

EARNED SICK TIME ACT (EXCERPT)
Act 338 of 2018

408.962 Definitions.

Sec. 2.

As used in this act:

- (a) "Department" means the department of labor and economic opportunity.
- (b) "Director" means the director of the department or the director's designee.
- (c) "Domestic partner" means an adult in a committed relationship with another adult, including both same-sex and different-sex relationships. As used in this subdivision, "committed relationship" means 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" means that term as 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 section 4.
- (f) "Employee" means an individual engaged in service to an employer in the business of the employer. Employee does not include any of the following:
 - (i) An individual employed by the United States government.
 - (ii) An individual who works in accordance with a policy of an employer if both of the following conditions are met:
 - (A) The policy allows the individual to schedule the individual's own working hours.
 - (B) The policy prohibits the employer from taking adverse personnel action against the individual if the individual does not schedule a minimum number of working hours.
 - (iii) An unpaid trainee or unpaid intern.
 - (iv) An individual who is employed in accordance with the youth employment standards act, 1978 PA 90, MCL 409.101 to 409.124.
- (g) "Employer" means any person, firm, business, educational institution, corporation, limited liability company, government entity, or other entity that employs 1 or more individuals. Employer does not include the United States government.
- (h) "Family member" includes all of the following:
 - (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) A biological parent, foster parent, stepparent, or adoptive parent or a legal guardian of an employee or an employee's spouse or domestic partner or an individual who stood in loco parentis when the employee was a minor child.
 - (iii) An individual to whom the employee is legally married under the laws of any state or a domestic partner.
 - (iv) A grandparent.
 - (v) A grandchild.
 - (vi) A biological, foster, or adopted sibling.
 - (vii) An individual related by blood to the employee.
 - (viii) An individual whose close association with the employee is the equivalent of a family relationship.
- (i) "Health care professional" means any of the following:
 - (i) A person licensed under federal law or the law of this state to provide health care services, including, but not limited to, nurses, doctors, and emergency room personnel.
 - (ii) A certified midwife.
- (j) "Retaliatory personnel action" means any of the following:
 - (i) Denial of any right guaranteed under this act.
 - (ii) A threat, discharge, suspension, demotion, reduction of hours, or other adverse personnel action against an employee or former employee for exercise of a right guaranteed under this act.
 - (iii) Sanctions against an employee who is a recipient of public benefits for exercise of a right guaranteed under this act.
 - (iv) Interference with, or punishment for, an individual's participation in any manner in an investigation, proceeding, or hearing under this act.
- (k) "Sexual assault" means any act that constitutes a violation of section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.
- (l) "Small business" means an employer for which 10 or fewer 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 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 more than 10 employees on its payroll during any 20 or more calendar workweeks in either the current or immediately preceding calendar year.

(m) "Unpaid trainee or unpaid intern" means an individual who receives training from an employer in accordance with all of the following:

- (i) The training the individual receives is similar to the experience provided in a vocational school.
- (ii) The training is for the benefit of the individual.
- (iii) The individual does not displace the employer's employees, but works under close supervision.
- (iv) The employer receives no immediate advantage from the activities of the individual and, on occasion, the employer's operations may be impeded by the individual.
- (v) The individual is not entitled to a job at the conclusion of the training.
- (vi) The employer and the individual understand that the individual is not entitled to wages for time spent in training.

History: 2018, Act 338, Eff. Mar. 29, 2019 ;-- Am. 2018, Act 369, Eff. Mar. 29, 2019 ;-- 2018, Act 338, Eff. Feb. 21, 2025 ;-- Am. 2025, Act 2, Imd. Eff. Feb. 21, 2025

Compiler's Notes: Public Act 338 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018. For the transfer of powers and duties of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998. See *Mothering Justice v Attorney General*, case no. 165325, July 31, 2024. The Michigan Supreme Court held that 2018 PA 369 was unconstitutional and, therefore void and revived the original initiative as enacted by the Legislature on September 5, 2018, effective February 21, 2025.