A bill to amend 2018 PA 338, entitled
"Earned sick time 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); and to repeal acts and
parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An initiation of legislation ACT to REQUIRE CERTAIN EMPLOYERS
TO provide workers CERTAIN EMPLOYEES with the right to earn sick
time PAID MEDICAL LEAVE for personal or family health needs, as
well as purposes related to domestic violence and sexual assault;
and school meetings needed as the result of a child's disability,
health issues or issues due to domestic violence and sexual assault; to specify the conditions for accruing and using earned sick time; to prohibit retaliation against an employee for requesting, exercising, or enforcing rights granted in this act; PAID MEDICAL LEAVE; to prescribe powers and duties of certain state departments, agencies, and officers; to provide for promulgation of rules; and to provide remedies and sanctions.

Sec. 1. This act shall be known and may be cited as the "earned sick time act"."PAID MEDICAL LEAVE ACT".

Sec. 2. As used in this act:

(A) "BENEFIT YEAR" MEANS ANY CONSECUTIVE 12-MONTH PERIOD USED BY AN EMPLOYER TO CALCULATE AN ELIGIBLE EMPLOYEE'S BENEFITS.

(B) (a) "Department" means the department of licensing and regulatory affairs.

(C) (b) "Director" means the director of the department of licensing and regulatory affairs or his or her designee.

(c) "Domestic partner" means an adult in a committed relationship with another adult, including both same-sex and different-sex relationships. "Committed relationship" means one 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
provision 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 subsection (1) of section 4 of this act.

(E) (f) "Employee" "ELIGIBLE 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 AND FROM WHOM AN EMPLOYER IS REQUIRED TO WITHHOLD FOR FEDERAL INCOME TAX PURPOSES. ELIGIBLE EMPLOYEE DOES NOT INCLUDE ANY OF THE FOLLOWING:

(i) AN INDIVIDUAL WHO IS EXEMPT FROM OVERTIME REQUIREMENTS UNDER SECTION 13(A)(1) OF THE FAIR LABOR STANDARDS ACT, 29 USC 213(A)(1).

(ii) AN INDIVIDUAL WHO IS NOT EMPLOYED BY A PUBLIC AGENCY, AS THAT TERM IS DEFINED IN SECTION 3 OF THE FAIR LABOR STANDARDS ACT, 29 USC 203, AND WHO IS COVERED BY A COLLECTIVE BARGAINING AGREEMENT THAT IS IN EFFECT.

(iii) AN INDIVIDUAL EMPLOYED BY THE UNITED STATES GOVERNMENT, ANOTHER STATE, OR A POLITICAL SUBDIVISION OF ANOTHER STATE.

(iv) AN INDIVIDUAL EMPLOYED BY AN AIR CARRIER AS A FLIGHT DECK OR CABIN CREW MEMBER THAT IS SUBJECT TO TITLE II OF THE RAILWAY 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) (g) "Employer" means any person, firm, business, educational institution, nonprofit agency, corporation, limited liability company, government entity, or other entity that employs 1–50 or more individuals, except that employer does not include the United States government, ANOTHER STATE, OR A POLITICAL SUBDIVISION OF ANOTHER STATE.

(G) (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 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 ELIGIBLE employee's spouse or domestic partner or a person who stood in loco parentis when the ELIGIBLE employee was a minor child.
(iii) A person—AN INDIVIDUAL to whom the ELIGIBLE 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) Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

(H) (i) "Health care professional"—PROVIDER means any of the following: THAT TERM AS DEFINED IN SECTION 101 OF THE FAMILY AND MEDICAL LEAVE ACT, 29 USC 2611.

   (i) Any 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 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.

   (I) "PAID MEDICAL LEAVE" MEANS TIME OFF FROM WORK THAT IS PROVIDED BY AN EMPLOYER TO AN ELIGIBLE EMPLOYEE THAT CAN BE USED
FOR THE PURPOSES DESCRIBED IN SECTION 4(1).

(J) (k) "Sexual assault" means any act that constitutes a violation of 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 employer shall provide earned sick time PAID MEDICAL LEAVE 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 EXCEPT AS OTHERWISE PROVIDED
IN SUBSECTION (3), AN ELIGIBLE EMPLOYEE MUST accrue a minimum PAID
MEDICAL LEAVE AT A RATE of AT LEAST one hour of paid earned sick
time MEDICAL LEAVE for every 30-35 hours worked. but shall AN
EMPLOYER IS not be entitled to use REQUIRED TO ALLOW AN ELIGIBLE
EMPLOYEE TO ACCRUE more than 72-1 HOUR OF PAID MEDICAL LEAVE IN A
CALENDAR WEEK. AN EMPLOYER MAY LIMIT AN ELIGIBLE EMPLOYEE'S ACCRUAL
OF PAID MEDICAL LEAVE TO NOT LESS THAN 40 hours of paid earned sick
time per BENEFIT year. unless the employer selects a higher
limit. AN EMPLOYER IS NOT REQUIRED TO ALLOW AN ELIGIBLE EMPLOYEE TO
CARRY OVER MORE THAN 40 HOURS OF UNUSED ACCRUED PAID MEDICAL LEAVE
FROM ONE BENEFIT YEAR TO ANOTHER BENEFIT YEAR. AN EMPLOYER IS NOT
REQUIRED TO ALLOW AN ELIGIBLE EMPLOYEE TO USE MORE THAN 40 HOURS OF
PAID FAMILY MEDICAL LEAVE IN A SINGLE BENEFIT YEAR.

(3) AS AN ALTERNATIVE TO SUBSECTION (2), AN EMPLOYER MAY
PROVIDE AT LEAST 40 HOURS OF PAID MEDICAL LEAVE TO AN ELIGIBLE
EMPLOYEE AT THE BEGINNING OF A BENEFIT YEAR. FOR ELIGIBLE EMPLOYEES
HIRED DURING A BENEFIT YEAR, AN EMPLOYER MAY PRORATE PAID MEDICAL
LEAVE PROVIDED UNDER THIS SUBSECTION. IF AN EMPLOYER ELECTS TO
PROVIDE PAID MEDICAL LEAVE TO AN ELIGIBLE EMPLOYEE PURSUANT TO THIS
SUBSECTION, THE EMPLOYER IS NOT REQUIRED TO ALLOW THE ELIGIBLE
EMPLOYEE TO CARRY OVER ANY OF THAT PAID MEDICAL LEAVE 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.

(4) Earned sick time—PAID MEDICAL LEAVE as provided in
this section shall begin to accrue on the effective date of this
law, or upon commencement of the employee’s employment, whichever
is later. An employee may use accrued earned sick time—PAID MEDICAL
LEAVE as it is accrued, except that an employer may require an
employee hired after April 1, 2019, to wait until the ninetieth
calendar day after commencing employment before using accrued
earned sick time—PAID MEDICAL LEAVE.

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

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

(5) A THERE IS A REBUTTABLE PRESUMPTION THAT AN employer
other than an small business is in compliance with this section—ACT
if the employer provides any paid leave in at least the same
amounts as that provided under this act that may be used for the
same purposes and under the same conditions provided in this act
and that is accrued at a rate equal to or greater than the rate
described in subsections (1) and (2). An employer that is a small business is in compliance with this section if the employer provides paid leave in at least the same amounts as that provided under this act that may be used for the same purposes and under the same conditions provided in this act and that is accrued at a rate equal to or greater than the rate described in subsections (1) and (2) provided further that that employees of the small business are entitled to use paid earned sick time before using unpaid earned sick time. For purposes of this subsection, "paid leave" includes but is not limited to paid vacation days, personal days, and paid time off. 40 HOURS OF PAID LEAVE TO AN ELIGIBLE EMPLOYEE EACH BENEFIT YEAR.

(6) An employer shall pay each ELIGIBLE employee using paid earned sick time MEDICAL LEAVE at a pay rate equal to the greater of either the normal hourly wage OR BASE WAGE for that ELIGIBLE employee or the minimum wage RATE established under IN SECTION 4 OF the IMPROVED 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.

(7) An employer shall not require an employee to search for or secure a replacement worker as a condition for using earned sick time. 2018 PA 337, MCL 408.934. AN EMPLOYER IS NOT REQUIRED TO
INCLUDE OVERTIME PAY, HOLIDAY PAY, BONUSES, COMMISSIONS,
SUPPLEMENTAL PAY, PIECE-RATE PAY, OR GRATUITIES IN THE CALCULATION
OF AN ELIGIBLE EMPLOYEE’S NORMAL HOURLY WAGE OR BASE WAGE.

(7) AS USED IN THIS SECTION:

(A) "HOURS WORKED" DOES NOT INCLUDE, UNLESS OTHERWISE INCLUDED
BY AN EMPLOYER, HOURS TAKEN OFF FROM WORK BY AN ELIGIBLE EMPLOYEE
FOR PAID LEAVE.

(B) "PAID LEAVE" INCLUDES, BUT IS NOT LIMITED TO, PAID
VACATION DAYS, PAID PERSONAL DAYS, AND PAID TIME OFF.

Sec. 4. (1) An employer shall permit an ELIGIBLE
employee to use the earned sick time PAID MEDICAL LEAVE accrued
under section 3 for any of the following:

(a) The ELIGIBLE employee's mental or physical illness,
injury, or health condition; 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 ELIGIBLE employee's family member's mental or
physical illness, injury, or health condition; 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 member is a victim of domestic violence or sexual assault,
for THE medical care or psychological or other counseling for
physical or psychological injury or disability; to obtain services
from a victim services organization; to relocate due to domestic violence or sexual assault; to obtain legal services; or to participate in any civil or criminal proceedings related to or resulting from the domestic violence or sexual assault.

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

For closure of the ELIGIBLE employee's PRIMARY WORKPLACE by order of a public official due to a public health emergency; for an ELIGIBLE employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency; or when it has been determined by the health authorities having jurisdiction or by a health care provider that the ELIGIBLE employee's or ELIGIBLE employee's family member's presence in the community would jeopardize the health of others because of the ELIGIBLE employee's or family member's exposure to a communicable disease, whether or not the ELIGIBLE 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 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 may require the employee to give notice of the intention as soon as practicable. AN ELIGIBLE EMPLOYEE SHALL, WHEN REQUESTING TO USE PAID MEDICAL LEAVE, COMPLY WITH HIS OR HER EMPLOYER'S USUAL AND
CUSTOMARY NOTICE, PROCEDURAL, AND DOCUMENTATION REQUIREMENTS FOR REQUESTING LEAVE. AN EMPLOYER SHALL GIVE AN ELIGIBLE EMPLOYEE AT LEAST 3 DAYS TO PROVIDE THE EMPLOYER WITH DOCUMENTATION. THIS ACT DOES NOT PROHIBIT AN EMPLOYER FROM DISCIPLINING OR DISCHARGING AN ELIGIBLE EMPLOYEE FOR FAILING TO COMPLY WITH THE EMPLOYER'S USUAL AND CUSTOMARY NOTICE, PROCEDURAL, AND DOCUMENTATION REQUIREMENTS FOR REQUESTING LEAVE.

(3) Earned sick time may 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 or use of other time. UNLESS THE EMPLOYER HAS A DIFFERENT INCREMENT POLICY AND THE POLICY IS IN WRITING IN AN EMPLOYEE HANDBOOK OR OTHER EMPLOYEE BENEFITS DOCUMENT.

(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 AN EMPLOYER MAY REQUIRE AN ELIGIBLE EMPLOYEE WHO IS USING PAID MEDICAL LEAVE BECAUSE of domestic violence or sexual assault, one of the TO PROVIDE DOCUMENTATION THAT THE PAID MEDICAL LEAVE HAS BEEN USED FOR THAT PURPOSE. THE following types of documentation selected by the employee shall be considered
reasonable documentation ARE Satisfactory FOR PURPOSES OF THIS SUBSECTION:

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

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

(c) A court document indicating that the ELIGIBLE employee or ELIGIBLE employee's family member is involved in legal action related to domestic violence or sexual assault. An employer shall not require that the documentation explain the nature of the illness or the details of the violence. If an employer chooses to require documentation for earned sick time, the employer is responsible for paying all out-of-pocket expenses the employee incurs in obtaining the documentation. If the employee does have health insurance, the employer is responsible for paying any costs charged to the employee by the health care provider for providing the specific documentation required by the employer.

(5) AN EMPLOYER SHALL NOT REQUIRE THAT THE DOCUMENTATION PROVIDED UNDER SUBSECTION (4) EXPLAIN THE DETAILS OF THE VIOLENCE. An employer shall not require disclosure of details relating to domestic violence or sexual assault or the details of an ELIGIBLE employee's or an ELIGIBLE employee's family member's medical condition as a condition of providing earned sick time PAID MEDICAL LEAVE under this act. If an employer possesses health information
or information pertaining to domestic violence or sexual assault about an ELIGIBLE employee or ELIGIBLE employee's family member, the employer shall treat that information as confidential and shall not disclose that information except to the affected ELIGIBLE employee or with the permission of the affected ELIGIBLE employee.

(6) This act does not require an employer to provide earned sick time—PAID MEDICAL LEAVE for any purposes other than as described in this section.

Sec. 5. (1) If an ELIGIBLE employee is transferred to a separate division, entity, or location, but remains employed by the same employer, the ELIGIBLE employee shall retain all earned sick time—PAID MEDICAL LEAVE that was accrued at the prior division, entity, or location and may use all THE accrued earned sick time as provided in PAID MEDICAL LEAVE PURSUANT TO section 4.

If an ELIGIBLE employee separates from employment and is rehired by the same employer, within 6 months of the separation, the employer shall reinstate previously accrued, IS NOT REQUIRED TO ALLOW THE ELIGIBLE EMPLOYEE TO RETAIN ANY unused earned sick time and shall permit the reinstated employee to use that earned sick time and accrue additional earned sick time upon reinstatement—PAID MEDICAL LEAVE THAT THE ELIGIBLE EMPLOYEE PREVIOUSLY ACCUMULATED WHILE WORKING FOR THE EMPLOYER.

(2) If a different employer succeeds or takes the place of an existing employer, the successor employer assumes the responsibility for the earned sick time rights that employees who remain employed by the successor employer accrued under the original employer. Those employees are entitled to use earned sick
time previously accrued on the terms provided in this act.

(2) (3) This act does not require an employer to provide financial or other reimbursement to an ELIGIBLE employee for accrued earned sick time PAID MEDICAL LEAVE that was not used upon BEFORE the employee's END OF A BENEFIT YEAR OR BEFORE THE ELIGIBLE EMPLOYEE'S termination, resignation, retirement, or other separation from employment.

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

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

(b) File a claim with the department. Filing a claim with the department is neither a prerequisite nor a bar to bringing a civil action.

(2) (a) The director shall enforce the provisions of this act. In effectuating such enforcement, the THE director shall establish a system utilizing multiple means of communication to receive complaints regarding non-compliance with this act and investigate complaints received by the department in a timely manner.
(b) Any person alleging a violation of this chapter shall have the right to file a complaint with the department. The department shall encourage reporting pursuant to this subsection by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the employee or person reporting the violation, provided, however, that with the authorization of such person, the department may disclose his or her name and identifying information as necessary to enforce this chapter or for other appropriate purposes.

(3) (c) Upon receiving a complaint alleging a violation of this chapter, the department shall investigate such 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 notified regarding the status of their complaint and any resultant investigation. If the department determines 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 notices of violation, including any method of appealing the decision of the department.

(4) (d) The department shall have the power to impose penalties and to grant an employee all appropriate relief including but not limited to payment of all earned sick time improperly withheld, any and all damages incurred by the complainant as the result of violation of this act, back pay and reinstatement in the
case of job loss. THE DEPARTMENT IS THE TRUSTEE FOR THE ELIGIBLE
EMPLOYEE OR FORMER ELIGIBLE EMPLOYEE AND SHALL DISTRIBUTE AND
ACCOUNT FOR MONEY COLLECTED UNDER THIS SUBSECTION.

(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 bring a civil action
as provided in subsection (1)(a) on behalf of the employee. The
department may investigate and file a civil action under subsection
(1)(a) on behalf of all employees that employer who are similarly
situated at the same work site and who have not brought a civil
action under subsection (1)(a). A contract or agreement between the
employer and the employee or any acceptance by the employee of a
paid or unpaid leave policy that provides fewer rights or benefits
than provided by this act is void and unenforceable.

(5) In addition to liability for civil remedies described
in this section, an employer who fails to provide earned
sick time—PAID MEDICAL LEAVE in violation of this act or takes
retaliatory personnel action against an employee or former employee
is subject to a civil ADMINISTRATIVE fine of not more than
$1,000.00.

(6) An employer that willfully violates the posting requirement of section 8 is subject to a civil ADMINISTRATIVE fine of not more than $100.00 for each separate violation.

Sec. 8. (1) An employer subject to this act shall provide
written notice to each employee at the time of hiring or by April
1, 2019, whichever is later, including, but not limited to, DISPLAY
A POSTER AT THE EMPLOYER'S PLACE OF BUSINESS, IN A CONSPICUOUS
PLACE THAT IS ACCESSIBLE TO ELIGIBLE EMPLOYEES, THAT CONTAINS all
of the following INFORMATION:

   (a) The amount of earned sick time—PAID MEDICAL LEAVE required
to be provided to an ELIGIBLE employee under this act.
   (b) The employer's choice of how to calculate a "year"
according to subsection 3 of section 3.
   (c) The terms under which earned sick time—PAID MEDICAL
LEAVE may be used.
   (d) That retaliatory personnel action by the employer against
an employee for requesting or using earned sick time for which the
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 violation of this
act.

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

(3) An employer shall display a poster at the employer's place
of business, in a conspicuous place that is accessible to
employees, that contains the information in subsection (1). The
poster displayed should be in English, Spanish, and any language
that is the first language spoken by at least 10% of the employer's
workforce, as long as the department has translated the poster into
such language.
(2) The department shall create and make available to employers, notices and AT NO COST, posters that contain the information required under subsection (1) for employers' use in complying with this section. The department shall provide such notices and posters in English, Spanish, and any other languages deemed appropriate by the department.

Sec. 10. An employer shall retain for not less than 3 years records documenting the hours worked and earned sick time PAID MEDICAL LEAVE 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 employee's right to earned sick time under this act and the employer does not maintain or retain adequate records documenting the hours worked and earned sick time taken by the employee or does not allow the department reasonable access to those records, there is a presumption that the employer has violated the act, which can be rebutted only by clear and convincing evidence. THOSE RECORDS SHALL BE OPEN TO INSPECTION BY THE DIRECTOR AT ANY REASONABLE TIME.

Sec. 11. (1) This act provides minimum requirements pertaining to earned sick time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard, including a collective bargaining agreement, that provides for greater accrual or use of time off, whether paid or unpaid, or that extends other protections to employees.
(2) This act does not do any of the following:
   
   (a) Prohibit an employer from providing more earned sick time PAID MEDICAL LEAVE than is required under this act.

   (b) Diminish any OTHER rights provided to any ELIGIBLE employee under a collective bargaining agreement.

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

   (d) Prohibit an employer from establishing a policy that permits an ELIGIBLE employee to donate unused accrued earned sick time PAID MEDICAL LEAVE to another ELIGIBLE employee.

Sec. 14. If any portion of this act or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect, impair, or invalidate the other portions or applications of the act that can be given effect without the invalid portion or application, and to this end the provisions of this act are declared to be severable. IF A FEDERAL PAID MEDICAL LEAVE MANDATE IS ENACTED, THIS ACT DOES NOT APPLY AS OF THE EFFECTIVE DATE OF THE MANDATE.

Enacting section 1. Sections 6, 9, and 13 of 2018 PA 338, MCL 408.966, 408.969, and 408.973, are repealed.