, including individuals made available to work through the services of a temporary services or staffing agency or similar entity. An employer is not a small business if it maintained ~~10~~**25** or more employees on its payroll during any 20 or more calendar workweeks in either the current or ~~the~~**immediately** preceding calendar year.

Sec. 3. (1) ~~Each~~**An** employer shall provide earned sick time to each of the employer's employees in this state.

(2) ~~(a) Employees~~**Except as otherwise provided in this subsection, an employee** of a small business ~~shall~~**must** accrue a minimum of ~~one~~**1** hour of earned sick time for every 30 hours worked but ~~shall~~**may** not be entitled to use more than 40 hours of paid earned sick time in a year unless the employer selects a higher limit. If an employee of a small business accrues more than 40 hours of earned sick time in a calendar year, the employee ~~shall be entitled to~~**may** use an additional 32 hours of unpaid earned sick time in that year, unless the employer selects a higher limit. Employees of a small business ~~must be entitled to~~**may** use paid earned sick time before using unpaid earned sick time. **As an alternative to the accrual of earned sick time, a small business may provide an employee not less than 40 hours of paid earned sick time and not less than 30 hours of unpaid earned sick time at the**

1 **beginning of a year.**

2 **(3) ~~(b) All~~ Except as otherwise provided in this subsection,**
 3 **all other employees ~~shall~~ must** accrue a minimum of ~~one~~ **1** hour of
 4 **paid earned sick time for every 30 hours worked but ~~shall~~ may not**
 5 **~~be entitled to use~~ more than 72 hours of paid earned sick time ~~per~~**
 6 **in a year, unless the employer selects a higher limit. As an**
 7 **alternative to the accrual of earned sick time, an employer may**
 8 **provide an employee not less than 72 hours of paid earned sick time**
 9 **at the beginning of a year.**

10 **(4) ~~(c) Earned~~ Subject to the requirements of this subsection,**
 11 **earned sick time ~~shall carry~~ carries** over from year to year, but a
 12 **small business is not required to ~~permit~~ allow** an employee to use
 13 **more than 40 hours of paid earned sick time and 32 hours of unpaid**
 14 **earned sick time in a single year, and all other employers are not**
 15 **required to ~~permit~~ allow** an employee to use more than 72 hours of
 16 **paid earned sick time in a single year. The amount of accrued**
 17 **earned sick time an employee may carry over from year to year is**
 18 **subject to the following limits:**

19 **(a) If the employee's employer pays the employee the value of**
 20 **the employee's unused earned sick time before the end of a year,**
 21 **not more than 144 hours.**

22 **(b) If the employee's employer does not pay the employee the**
 23 **value of the employee's unused earned sick time, 288 hours.**

24 **(5) ~~(2)~~ Earned sick time as provided in this section ~~shall~~**
 25 **~~begin~~ begins** to accrue on the effective date of this ~~law~~ **act**, or
 26 **upon commencement of the employee's employment, whichever is later.**
 27 **An employee may use accrued earned sick time as it is accrued,**
 28 **except that an employer may require an employee hired after ~~April~~**
 29 **~~1, 2019,~~ the effective date of the 2025 amendatory act that amended**

1 **this section** to wait until the ninetieth calendar day after
 2 commencing employment before using accrued earned sick time.

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

6 ~~(4) For purposes of earned sick time accrual under this act,~~
 7 ~~an employee who is exempt from overtime requirements under section~~
 8 ~~13(a)(1) of the Fair Labor Standards Act, 29 USC 213(a)(1), is~~
 9 ~~assumed to work 40 hours in each workweek unless the employee's~~
 10 ~~normal work week is less than 40 hours, in which case earned sick~~
 11 ~~time accrues based upon that normal workweek.~~

12 ~~(6) (5)~~An employer other than a small business is in
 13 compliance with this section if the employer provides any paid
 14 ~~leave~~**time off** in at least the same ~~amounts~~**amount** as that provided
 15 under this act that may be used for the same purposes and under the
 16 same conditions provided ~~in~~**under** this act and that is accrued at a
 17 rate equal to or greater than the rate described in ~~subsections (1)~~
 18 ~~and (2).~~**subsection (3)**. An employer that is a small business is in
 19 compliance with this section if the employer provides paid ~~leave~~
 20 **time off** in at least the same ~~amounts~~**amount** as that provided under
 21 this act that may be used for the same purposes and under the same
 22 conditions provided ~~in~~**under** this act and that is accrued at a rate
 23 equal to or greater than the rate described in ~~subsections (1) and~~
 24 **subsection (2)**. ~~provided further that that employees of the small~~
 25 ~~business are entitled to use paid earned sick time before using~~
 26 ~~unpaid earned sick time. For purposes of this subsection, "paid~~
 27 ~~leave" includes but is not limited to paid vacation days, personal~~
 28 ~~days, and paid time off.~~

29 ~~(7) (6)~~An employer shall pay each employee using paid earned

sick time at a pay rate equal to the greater of either the normal hourly wage for that employee or the minimum wage established under the **improved** workforce opportunity wage act, ~~2014 PA 138, MCL 408.411 to 408.424, 2018 PA 337, MCL 408.931 to 408.945,~~ but not less than the minimum wage rate established in section 4 of the **improved** workforce opportunity wage act, ~~2014 PA 138, MCL 408.414.~~ **2018 PA 337, MCL 408.934.** For any employee whose hourly wage varies depending on the work performed, the "normal hourly wage" means the average hourly wage of the employee in the pay period immediately prior to the pay period in which the employee used paid earned sick time.

(8) ~~(7)~~—An employer shall not require an employee to search for or secure a replacement worker as a condition for using earned sick time.

(9) For purposes of subsections (2), (3), and (4), "year" means a regular and consecutive 12-month period, as determined by an employer.

(10) For purposes of earned sick time accrual under this act, all of the following apply:

(a) An employee who is exempt from overtime requirements under section 13(a)(1) of the fair labor standards act, 29 USC 213, is assumed to work 40 hours in each workweek unless the employee's normal workweek is less than 40 hours, in which case earned sick time accrues based on that normal workweek.

(b) An employee who is covered under 29 CFR 825.801 is assumed to have worked not less than 40 hours in each workweek or is assumed to have worked not less 30 hours if employed by a small business.

Sec. 4. (1) An employer shall ~~permit~~**allow** an employee to use

1 the earned sick time accrued **or provided** under section 3 for any of
2 the following:

3 (a) The employee's mental or physical illness, injury, or
4 health condition; medical diagnosis, care, or treatment of the
5 employee's mental or physical illness, injury, or health condition;
6 or preventative medical care for the employee.

7 (b) For the employee's family member's mental or physical
8 illness, injury, or health condition, ~~+~~medical diagnosis, care, or
9 treatment of the employee's family member's mental or physical
10 illness, injury, or health condition ~~+~~or preventative medical care
11 for a family member of the employee.

12 (c) If the employee or the employee's family member is a
13 victim of domestic violence or sexual assault, for medical care or
14 psychological or other counseling for physical or psychological
15 injury or disability, ~~+~~to obtain services from a victim services
16 organization, ~~+~~to relocate due to domestic violence or sexual
17 assault, ~~+~~to obtain legal services, ~~+~~or to participate in any
18 civil or criminal proceedings related to or resulting from the
19 domestic violence or sexual assault.

20 (d) For meetings at a child's school or place of care related
21 to the child's health or disability, or the effects of domestic
22 violence or sexual assault on the child. ~~+~~~~or~~

23 (e) For closure of the employee's place of business by order
24 of a public official due to a public health emergency, ~~+~~for an
25 employee's need to care for a child whose school or place of care
26 has been closed by order of a public official due to a public
27 health emergency, ~~+~~or when it has been determined by the health
28 authorities having jurisdiction or by a health care provider that
29 the employee's or employee's family member's presence in the

community would jeopardize the health of others because of the employee's or family member's exposure to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease.

(2) If the employee's need to use earned sick time is foreseeable, an employer ~~may~~ require advance notice, not to exceed 7 days ~~prior to~~ **before** the date the earned sick time is to begin, of the intention to use the earned sick time. If the employee's need for the earned sick time is not foreseeable, an employer, **other than an employer that has mandated staffing ratios**, may require the employee to give notice of the intention as soon as practicable. **An employer that has mandated staffing ratios may require an employee to comply with the employer's leave policy if the employee's need for the earned sick time is not foreseeable.**

(3) Earned sick time ~~may~~ **must** be used in ~~the smaller of hourly 1-hour increments. or the smallest increment that the employer's payroll system uses to account for absences of use of other time.~~

(4) For earned sick time of more than 3 consecutive days, an employer may require reasonable documentation that the earned sick time has been used for a purpose described in subsection (1). Upon the employer's request, the employee must provide the documentation to the employer in a timely manner. The employer shall not delay the commencement of earned sick time on the basis that the employer has not yet received documentation. Documentation signed by a health care professional indicating that earned sick time is necessary is reasonable documentation for purposes of this subsection. In cases of domestic violence or sexual assault, ~~one~~ **any** of the following types of documentation selected by the employee ~~shall be~~ **are** considered reasonable documentation:

1 (a) ~~a-A~~ police report indicating that the employee or the
2 employee's family member was a victim of domestic violence or
3 sexual assault. ~~+~~

4 (b) ~~a-A~~ signed statement from a victim and witness advocate
5 affirming that the employee or employee's family member is
6 receiving services from a victim services organization. ~~+-or~~

7 (c) ~~a-A~~ court document indicating that the employee or
8 employee's family member is involved in legal action related to
9 domestic violence or sexual assault.

10 (5) An employer shall not require that the documentation
11 explain the nature of the illness or the details of the violence.
12 If an employer chooses to require documentation for earned sick
13 time, the employer is responsible for paying all out-of-pocket
14 expenses the employee incurs in obtaining the documentation. If the
15 employee does have health insurance, the employer is responsible
16 for paying any costs charged to the employee by the health care
17 provider for providing the specific documentation required by the
18 employer.

19 (6) ~~(5)-~~An employer shall not require disclosure of details
20 relating to domestic violence or sexual assault or the details of
21 an employee's or an employee's family member's medical condition as
22 a condition of providing earned sick time under this act. If an
23 employer possesses health information or information pertaining to
24 domestic violence or sexual assault about an employee or employee's
25 family member, the employer shall treat that information as
26 confidential and shall not disclose that information except to the
27 affected employee or with the permission of the affected employee.

28 (7) ~~(6)-~~This act does not require an employer to provide
29 earned sick time for any purposes other than as described in this

1 section.

2 Sec. 6. (1) An employer or any other person shall not
3 interfere with, restrain, or deny the exercise of, or the attempt
4 to exercise, any right protected under this act.

5 (2) An employer shall not take retaliatory personnel action or
6 discriminate against an employee because the employee has exercised
7 a right protected under this act. Rights protected by this act
8 include, but are not limited to, the right to use earned sick time
9 ~~pursuant to~~ **under** this act, the right to file a complaint or inform
10 any person about any employer's alleged violation of this act, the
11 right to cooperate with the department in ~~its~~ **the department's**
12 investigations of alleged violations of this act, and the right to
13 inform any person of ~~his or her~~ **the person's** rights under this act.

14 (3) An employer's absence control policy ~~shall~~ **must** not treat
15 earned sick time taken under this act as an absence that may lead
16 to or result in retaliatory personnel action.

17 (4) The protections in this section apply to any person ~~who~~
18 **that** mistakenly but in good faith alleges a violation of this
19 section.

20 ~~(5) There is a rebuttable presumption of a violation of this~~
21 ~~section if an employer takes adverse personnel action against a~~
22 ~~person within 90 days after that person does any of the following:~~

23 ~~(a) Files a complaint with the department or a court alleging~~
24 ~~a violation of this act.~~

25 ~~(b) Informs any person about an employer's alleged violation~~
26 ~~of this act.~~

27 ~~(c) Cooperates with the department or another person in the~~
28 ~~investigation or prosecution of any alleged violation of this act.~~

29 ~~(d) Opposes any policy, practice, or act that is prohibited~~

1 ~~under this act.~~

2 ~~(c) Informs any person of his or her rights under this act.~~

3 Sec. 7. (1) If an employer violates this act, the employee
4 affected by the violation, at any time ~~within 3 years~~ **1 year** after
5 the violation or the date when the employee knew of the violation,
6 whichever is later, may ~~do any of the following:~~

7 ~~(a) Bring a civil action for appropriate relief, including,~~
8 ~~but not limited to, payment for used earned sick time; rehiring or~~
9 ~~reinstatement to the employee's previous job; payment of back~~
10 ~~wages; reestablishment of employee benefits to which the employee~~
11 ~~otherwise would have been eligible if the employee had not been~~
12 ~~subjected to retaliatory personnel action or discrimination; and an~~
13 ~~equal additional amount as liquidated damages together with costs~~
14 ~~and reasonable attorney fees as the court allows.~~

15 ~~(b) File~~ **file** a claim with the department. ~~, which~~ **The**
16 **department** shall investigate the claim. ~~Filing a claim with the~~
17 ~~department is neither a prerequisite nor a bar to bringing a civil~~
18 ~~action.~~

19 (2) ~~(a)~~ The director shall enforce the provisions of this act.
20 ~~In effectuating such enforcement,~~ **enforcing this act**, the director
21 shall ~~establish~~ **do both of the following:**

22 **(a) Establish** a system ~~utilizing that uses~~ multiple means of
23 communication to receive complaints ~~regarding non-compliance that~~
24 **are related to noncompliance** with this act. ~~and investigate~~

25 **(b) Investigate** complaints received by the department in a
26 timely manner.

27 **(3)** ~~(b)~~ Any person ~~alleging that alleges~~ a violation of this
28 ~~chapter shall have~~ **act has** the right to file a complaint with the
29 department. The department shall encourage reporting pursuant to

1 this subsection by keeping confidential, to the maximum extent
 2 permitted by applicable laws, the name and other identifying
 3 information of the employee or person reporting the violation. ~~7~~
 4 ~~provided, however, that with the authorization of such person,~~
 5 **However, if the person provides authorization to the department,**
 6 the department may disclose ~~his or her~~ **the person's** name and
 7 identifying information as necessary to enforce this ~~chapter~~ **act** or
 8 for other appropriate purposes.

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

21 **(5)** ~~(d)~~ The department ~~shall have the power to~~ **may** impose
 22 penalties and ~~to~~ grant an employee or former employee all
 23 appropriate relief, including but not limited to, payment of all
 24 earned sick time improperly withheld, any and all damages incurred
 25 by the complaint as the result of violation of this act, back pay,
 26 and reinstatement in the case of job loss.

27 **(6)** ~~(3)~~ If the director determines that there is reasonable
 28 cause to believe that an employer violated this act and the
 29 department is subsequently unable to obtain voluntary compliance by

1 the employer within a reasonable time, the department shall bring a
2 civil action ~~as provided in subsection (1)(a)~~ on behalf of the
3 employee. The department may investigate and file a civil action
4 ~~under subsection (1)(a)~~ on behalf of all employees **of** that employer
5 who are similarly situated at the same ~~work site~~ **worksite**. ~~and who~~
6 ~~have not brought a civil action under subsection (1)(a).~~ A contract
7 or agreement between the employer and the employee or any
8 acceptance by the employee of a paid or unpaid leave policy that
9 provides fewer rights or benefits than provided by this act is void
10 and unenforceable.

11 (7) ~~(4)~~ In addition to liability for civil remedies described
12 in this section, an employer ~~who fails to provide earned sick time~~
13 ~~in violation of this act or~~ **that** takes retaliatory personnel action
14 against an employee or former employee is subject to a civil fine
15 of not more than \$1,000.00 **for each violation**.

16 (8) **In addition to liability for civil remedies described in**
17 **this section, an employer that fails to provide earned sick time to**
18 **an employee in violation of this act is subject to a civil fine of**
19 **not more than 8 times the employee's normal hourly wage.**

20 (9) ~~(5)~~ An employer that willfully violates a notice or
21 posting requirement of section 8 is subject to a civil fine of not
22 more than \$100.00 for each ~~separate~~ violation.