

SUBSTITUTE FOR
HOUSE BILL NO. 4002

A bill to amend 2018 PA 338, entitled
"Earned sick time act,"
by amending sections 2, 3, 4, 5, 6, 7, 8, 10, 11, and 12 (MCL
408.962, 408.963, 408.964, 408.965, 408.966, 408.967, 408.968,
408.970, 408.971, and 408.972).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

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

4 **(b) ~~(a)~~"Department" means the department of ~~licensing-labor~~**
5 **and ~~regulatory affairs-economic opportunity.~~**

6 **(c) ~~(b)~~"Director" means the director of the department ~~of~~**
7 **~~licensing and regulatory affairs or his or her~~the director's**

1 designee.

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

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

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

19 (g) ~~(f)~~ "Employee" **"Eligible employee"** means an individual
 20 engaged in service to an employer ~~in the business of the employer,~~
 21 ~~except that~~ **for whom an employer is required to withhold pay for**
 22 **federal income tax purposes. Eligible** employee does not include an
 23 ~~individual employed by the United States government.~~ **any of the**
 24 **following:**

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

27 (ii) **An individual whose primary work location is not in this**
 28 **state.**

29 (iii) **An individual employed by an employer for 25 weeks or less**

1 in a benefit year for a job scheduled for 25 weeks or less in a
2 benefit year.

3 (iv) An individual who worked, on average, less than 25 hours
4 per week during the immediately preceding benefit year or is
5 expected to work, on average, less than 25 hours per week in the
6 current benefit year.

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

8 (vi) An individual employed by an air carrier as a flight deck
9 or cabin crew member who is subject to subchapter II of the railway
10 labor act, 45 USC 181 to 188.

11 (vii) An employee as described in section 201 of the railway
12 labor act, 45 USC 181.

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

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

22 (i) ~~(h)~~—"Family member" includes all of the following:

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

26 (ii) ~~(ii)~~—A biological parent, foster parent, stepparent, or
27 adoptive parent or a legal guardian of an **eligible** employee or an
28 **eligible** employee's spouse or domestic partner or ~~a person an~~
29 **individual** who stood in loco parentis when the **eligible** employee

1 was a minor child.

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

5 **(iv)** ~~(iv)~~ **A grandparent of the eligible employee.**

6 **(v)** ~~(v)~~ **A grandchild of the eligible employee.**

7 **(vi)** ~~(vi)~~ **A biological, foster, or adopted sibling of the**
8 **eligible employee.**

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

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

13 **(j)** ~~(i)~~ **"Health care professional" provider** means ~~any of the~~
14 ~~following:~~

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

18 ~~(ii) A certified midwife.~~ **that term as defined in section 101**
19 **of the family and medical leave act, 29 USC 2611, and includes a**
20 **chiropractor as that term is defined in section 16401 of the public**
21 **health code, 1978 PA 368, MCL 333.16401.**

22 **(k)** ~~(j)~~ **"Retaliatory personnel action"** means any of the
23 **following:**

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

25 **(ii)** ~~(ii) A threat, discharge,~~ **Discharge**, suspension, demotion,
26 reduction of hours, or other adverse **employment** action against an
27 **eligible** employee ~~or former employee~~ for exercise of a right
28 guaranteed under this act.

29 ~~(iii) Sanctions against an employee who is a recipient of~~

~~public benefits for exercise of a right guaranteed under this act.~~

(iii) ~~(iv)~~ Interference with, or punishment for, an individual's **eligible employee's** participation in any manner in ~~an~~ **a department** investigation, proceeding, or hearing under this act.

(l) **"Paid leave" includes, but is not limited to, paid vacation days, paid personal days, paid sick leave, or paid time off.**

(m) ~~(k)~~ "Sexual assault" means any act that ~~constitutes a~~ 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.

~~(l) "Small business" means an employer for which fewer than 10 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 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 or more employees on its payroll during any 20 or more calendar workweeks in either the current or the preceding calendar year.~~

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

~~(a) Employees of a small business shall accrue a minimum of one hour of earned sick time for every 30 hours worked but shall 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 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 use paid earned sick time before using unpaid earned sick time.~~

(2) ~~(b)~~ All other employees shall accrue Except as otherwise provided in subsection (3), an eligible employee must accrue a minimum of ~~one~~ 1 hour of paid earned sick time for every 30 hours worked, but shall not including hours used as paid leave. An employer may limit an eligible employee's accrual of paid earned sick time to not be entitled to use more less than 72 hours of paid earned sick time per benefit year. , unless An employer shall allow an eligible employee to carry over unused accrued paid earned sick time from 1 benefit year to another benefit year, unless the employer pays the eligible employee the value of the eligible employee's unused accrued paid earned sick time at the end of the benefit year. Unless the employer selects a higher limit, an employer is not required to allow an eligible employee to do either of the following:

(a) Use more than 72 hours of paid earned sick time in a benefit year.

(b) Carry over more than 72 hours of paid earned sick time from 1 benefit year to another benefit year.

~~(c) Earned sick time shall carry over from year to year, but a small business is not required to permit an employee to use more than 40 hours of paid earned sick time and 32 hours of unpaid earned sick time in a single year, and other employers are not required to permit an employee to use more than 72 hours of paid earned sick time in a single year.~~

(3) As an alternative to subsection (2), an employer may

1 provide not less than 72 hours of paid earned sick time to an
 2 eligible employee at the beginning of a benefit year. For an
 3 eligible employee hired after the beginning of a benefit year, an
 4 employer may prorate paid earned sick time provided under this
 5 subsection. If an employer provides paid earned sick time under
 6 this subsection, the employer is not required to do either of the
 7 following:

8 (a) Calculate and track the eligible employee's accrual of
 9 paid earned sick time.

10 (b) Allow the eligible employee to carry over any of the paid
 11 earned sick time provided under this subsection to another benefit
 12 year.

13 (4) ~~(2)~~ Earned sick time as provided in ~~this section shall~~
 14 ~~begin~~ subsection (2) begins to accrue on the effective date of this
 15 law, act, or ~~upon~~ on commencement of the eligible employee's
 16 employment, whichever is later. An eligible employee may use
 17 accrued earned sick time as it is accrued and accounted in the
 18 eligible employee's employer's payroll system, except that an
 19 employer may require an eligible employee hired after April 1,
 20 2019, February 21, 2025 to wait until the ninetieth calendar day
 21 after commencing employment before using accrued earned sick time.
 22 If a benefit year began before the effective date of the amendatory
 23 act that added this sentence and has not ended, earned sick time
 24 provided to an eligible employee under subsection (2) or (3) before
 25 the effective date of the amendatory act that added this sentence
 26 may be counted toward an employer's compliance obligations under
 27 this act.

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

1 employer.

2 (5) ~~(4)~~ For purposes of earned sick time accrual under ~~this~~
 3 ~~act, subsection (2)~~, an **eligible** employee who is exempt from
 4 overtime requirements under section 13(a)(1) of the ~~Fair Labor~~
 5 ~~Standards Act, fair labor standards act~~, 29 USC ~~213(a)(1)~~, **213**, is
 6 assumed to work 40 hours in each workweek unless the **eligible**
 7 employee's normal ~~work week~~ **workweek** is less than 40 hours, in
 8 which case earned sick time accrues based ~~upon~~ **on** that normal
 9 workweek.

10 (6) ~~(5)~~ An employer ~~other than a small business~~ is in
 11 compliance with this section if the employer provides any paid
 12 leave in ~~at least~~ **not less than** the same amounts as that provided
 13 under this act that may be used for the same purposes ~~and under the~~
 14 ~~same conditions~~ provided in this act and that is accrued at a rate
 15 equal to or greater than the rate described in ~~subsections (1) and~~
 16 **subsection (2)**. ~~An employer that is a small business is in~~
 17 ~~compliance with this section if the employer provides paid leave in~~
 18 ~~at least the same amounts as that provided under this act that may~~
 19 ~~be used for the same purposes and under the same conditions~~
 20 ~~provided in this act and that is accrued at a rate equal to or~~
 21 ~~greater than the rate described in subsections (1) and (2) provided~~
 22 ~~further that that employees of the small business are entitled to~~
 23 ~~use paid earned sick time before using unpaid earned sick time. For~~
 24 ~~purposes of this subsection, "paid leave" includes but is not~~
 25 ~~limited to paid vacation days, personal days, and paid time off.~~

26 (7) ~~(6)~~ An employer shall pay each **eligible** employee using
 27 paid earned sick time at a pay rate equal to the greater of either
 28 the normal hourly wage **or base wage** for that **eligible** employee. ~~or~~
 29 ~~the minimum wage established under the workforce opportunity wage~~

~~act, 2014 PA 138, MCL 408.411 to 408.424, but not less than the minimum wage rate established in section 4 of the workforce opportunity wage act, 2014 PA 138, MCL 408.414. 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.~~ **An employer is not required to include overtime pay, holiday pay, bonuses, commissions, supplemental pay, piece-rate pay, tips, or gratuities in the calculation of an eligible employee's normal hourly wage or base wage.**

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

Sec. 4. (1) An employer shall ~~permit~~**allow** an **eligible** employee to use the earned sick time accrued **or provided** under section 3 for any of the following:

(a) The **eligible** employee's mental or physical illness, injury, or health condition, ~~+~~**a** medical diagnosis, care, or treatment of the **eligible** employee's mental or physical illness, injury, or health condition, ~~+~~**or** preventative medical care for the **eligible** employee.

(b) ~~For the~~**The** **eligible** employee's family member's mental or physical illness, injury, or health condition, ~~+~~**a** medical diagnosis, care, or treatment of the **eligible** employee's family member's mental or physical illness, injury, or health condition, ~~+~~**or** preventative medical care for a family member of the **eligible** employee.

(c) If the **eligible** employee or the **eligible** employee's family

1 member is a victim of domestic violence or sexual assault, ~~for the~~
 2 medical care or psychological or other counseling for physical or
 3 psychological injury or disability, ~~to~~ to obtain services from a
 4 victim services organization, ~~to~~ to relocate due to domestic
 5 violence or sexual assault, ~~to~~ to obtain legal services, ~~or to~~
 6 participate in any civil or criminal proceedings related to or
 7 resulting from the domestic violence or sexual assault.

8 (d) For meetings at a child's school or place of care related
 9 to the child's health or disability, or the effects of domestic
 10 violence or sexual assault on the child, **if the child is a family**
 11 **member.** ~~to~~

12 (e) For closure of the **eligible** employee's place of business
 13 by order of a public official due to a public health emergency, ~~to~~
 14 for an **eligible** employee's need to care for a child **who is a family**
 15 **member** whose school or place of care has been closed by order of a
 16 public official due to a public health emergency, ~~or when if~~ it
 17 has been determined by the health authorities having jurisdiction
 18 or by a health care provider that the **eligible** employee's or
 19 **eligible** employee's family member's presence in the community would
 20 jeopardize the health of others because of the **eligible** employee's
 21 or **eligible employee's** family member's exposure to a communicable
 22 disease, whether or not the **eligible** employee or **eligible**
 23 **employee's** family member has actually contracted the communicable
 24 disease.

25 (2) ~~If the employee's need to use earned sick time is~~
 26 ~~foreseeable, an employer may require advance notice, not to exceed~~
 27 ~~7 days prior to the date the earned sick time is to begin, of the~~
 28 ~~intention to use the earned sick time. If the employee's need for~~
 29 ~~the earned sick time is not foreseeable, an employer may require~~

1 ~~the employee to give notice of the intention as soon as~~
2 ~~practicable.~~ **An eligible employee shall, when requesting to use**
3 **earned sick time, comply with the eligible employee's employer's**
4 **usual and customary notice, procedure, and documentation**
5 **requirements for requesting or using sick time or leave to the**
6 **extent the policy is provided in writing in the employer's employee**
7 **handbook or other employee benefits document. An employer may take**
8 **disciplinary personnel action against an eligible employee if**
9 **either of the following conditions is met:**

10 **(a) The eligible employee fails to comply with the employer's**
11 **usual and customary notice, procedure, and documentation**
12 **requirements for requesting or using sick time or leave.**

13 **(b) The eligible employee is absent from work for a period of**
14 **3 or more consecutive workdays without contacting the employer in a**
15 **manner that is acceptable to the employer.**

16 **(3) Earned sick time ~~may~~ must be used in the ~~smaller of hourly~~**
17 **1-hour increments ~~or the smallest increment that~~ unless the**
18 **employer's payroll system uses to account for absences of use of**
19 **other time.** **employer has a different increment policy that is**
20 **provided in writing in the employer's employee handbook or other**
21 **employee benefits document.**

22 **(4) If earned sick time also qualifies as leave under any of**
23 **the following laws, an employer may require the earned sick time be**
24 **taken concurrently with the leave taken under the applicable law:**

25 **(a) The family and medical leave act of 1993, 29 USC 2601 to**
26 **2654.**

27 **(b) Title I of the Americans with disabilities act of 1990, 42**
28 **USC 12111 to 12117.**

29 **(c) Any other applicable federal or state law.**

(5) ~~(4)~~ For earned sick time of more than 3 consecutive days, an employer may require reasonable documentation **or a certification that meets the requirements under section 2613 of the family and medical leave act, 29 USC 2613**, that **supports that** the earned sick time has been used for a purpose described in subsection (1). Upon the employer's request, the **eligible** employee must provide the documentation to the employer ~~in a timely manner.~~ **not more than 15 days after the employer's request.** 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~~ **provider that indicates** that earned sick time is necessary is reasonable documentation for purposes of this subsection. In cases of domestic violence or sexual assault, ~~one~~ **1** of the following types of documentation selected by the **eligible** employee ~~shall be~~ **is** considered reasonable documentation:

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

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

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

(6) ~~An~~ **Unless an eligible employee's use of earned sick time runs concurrently with leave covered under the family and medical leave act, 29 USC 2601 to 2654, and the employer requires a certification in accordance with section 2613 of the family and**

1 **medical leave act, 29 USC 2613, an** employer shall not require that
 2 the documentation explain the nature of the illness or the details
 3 of the violence. If an employer chooses to require documentation
 4 for earned sick time, the employer is responsible for ~~paying all~~
 5 ~~out-of-pocket expenses the employee incurs in~~ **the cost of** obtaining
 6 the documentation. ~~If the employee does have health insurance, the~~
 7 ~~employer is responsible for paying any costs charged to the~~
 8 ~~employee by the health care provider for providing the specific~~
 9 ~~documentation required by the employer.~~

10 (7) ~~(5)~~ An employer shall not require disclosure of details
 11 relating to domestic violence or sexual assault or the details of
 12 an **eligible** employee's or an **eligible** employee's family member's
 13 medical condition as a condition of providing earned sick time
 14 under this act. If an employer possesses health information ~~or~~
 15 ~~information pertaining to domestic violence or sexual assault 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 **or as**
 20 **otherwise required by law.**

21 (8) ~~(6)~~ This act does not require an employer to provide
 22 earned sick time for any purposes other than as described in this
 23 section.

24 Sec. 5. (1) If an **eligible** employee is transferred to a
 25 separate division, entity, or location, but remains employed by the
 26 same employer, the **eligible** employee ~~shall retain~~ **retains** all
 27 earned sick time that was accrued at the prior division, entity, or
 28 location and may use ~~all the~~ accrued earned sick time as provided
 29 in section 4. If an **eligible** employee separates from employment and

1 is rehired by the same employer ~~within~~ **not more than** 6 months ~~of~~
 2 **after** the separation, the employer shall reinstate previously
 3 accrued, unused earned sick time and shall ~~permit~~ **allow** the
 4 reinstated **eligible** employee to use that earned sick time and
 5 accrue additional earned sick time ~~upon~~ **on** reinstatement. **This**
 6 **subsection does not apply if an employer pays an eligible employee**
 7 **the value of the eligible employee's unused accrued earned sick**
 8 **time at the time of a transfer or separation.**

9 (2) If a different employer succeeds or takes the place of an
 10 existing employer, the successor employer assumes the
 11 responsibility for the earned sick time rights that **eligible**
 12 employees who remain employed by the successor employer accrued
 13 under the original employer. Those **eligible** employees are entitled
 14 to use earned sick time previously accrued on the terms provided in
 15 this act. **This subsection does not apply if an employer pays an**
 16 **eligible employee the value of the eligible employee's unused**
 17 **accrued earned sick time at the time of a succession.**

18 (3) This act does not require an employer to provide financial
 19 or other reimbursement to an **eligible** employee for accrued earned
 20 sick time that was not used upon the **eligible** employee's
 21 termination, resignation, retirement, or other separation from
 22 employment.

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

26 (2) ~~An employer shall not take retaliatory personnel action or~~
 27 ~~discriminate against an employee because the employee has exercised~~
 28 ~~a right protected under this act. Rights protected by~~ **under** this
 29 act include, but are not limited to, the right to ~~use~~ **do any of the**

1 **following:**

2 (a) **Use** earned sick time ~~pursuant to~~ **in accordance with** this
3 act. ~~, the right to file~~

4 (b) **File** a complaint **with the department** or inform any person
5 about any employer's alleged violation of this act. ~~, the right to~~
6 ~~cooperate~~

7 (c) **Cooperate** with the department in its investigations of
8 alleged violations of this act. ~~, and the right to inform~~

9 (d) **Inform** any person of ~~his or her~~ **the person's** rights under
10 this act.

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

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

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

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

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

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

25 ~~(d) Opposes any policy, practice, or act that is prohibited~~
26 ~~under this act.~~

27 ~~(e) Informs any person of his or her rights under this act.~~

28 Sec. 7. (1) If an employer violates this act, the **eligible**
29 employee affected by the violation, at any time ~~within~~ **not more**

1 **than** 3 years after the violation, ~~or the date when the employee~~
 2 ~~knew of the violation, whichever is later, may do any of the~~
 3 ~~following:~~

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

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

16 (2) ~~(a)~~ The director shall enforce the provisions of this act.
 17 In effectuating ~~such~~ **the** enforcement, the director shall ~~establish~~
 18 **do both of the following:**

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

22 **(b) Investigate** complaints received by the department in a
 23 timely manner.

24 **(3)** ~~(b)~~ Any person alleging a violation of this chapter shall
 25 ~~have the right to file a complaint with the department. The~~
 26 department shall encourage reporting ~~pursuant to~~ **under** this
 27 ~~subsection~~ **section** by keeping confidential, to the maximum extent
 28 permitted by applicable laws, the name and other identifying
 29 information of the **eligible** employee ~~or person~~ reporting the

violation. ~~, provided, however, that with the authorization of such person, However,~~ the department may disclose ~~his or her the~~ **eligible employee's** name and identifying information as necessary to enforce this ~~chapter act~~ or for other appropriate purposes.

(4) ~~(c)~~ Upon receiving a complaint ~~alleging that alleges~~ a violation of this ~~chapter, act,~~ the department shall investigate ~~such the~~ complaint and attempt to resolve it through mediation between the complainant and the subject of the complaint, or other means. The department shall keep ~~complainants the complainant~~ notified regarding the status of ~~their the complainant's~~ complaint and any resultant investigation. If the department believes that a violation ~~has~~ occurred, it shall issue to the offending person or entity a notice of violation and the relief required of the offending person or entity. The department shall prescribe the form and wording of ~~such the~~ notices of violation including any method ~~of appealing to appeal~~ the decision of the department.

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

(6) ~~(3)~~ If the director determines that there is reasonable cause to believe that an employer violated this act and the department is subsequently unable to obtain voluntary compliance by the employer within a reasonable time, the department ~~shall may~~ bring a civil action ~~as provided in subsection (1)(a)~~ on behalf of the **eligible** employee. The department may investigate and file a

1 civil action ~~under subsection (1)(a)~~ on behalf of all **eligible**
 2 employees **of** that employer who are similarly situated at the same
 3 work site. ~~and who have not brought a civil action under subsection~~
 4 ~~(1)(a).~~ **Except as otherwise provided in section 12, a** contract or
 5 agreement between the employer and the **eligible** employee or any
 6 acceptance by the **eligible** employee of a paid or unpaid leave
 7 policy that provides fewer rights or benefits than provided by this
 8 act is void and unenforceable.

9 **(7)** ~~(4)~~ In addition to liability for civil remedies described
 10 in this section, an employer ~~who~~ **that** fails to provide earned sick
 11 time in violation of this act ~~or takes retaliatory personnel action~~
 12 ~~against an employee or former employee~~ is subject to a civil fine
 13 of not more than \$1,000.00.

14 **(8)** ~~(5)~~ An employer that willfully violates a notice or
 15 posting requirement of section 8 is subject to a civil fine of not
 16 more than \$100.00 for each separate violation.

17 Sec. 8. (1) An employer ~~subject to this act~~ shall provide
 18 written notice to each **eligible** employee at the time of hiring or
 19 by ~~April 1, 2019,~~ **February 21, 2025**, whichever is later, ~~including,~~
 20 ~~but not limited to,~~ **that includes, at a minimum,** all of the
 21 following:

22 (a) The amount of earned sick time required to be provided to
 23 an **eligible** employee under this act.

24 (b) The employer's choice of how to calculate a **"year"**
 25 ~~according to subsection 3 of section 3.~~ **benefit year.**

26 (c) The terms under which earned sick time may be used.

27 (d) That retaliatory personnel action **taken** by the employer
 28 against an **eligible** employee for ~~requesting or~~ using earned sick
 29 time for which the **eligible** employee is eligible is prohibited.

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

(2) The notice required under subsection (1) ~~shall~~**must** be in
 English, ~~Spanish,~~ and any language that is ~~the first language~~
predominantly spoken by ~~at least 10% of the~~ employer's workforce,
~~as long as if~~ the department has translated the notice into ~~such~~
that language.

(3) An employer shall display a poster at the employer's place
 of business, in a conspicuous place that is accessible to **eligible**
 employees, that contains the information in subsection (1). The
 poster displayed ~~should~~**must** be in English, ~~Spanish,~~ and any
 language that is ~~the first language~~**predominantly** spoken by ~~at~~
~~least 10% of the~~ employer's workforce, ~~as long as if~~ the department
 has translated the poster into ~~such~~**that** language.

(4) The department shall create and make available to
 employers notices and posters that contain the information required
 under subsection (1) for **the** employers' use in complying with this
 section. The department shall provide ~~such~~**the** notices and posters
 in English, Spanish, and any other languages ~~deemed~~**considered**
 appropriate by the department.

Sec. 10. An employer shall retain for not less than 3 years
 records ~~documenting that document~~ the hours worked and earned sick
 time taken by **eligible** employees. To monitor compliance with the
 requirements of this act, an employer shall allow the department
 access to those records, with appropriate notice and at a mutually
 agreeable time. If a question arises as to whether an employer has
 violated an **eligible** employee's right to earned sick time under
 this act and the employer does not maintain or retain adequate

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

6 Sec. 11. (1) This act provides minimum requirements pertaining
7 to earned sick time and ~~shall~~**must** not be construed to preempt,
8 limit, or otherwise affect the applicability of any other law,
9 regulation, requirement, policy, or standard, including a
10 collective bargaining agreement, that provides for greater accrual
11 or use of time off, whether paid or unpaid, or that extends other
12 protections to **eligible** employees.

13 (2) This act does not do any of the following:

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

16 (b) Diminish any rights provided to any **eligible** employee
17 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~~**before** 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 earned sick
23 time to another **eligible** employee.

24 Sec. 12. If an employer's **eligible** employees are covered by a
25 collective bargaining agreement in effect on the effective date of
26 this act, this act applies beginning on the stated expiration date
27 in the collective bargaining agreement, notwithstanding any
28 statement in the agreement that it continues in force until a
29 future date or event or the execution of a new collective

1 bargaining agreement.