

# HOUSE BILL NO. 5628

March 12, 2020, Introduced by Reps. Kuppa, Wittenberg, Gay-Dagnogo, Sowerby, Lasinski, Brixie, Ellison, Hertel, Kennedy, Cynthia Johnson, Coleman, Garza, Hammoud, Pohutsky, Clemente, Camilleri, Hood, Hope, Haadsma, Robinson, Elder, Peterson, Garrett, Cherry, Bolden, Shannon, Manoogian, Rabhi, Hoadley and Love and referred to the Committee on Commerce and Tourism.

A bill to amend 2018 PA 338, entitled  
"Paid medical leave act,"  
by amending the title and sections 1, 2, 3, 4, 5, 7, 8, 10, 11, and  
14 (MCL 408.961, 408.962, 408.963, 408.964, 408.965, 408.967,  
408.968, 408.970, 408.971, and 408.974), as amended by 2018 PA 369,  
and by adding sections 5b, 8b, and 12b.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1

TITLE



BJH



H03847'19

1 An act ~~to require certain employers to provide certain~~  
 2 ~~employees~~ **workers** with ~~paid medical leave~~ **the right to earn sick**  
 3 **time** for personal or family health needs, as well as purposes  
 4 related to domestic violence and sexual assault **and school meetings**  
 5 **needed as the result of a child's disability, health issues, or**  
 6 **issues related to domestic violence and sexual assault;** to specify  
 7 the conditions for accruing and using ~~paid medical leave;~~ **earned**  
 8 **sick time;** to prohibit retaliation against an employee for  
 9 **requesting, exercising, or enforcing rights granted in this act;** to  
 10 prescribe powers and duties of certain state departments, agencies,  
 11 and officers; **to provide for promulgation of rules;** and to provide  
 12 remedies and sanctions.

13 Sec. 1. This act shall be known and may be cited as the ~~"paid~~  
 14 ~~medical leave act"~~ **"earned sick time act"**.

15 Sec. 2. As used in this act:

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

18 **(a)** ~~(b)~~ "Department" means the department of licensing and  
 19 regulatory affairs.

20 **(b)** ~~(c)~~ "Director" means the director of the department or the  
 21 director's designee.

22 **(c)** "Domestic partner" means an adult in a committed  
 23 relationship with another adult, including a same-sex or different-  
 24 sex relationship. As used in this subdivision, "committed  
 25 relationship" means one in which the employee and another  
 26 individual share responsibility for a significant measure of each  
 27 other's common welfare, such as any relationship between  
 28 individuals of the same or different sex that is granted legal  
 29 recognition by a state, political subdivision, or the District of



1 Columbia as a marriage or analogous relationship, including, but  
2 not limited to, a civil union.

3 (d) "Domestic violence" means that term as defined in section  
4 1 of 1978 PA 389, MCL 400.1501.

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

8 (f) ~~(e) "Eligible employee"~~ "Employee" means an individual  
9 engaged in service to an employer in the business of the employer.  
10 ~~and from whom an employer is required to withhold for federal~~  
11 ~~income tax purposes. Eligible employee~~ **Employee** does not include **an**  
12 **individual employed by the United States government.** ~~any of the~~  
13 ~~following:~~

14 ~~(i) An individual who is exempt from overtime requirements~~  
15 ~~under section 13(a) (1) of the fair labor standards act, 29 USC~~  
16 ~~213(a) (1).~~

17 ~~(ii) An individual who is not employed by a public agency, as~~  
18 ~~that term is defined in section 3 of the fair labor standards act,~~  
19 ~~29 USC 203, and who is covered by a collective bargaining agreement~~  
20 ~~that is in effect.~~

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

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

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

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



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

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

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

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

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

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

13 ~~(g) (f) "Employer" means any person, firm, business,~~  
 14 ~~educational institution, nonprofit agency, corporation, limited~~  
 15 ~~liability company, government entity, or other entity that employs~~  
 16 ~~50-1 or more individuals. Employer does not include the United~~  
 17 ~~States government, another state, or a political subdivision of~~  
 18 ~~another state.~~

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

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

23 ~~(ii) A biological parent, foster parent, stepparent, or~~  
 24 ~~adoptive parent or a legal guardian of an eligible-employee or an~~  
 25 ~~eligible-employee's spouse **or domestic partner** or an individual who~~  
 26 ~~stood in loco parentis when the eligible-employee was a minor~~  
 27 ~~child.~~

28 ~~(iii) An individual to whom the eligible-employee is legally~~



1 married under the laws of any state **or a domestic partner.**

2 (iv) A grandparent.

3 (v) A grandchild.

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

5 (i) ~~(h)~~-"Health care provider"**professional** means ~~that term~~  
6 ~~as defined in section 101 of the family and medical leave act, 29~~  
7 ~~USC 2611.~~**any of the following:**

8 (i) **A person licensed under federal law or the law of this**  
9 **state to provide health care services, including, but not limited**  
10 **to, nurses, doctors, and emergency room personnel.**

11 (ii) **A certified midwife.**

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

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

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

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

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

22 (iv) **Interference with, or punishment for, an individual's**  
23 **participation in any manner in an investigation, proceeding, or**  
24 **hearing under this act.**

25 (k) ~~(j)~~-"Sexual assault" means any act that violates section  
26 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA  
27 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

28 (l) **"Small business" means an employer for which fewer than 10**



1 individuals work for compensation during a given week. In  
 2 determining the number of individuals performing work for  
 3 compensation during a given week, all individuals performing work  
 4 for compensation on a full-time, part-time, or temporary basis must  
 5 be counted, including individuals performing work through the  
 6 services of a temporary services or staffing agency or similar  
 7 entity. An employer is not a small business if it maintained 10 or  
 8 more employees on its payroll during any 20 or more calendar  
 9 workweeks in the current or immediately preceding calendar year.

10 Sec. 3. (1) An employer shall provide ~~paid medical leave~~  
 11 **earned sick time** to each of the employer's ~~eligible employees~~ in  
 12 this state.

13 ~~(2) Except as otherwise provided in subsection (3), an~~  
 14 ~~eligible employee must accrue paid medical leave at a rate of at~~  
 15 ~~least one hour of paid medical leave for every 35 hours worked. An~~  
 16 ~~employer is not required to allow an eligible employee to accrue~~  
 17 ~~more than 1 hour of paid medical leave in a calendar week. An~~  
 18 ~~employer may limit an eligible employee's accrual of paid medical~~  
 19 ~~leave to not less than 40 hours per benefit year. An employer is~~  
 20 ~~not required to allow an eligible employee to carry over more than~~  
 21 ~~40 hours of unused accrued paid medical leave from one benefit year~~  
 22 ~~to another benefit year. An employer is not required to allow an~~  
 23 ~~eligible employee to use more than 40 hours of paid family medical~~  
 24 ~~leave in a single benefit year.~~

25 ~~(3) As an alternative to subsection (2), an employer may~~  
 26 ~~provide at least 40 hours of paid medical leave to an eligible~~  
 27 ~~employee at the beginning of a benefit year. For eligible employees~~  
 28 ~~hired during a benefit year, an employer may prorate paid medical~~  
 29 ~~leave provided under this subsection. If an employer elects to~~



1 ~~provide paid medical leave to an eligible employee pursuant to this~~  
2 ~~subsection, the employer is not required to allow the eligible~~  
3 ~~employee to carry over any of that paid medical leave to another~~  
4 ~~benefit year.~~

5 (2) An employee of a small business must accrue a minimum of 1  
6 hour of earned sick time for every 30 hours worked but may not use  
7 more than 40 hours of paid earned sick time in a year unless the  
8 employer selects a higher limit. If an employee of a small business  
9 accrues more than 40 hours of earned sick time in a year, the  
10 employee may use an additional 32 hours of unpaid earned sick time  
11 in that year, unless the employer selects a higher limit. Employees  
12 of a small business may use paid earned sick time before using  
13 unpaid earned sick time.

14 (3) All other employees must accrue a minimum of 1 hour of  
15 paid earned sick time for every 30 hours worked but may not use  
16 more than 72 hours of paid earned sick time in a year, unless the  
17 employer selects a higher limit.

18 (4) Earned sick time carries over from year to year, but a  
19 small business is not required to allow an employee to use more  
20 than 40 hours of paid earned sick time and 32 hours of unpaid  
21 earned sick time in a single year, and all other employers are not  
22 required to allow an employee to use more than 72 hours of paid  
23 earned sick time in a single year.

24 (5) ~~(4) Paid medical leave~~ **Earned sick time** as provided in  
25 this section ~~shall begin~~ **begins** to accrue on the effective date of  
26 this law, ~~act~~, or upon commencement of the employee's employment,  
27 whichever is later. An employee may use accrued ~~paid medical leave~~  
28 **earned sick time** as it is accrued, except that an employer may  
29 require an employee to wait until the ninetieth calendar day after



1 commencing employment before using accrued ~~paid medical~~  
 2 ~~leave.earned sick time.~~

3 ~~(5) There is a rebuttable presumption that an employer is in~~  
 4 ~~compliance with this act if the employer provides at least 40 hours~~  
 5 ~~of paid leave to an eligible employee each benefit year.~~

6 (6) An employer other than a small business is in compliance  
 7 with this section if the employer provides any paid leave in at  
 8 least the same amounts as that provided under this act that may be  
 9 used for the same purposes and under the same conditions provided  
 10 in this act and that is accrued at a rate equal to or greater than  
 11 the rate described in subsection (3). An employer that is a small  
 12 business is in compliance with this section if the employer  
 13 provides paid leave in at least the same amounts as that provided  
 14 under this act that may be used for the same purposes and under the  
 15 same conditions provided in this act and that is accrued at a rate  
 16 equal to or greater than the rate described in subsection (2). For  
 17 purposes of this subsection, "paid leave" includes, but is not  
 18 limited to, paid vacation days, personal days, and paid time off.

19 (7) ~~(6)~~An employer shall pay each eligible employee using  
 20 ~~paid medical leave~~**earned sick time** at a pay rate equal to the  
 21 greater of either the normal hourly wage ~~or base wage~~ for that  
 22 eligible employee or the minimum wage rate established **in the**  
 23 **improved workforce opportunity wage act, 2018 PA 337, MCL 408.931**  
 24 **to 408.945, but not less than the minimum hourly wage rate**  
 25 **established** in section 4 of the improved workforce opportunity wage  
 26 act, 2018 PA 337, MCL 408.934. ~~An employer is not required to~~  
 27 ~~include overtime pay, holiday pay, bonuses, commissions,~~  
 28 ~~supplemental pay, piece-rate pay, or gratuities in the calculation~~  
 29 ~~of an eligible employee's normal hourly wage or base wage.~~**For any**





1 employee whose hourly wage varies depending on the work performed,  
 2 the "normal hourly wage" means the average hourly wage of the  
 3 employee in the pay period immediately preceding the pay period in  
 4 which the employee used paid earned sick time.

5 ~~(7) As used in this section:~~

6 ~~(a) "Hours worked" does not include, unless otherwise included~~  
 7 ~~by an employer, hours taken off from work by an eligible employee~~  
 8 ~~for paid leave.~~

9 ~~(b) "Paid leave" includes, but is not limited to, paid~~  
 10 ~~vacation days, paid personal days, and paid time off.~~

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

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

17 (10) For purposes of earned sick time accrual under this act,  
 18 an employee who is exempt from overtime requirements under section  
 19 13(a)(1) of the fair labor standards act, 29 USC 213(a)(1), is  
 20 assumed to work 40 hours in each workweek unless the employee's  
 21 normal work week is less than 40 hours, in which case earned sick  
 22 time accrues based on that normal workweek.

23 Sec. 4. (1) An employer shall allow an ~~eligible~~ employee to  
 24 use ~~paid medical leave~~ **earned sick time** accrued under section 3 for  
 25 any of the following:

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



1 employee.

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

7 (c) If the ~~eligible~~-employee or the ~~eligible~~-employee's family  
8 member is a victim of domestic violence or sexual assault, the  
9 medical care or psychological or other counseling for physical or  
10 psychological injury or disability; to obtain services from a  
11 victim services organization; to relocate due to domestic violence  
12 or sexual assault; to obtain legal services; or to participate in  
13 any civil or criminal proceedings related to or resulting from the  
14 domestic violence or sexual assault.

15 **(d) For meetings at a child's school or place of care related**  
16 **to the child's health or disability, or the effects of domestic**  
17 **violence or sexual assault on the child.**

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



1           ~~(2) An eligible employee shall, when requesting to use paid~~  
2 ~~medical leave, comply with his or her employer's usual and~~  
3 ~~customary notice, procedural, and documentation requirements for~~  
4 ~~requesting leave. An employer shall give an eligible employee at~~  
5 ~~least 3 days to provide the employer with documentation. This act~~  
6 ~~does not prohibit an employer from disciplining or discharging an~~  
7 ~~eligible employee for failing to comply with the employer's usual~~  
8 ~~and customary notice, procedural, and documentation requirements~~  
9 ~~for requesting leave.~~**If the employee's need to use earned sick time**  
10 **is foreseeable, an employer may require advance notice, not to**  
11 **exceed 7 days before the date the earned sick time is to begin, of**  
12 **the intention to use the earned sick time. If the employee's need**  
13 **for the earned sick time is not foreseeable, an employer may**  
14 **require the employee to give notice of the intention as soon as**  
15 **practicable.**

16           ~~(3) Paid medical leave must be used in 1-hour increments~~  
17 ~~unless the employer has a different increment policy and the policy~~  
18 ~~is in writing in an employee handbook or other employee benefits~~  
19 ~~document.~~

20           ~~(4) An employer may require an eligible employee who is using~~  
21 ~~paid medical leave because of domestic violence or sexual assault~~  
22 ~~to provide documentation that the paid medical leave has been used~~  
23 ~~for that purpose. The following types of documentation are~~  
24 ~~satisfactory for purposes of this subsection:~~

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

28           ~~(b) A signed statement from a victim and witness advocate~~  
29 ~~affirming that the eligible employee or eligible employee's family~~



1 ~~member is receiving services from a victim services organization.~~

2 ~~(c) A court document indicating that the eligible employee or~~  
3 ~~eligible employee's family member is involved in legal action~~  
4 ~~related to domestic violence or sexual assault.~~

5 (3) Earned sick time may be used in the smaller of hourly  
6 increments or the smallest increment that the employer's payroll  
7 system uses to account for absences or use of other time.

8 (4) If an employee uses earned sick time of more than 3  
9 consecutive days, an employer may require reasonable documentation  
10 that the earned sick time was used for a purpose described in  
11 subsection (1). Upon the employer's request, the employee must  
12 provide the documentation to the employer in a timely manner. The  
13 employer shall not delay the use of earned sick time on the basis  
14 that the employer has not yet received documentation. Documentation  
15 signed by a health care professional indicating that earned sick  
16 time is necessary is reasonable documentation for purposes of this  
17 subsection. In cases of domestic violence or sexual assault, any of  
18 the following types of documentation selected by the employee are  
19 reasonable documentation:

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

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

26 (c) A court document indicating that the employee or  
27 employee's family member is involved in legal action related to  
28 domestic violence or sexual assault.

29 (5) An employer shall not require that documentation provided



1 by an employee under subsection (4) explain the nature of the  
 2 illness or the details of the violence. If an employer chooses to  
 3 require documentation for earned sick time, the employer is  
 4 responsible for paying all out-of-pocket expenses the employee  
 5 incurs in obtaining the documentation. If the employee does have  
 6 health insurance, the employer is responsible for paying any costs  
 7 charged to the employee by the health care provider for providing  
 8 the specific documentation required by the employer.

9 (6) ~~(5) An employer shall not require that the documentation~~  
 10 ~~provided under subsection (4) explain the details of the violence.~~  
 11 An employer shall not require disclosure of details relating to  
 12 domestic violence or sexual assault or the details of an eligible  
 13 employee's or an eligible employee's family member's medical  
 14 condition as a condition of providing ~~paid medical leave~~ **earned**  
 15 **sick time** under this act. If an employer possesses health  
 16 information or information pertaining to domestic violence or  
 17 sexual assault about an eligible employee or eligible employee's  
 18 family member, the employer shall treat that information as  
 19 confidential and shall not disclose that information except to the  
 20 affected eligible employee or with the permission of the affected  
 21 eligible employee.

22 (7) ~~(6)~~ This act does not require an employer to provide ~~paid~~  
 23 ~~medical leave~~ **earned sick time** for any purposes other than as  
 24 described in this section.

25 Sec. 5. (1) If an eligible employee is transferred to a  
 26 separate division, entity, or location, but remains employed by the  
 27 same employer, the eligible employee retains all ~~paid medical leave~~  
 28 **earned sick time** that was accrued at the prior division, entity, or  
 29 location and may use the accrued ~~paid medical leave~~ **earned sick**



1 **time** pursuant to section 4. If an ~~eligible~~-employee separates from  
2 employment and is rehired by the same employer **within 6 months**  
3 **after the separation**, the employer is ~~not required to allow the~~  
4 ~~eligible employee to retain any~~ **shall reinstate previously accrued**,  
5 ~~unused paid medical leave that the eligible employee previously~~  
6 ~~accumulated while working for the employer.~~ **earned sick time and**  
7 **shall allow the employee to use that earned sick time pursuant to**  
8 **section 4 and to accrue additional earned sick time upon**  
9 **reinstatement.**

10 (2) If a different employer succeeds or takes the place of an  
11 existing employer, the successor employer assumes the  
12 responsibility for the earned sick time rights that employees who  
13 remain employed by the successor employer accrued under the  
14 original employer. Those employees are entitled to use earned sick  
15 time previously accrued pursuant to section 4.

16 (3) ~~(2)~~ This act does not require an employer to provide  
17 financial or other reimbursement to an ~~eligible~~-employee for  
18 accrued ~~paid medical leave~~ **earned sick time** that was not used  
19 ~~before the end of a benefit year or before the eligible employee's~~  
20 ~~termination, resignation, retirement, or other separation from~~  
21 ~~employment.~~

22 **Sec. 5b. (1) A person shall not interfere with, restrain, or**  
23 **deny the exercise of, or the attempt to exercise, any right**  
24 **protected under this act.**

25 (2) An employer shall not take retaliatory personnel action or  
26 discriminate against an employee because the employee has exercised  
27 a right protected under this act. Rights protected by this act  
28 include, but are not limited to, the right to use earned sick time  
29 pursuant to this act, the right to file a complaint or inform any



1 person about any employer's alleged violation of this act, the  
2 right to cooperate with the department in its investigations of  
3 alleged violations of this act, and the right to inform any person  
4 of his or her rights under this act.

5 (3) An employer's absence control policy must not treat earned  
6 sick time taken under this act as an absence that might lead to or  
7 result in retaliatory personnel action.

8 (4) The protections in this section apply to any person who  
9 mistakenly but in good faith alleges a violation of this section.

10 (5) There is a rebuttable presumption of a violation of this  
11 section if an employer takes retaliatory personnel action against a  
12 person within 90 days after the person does any of the following:

13 (a) Files a complaint with the department or a court alleging  
14 a violation of this act.

15 (b) Informs another person about an employer's alleged  
16 violation of this act.

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

19 (d) Opposes any policy, practice, or act that is prohibited  
20 under this act.

21 (e) Informs another person of that other person's rights under  
22 this act.

23 Sec. 7. (1) If an employer violates this act, the eligible  
24 employee affected by the violation, at any time within ~~6 months~~  
25 **years** after the violation ~~may file a claim with the department or~~  
26 **the date when the employee knew of the violation, whichever is**  
27 **later, may do any of the following:**

28 (a) Bring a civil action for appropriate relief, including,  
29 but not limited to, any of the following:



1 (i) Payment for used earned sick time.

2 (ii) Rehiring or reinstatement to the employee's previous job.

3 (iii) Payment of back wages.

4 (iv) Reestablishment of employee benefits to which the employee  
5 otherwise would have been eligible if the employee had not been  
6 subjected to retaliatory personnel action or discrimination.

7 (v) An equal additional amount as liquidated damages together  
8 with costs and reasonable attorney fees as the court allows.

9 (b) File a claim with the department, which shall investigate  
10 the claim. Filing a claim with the department is not a prerequisite  
11 or a bar to bringing a civil action.

12 (2) The director shall enforce this act. The director shall  
13 establish a system utilizing multiple means of communication to  
14 receive complaints regarding ~~non-compliance~~ **noncompliance** with this  
15 act and investigate complaints received by the department in a  
16 timely manner.

17 (3) Any person alleging a violation of this has the right to  
18 file a complaint with the department. The department shall  
19 encourage reporting pursuant to this subsection by keeping  
20 confidential, to the maximum extent permitted by applicable laws,  
21 the name and other identifying information of the employee or  
22 person reporting the violation. The department may, with the  
23 authorization of such person, disclose his or her name and  
24 identifying information as necessary to enforce this act or for  
25 other appropriate purposes.

26 (4) ~~(3)~~ Upon receiving a complaint alleging a violation of  
27 this act, the department shall investigate the complaint and  
28 attempt to resolve it through mediation between the complainant and  
29 the subject of the complaint, or other means. The department shall





1 keep complainants notified regarding the status of their complaint  
 2 and any resultant investigation. If the department determines that  
 3 a violation has occurred, it shall issue to the offending person a  
 4 notice of violation and the relief required of the offending  
 5 person. The department shall prescribe the form and wording of  
 6 notices of violation, which must include the method of appealing  
 7 the determination of the department.

8 (5) ~~(4)~~—The department may impose penalties and grant an  
 9 ~~eligible-employee or former eligible-employee~~ **all appropriate**  
 10 **relief including, but not limited to,** payment of all ~~paid medical~~  
 11 ~~leave-earned sick time~~ improperly withheld, **any and all damages**  
 12 **incurred by the complainant as the result of violation of this act,**  
 13 **back pay, and reinstatement in the case of job loss.** ~~The department~~  
 14 ~~is the trustee for the eligible employee or former eligible~~  
 15 ~~employee and shall distribute and account for money collected under~~  
 16 ~~this subsection.~~

17 (6) If the director determines that there is reasonable cause  
 18 to believe that an employer violated this act and the department is  
 19 subsequently unable to obtain voluntary compliance by the employer  
 20 within a reasonable time, the department shall bring a civil action  
 21 as provided in subsection (1) (a) on behalf of the employee. The  
 22 department may investigate and file a civil action under subsection  
 23 (1) (a) on behalf of all employees that employer who are similarly  
 24 situated at the same work site and who have not brought a civil  
 25 action under subsection (1) (a). A contract or agreement between the  
 26 employer and the employee or any acceptance by the employee of a  
 27 paid or unpaid leave policy that provides fewer rights or benefits  
 28 than provided by this act is void and unenforceable.

29 (7) ~~(5)~~ ~~An~~—In addition to liability for civil remedies



1 **described in this section, an** employer that fails to provide ~~paid~~  
 2 ~~medical leave~~ **earned sick time** in violation of this act **or takes**  
 3 **retaliatory personnel action against an employee or former employee**  
 4 is subject to ~~an administrative~~ **a civil** fine of not more than  
 5 \$1,000.00.

6 **(8)** ~~(6)~~ An employer that willfully violates ~~the~~ **a notice or**  
 7 posting requirement of section 8 is subject to ~~an administrative~~ **a**  
 8 **civil** fine of not more than \$100.00 for each separate violation.

9 Sec. 8. (1) An employer shall ~~display a poster at the~~  
 10 ~~employer's place of business, in a conspicuous place that is~~  
 11 ~~accessible to eligible employees,~~ **provide written notice to each**  
 12 **employee at the time of hiring** that ~~contains~~ **includes, but is not**  
 13 **limited to,** all of the following information:

14 (a) The amount of ~~paid medical leave~~ **earned sick time** required  
 15 to be provided to an ~~eligible~~ employee under this act.

16 (b) **The employer's choice of how to calculate a year under**  
 17 **section 3(9).**

18 (c) ~~(b)~~ The terms under which ~~paid medical leave~~ **earned sick**  
 19 **time** may be used.

20 (d) **That retaliatory personnel action by the employer against**  
 21 **an employee for requesting earned sick time or using earned sick**  
 22 **time for which the employee is eligible is prohibited.**

23 (e) ~~(e)~~ The ~~eligible~~ employee's right to **bring a civil action**  
 24 **or** file a complaint with the department for any violation of this  
 25 act.

26 (2) **The notice required under subsection (1) shall be in**  
 27 **English, Spanish, and any language that is the first language**  
 28 **spoken by 10% or more of the employer's workforce, as long as the**  
 29 **department has translated the notice into such language.**



1 (3) An employer shall display a poster at the employer's place  
 2 of business, in a conspicuous place that is accessible to  
 3 employees, that includes the information listed in subsection (1).  
 4 The poster displayed must be in English, Spanish, and any language  
 5 that is the first language spoken by at least 10% of the employer's  
 6 workforce, as long as the department has translated the poster into  
 7 such language.

8 (4) ~~(2)~~—The department shall create and make available to  
 9 employers ~~, at no cost,~~ **notices and** posters that contain the  
 10 information ~~required~~ **listed** under subsection (1) for employers' use  
 11 in complying with this section. **The department shall provide the**  
 12 **notices and posters in English, Spanish, and any other languages**  
 13 **the department determines are appropriate.**

14 **Sec. 8b. The department shall develop and implement a**  
 15 **multilingual outreach program to inform employees, parents, and**  
 16 **individuals who are under the care of a health care provider about**  
 17 **the availability of earned sick time under this act. The program**  
 18 **must include distribution of notices and other written materials in**  
 19 **English and in other languages to child care and elder care**  
 20 **providers, domestic violence shelters, schools, hospitals,**  
 21 **community health centers, and other health care providers.**

22 **Sec. 10. An employer shall retain for not less than ~~1 year~~ 3**  
 23 **years records documenting the hours worked and ~~paid medical leave~~**  
 24 **earned sick time taken by ~~eligible~~ employees. ~~Those records shall~~**  
 25 **~~be open to inspection by the director at any reasonable time.~~ To**  
 26 **monitor compliance with this act, an employer shall allow the**  
 27 **department access to those records, with appropriate notice and at**  
 28 **a mutually agreeable time. If a question arises as to whether an**  
 29 **employer has violated an employee's right to earned sick time under**



1 this act and the employer does not maintain or retain adequate  
 2 records documenting the hours worked and earned sick time taken by  
 3 the employee or does not allow the department reasonable access to  
 4 those records, there is a presumption that the employer has  
 5 violated this act. This presumption can be rebutted only by clear  
 6 and convincing evidence.

7 Sec. 11. This act provides minimum requirements pertaining to  
 8 earned sick time and does not preempt, limit, or otherwise affect  
 9 the applicability of any other law, regulation, requirement,  
 10 policy, or standard, including a collective bargaining agreement,  
 11 that provides for greater accrual or use of time off, whether paid  
 12 or unpaid, or that extends other protections to employees. This act  
 13 does not do any of the following:

14 (a) Prohibit an employer from providing more ~~paid medical~~  
 15 ~~leave~~ **earned sick time** than is required under this act.

16 (b) Diminish any ~~other~~ rights provided to any ~~eligible~~  
 17 employee under a collective bargaining agreement.

18 (c) Subject to section 12, preempt or override the terms of  
 19 any collective bargaining agreement in effect prior to the  
 20 effective date of this act.

21 (d) Prohibit an employer from establishing a policy that  
 22 permits an ~~eligible~~ employee to donate unused accrued ~~paid medical~~  
 23 ~~leave~~ **earned sick time** to another eligible employee.

24 **Sec. 12b. The director may promulgate rules pursuant to the**  
 25 **administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to**  
 26 **24.328, as necessary to administer this act.**

27 Sec. 14. If any portion of this act or the application thereof  
 28 to any person or circumstances ~~shall be~~ **is** found to be invalid by a  
 29 court, ~~such~~ **the** invalidity shall not affect, impair, or invalidate



1 the other portions or applications of the act that can be given  
2 effect without the invalid portion or application. ~~, and to this~~  
3 ~~end the~~ **The** provisions of this act are ~~declared to be~~ severable. If  
4 a federal paid medical leave mandate is enacted, ~~this act does not~~  
5 ~~apply as of the effective date of the mandate.~~

