

SENATE BILL NO. 605

October 24, 2019, Introduced by Senators BRINKS, SANTANA, POLEHANKI, BAYER, MCMORROW, WOJNO, MCCANN, ALEXANDER, GEISS, BULLOCK, IRWIN, MOSS, CHANG and HOLLIER and referred to the Committee on Government Operations.

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, **stalking**,

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

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 ~~50-1~~ 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

1 eligible employee's spouse or an individual who stood in loco
2 parentis when the eligible employee was a minor child.

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

5 (iv) A grandparent.

6 (v) A grandchild.

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

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

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

13 (j) "Sexual assault" means any act that violates section 520b,
14 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328,
15 MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

16 **(k) "Stalking" means that term as defined in section 411h of**
17 **the Michigan penal code, 1931 PA 328, MCL 750.411h.**

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

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

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

1 medical care for a family member of the eligible employee.

2 (c) If the eligible employee or the eligible employee's family
3 member is a victim of domestic violence, **stalking**, or sexual
4 assault, the medical care or psychological or other counseling for
5 physical or psychological injury or disability; to obtain services
6 from a victim services organization; to relocate due to domestic
7 violence, **stalking**, or sexual assault; to obtain legal services; or
8 to participate in any civil or criminal proceedings related to or
9 resulting from the domestic violence, **stalking**, or sexual assault.

10 (d) For closure of the eligible employee's primary workplace
11 by order of a public official due to a public health emergency; for
12 an eligible employee's need to care for a child whose school or
13 place of care has been closed by order of a public official due to
14 a public health emergency; or if it has been determined by the
15 health authorities having jurisdiction or by a health care provider
16 that the eligible employee's or eligible employee's family member's
17 presence in the community would jeopardize the health of others
18 because of the eligible employee's or family member's exposure to a
19 communicable disease, whether or not the eligible employee or
20 family member has actually contracted the communicable disease.

21 (2) An eligible employee shall, when requesting to use paid
22 medical leave, comply with his or her employer's usual and
23 customary notice, procedural, and documentation requirements for
24 requesting leave. An employer shall give an eligible employee at
25 least 3 days to provide the employer with documentation. This act
26 does not prohibit an employer from disciplining or discharging an
27 eligible employee for failing to comply with the employer's usual
28 and customary notice, procedural, and documentation requirements
29 for requesting leave.

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

5 (4) An employer may require an eligible employee who is using
6 paid medical leave because of domestic violence, **stalking**, or
7 sexual assault to provide documentation that the paid medical leave
8 has been used for that purpose. The following types of
9 documentation are satisfactory for purposes of this subsection:

10 (a) A police report indicating that the eligible employee or
11 the eligible employee's family member was a victim of domestic
12 violence, **stalking**, or sexual assault.

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

16 (c) A court document indicating that the eligible employee or
17 eligible employee's family member is involved in legal action
18 related to domestic violence, **stalking**, or sexual assault.

19 (5) An employer shall not require that the documentation
20 provided under subsection (4) explain the details of the **domestic**
21 violence, **stalking**, or **sexual assault**. An employer shall not
22 require disclosure of details relating to domestic violence,
23 **stalking**, or sexual assault or the details of an eligible
24 employee's or an eligible employee's family member's medical
25 condition as a condition of providing paid medical leave under this
26 act. If an employer possesses health information or information
27 pertaining to domestic violence, **stalking**, or sexual assault about
28 an eligible employee or eligible employee's family member, the
29 employer shall treat that information as confidential and shall not

1 disclose that information except to the affected eligible employee
2 or with the permission of the affected eligible employee.

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