

# SENATE BILL NO. 961

June 04, 2020, Introduced by Senators GEISS, CHANG, ANANICH, HERTEL, MCMORROW, BRINKS, WOJNO, POLEHANKI, MOSS, ALEXANDER, IRWIN and HOLLIER and referred to the Committee on Economic and Small Business Development.

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; and to repeal acts and parts of acts.

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

**1**

TITLE

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, **declared**  
 5 **emergencies, and school meetings needed as the result of a child's**  
 6 **disability, health issues, or issues relating to domestic violence**  
 7 **or sexual assault;** to specify the conditions for accruing and using  
 8 ~~paid medical leave;~~ **earned sick time;** to prohibit retaliation  
 9 **against an employee for requesting, exercising, or enforcing rights**  
 10 **granted in this act;** to prescribe powers and duties of certain  
 11 state departments, agencies, and officers; **to provide for**  
 12 **promulgation of rules;** and to provide 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 labor**  
 19 **and regulatory affairs. economic opportunity.**

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 both same-sex and**  
 24 **different-sex relationships. As used in this subdivision,**  
 25 **"committed relationship" means one in which the employee and**  
 26 **another individual share responsibility for a significant measure**  
 27 **of each 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  
12 any of the following:

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

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

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

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

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

27 (i) **An individual employed by the United States government.**

28 (ii) ~~(vi)~~ **An employee as that term is** defined in section 1 of  
29 the railroad 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, **a** stepchild or  
21 legal 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 **(vii) An individual who is related by blood or affinity to the**  
 6 **employee and whose relationship with the employee is the equivalent**  
 7 **of a familial relationship.**

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

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

14 (ii) A certified midwife.

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

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

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

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

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

25 (iv) Interference with, or punishment for, an individual's  
 26 participation in any manner in an investigation, proceeding, or  
 27 hearing under this act.

28 (k) ~~(j)~~-"Sexual assault" means any act that violates section

1 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA  
2 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

3 (l) "Small business" means an employer for which fewer than 10  
4 individuals work for compensation during a given week. In  
5 determining the number of individuals performing work for  
6 compensation during a given week, all individuals performing work  
7 for compensation on a full-time, part-time, or temporary basis must  
8 be counted, including individuals made available to work through  
9 the services of a temporary services or staffing agency or similar  
10 entity. An employer is not a small business if it maintained 10 or  
11 more employees on its payroll during any 20 or more calendar  
12 workweeks in the current or immediately preceding calendar year.

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

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

28 ~~(3) As an alternative to subsection (2), an employer may~~  
29 ~~provide at least 40 hours of paid medical leave to an eligible~~

1 ~~employee at the beginning of a benefit year. For eligible employees~~  
2 ~~hired during a benefit year, an employer may prorate paid medical~~  
3 ~~leave provided under this subsection. If an employer elects to~~  
4 ~~provide paid medical leave to an eligible employee pursuant to this~~  
5 ~~subsection, the employer is not required to allow the eligible~~  
6 ~~employee to carry over any of that paid medical leave to another~~  
7 ~~benefit year.~~

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

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

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

27       (5) ~~(4) Paid medical leave~~ Earned sick time as provided in  
28 this section ~~shall begin~~ begins to accrue on the effective date of  
29 this law, ~~act~~, or upon commencement of the employee's employment,

1 whichever is later. An employee may use accrued ~~paid medical leave~~  
2 **earned sick time** as it is accrued, except that an employer may  
3 require an employee **hired after the effective date of the 2020**  
4 **amendatory act that amended this section** to wait until the  
5 ninetieth calendar day after commencing employment before using  
6 accrued ~~paid medical leave~~. **earned sick time.**

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

10 (6) An employer other than a small business is in compliance  
11 with this section if the employer provides any paid time off in at  
12 least the same amount as that provided under this act that may be  
13 used for the same purposes and under the same conditions provided  
14 in this act and that is accrued at a rate equal to or greater than  
15 the rate described in subsection (3). An employer that is a small  
16 business is in compliance with this section if the employer  
17 provides a combination of paid and unpaid time off in at least the  
18 same amount as that provided under this act that may be used for  
19 the same purposes and under the same conditions provided in this  
20 act and that is accrued at a rate equal to or greater than the rate  
21 described in subsection (2).

22 (7) ~~(6)~~ An employer shall pay each ~~eligible~~ employee using  
23 ~~paid medical leave~~ **earned sick time** at a pay rate equal to the  
24 greater of either the normal hourly wage ~~or base wage~~ for that  
25 ~~eligible~~ employee or the minimum wage rate established **in the**  
26 **improved workforce opportunity wage act, 2018 PA 337, MCL 408.931**  
27 **to 408.945, but not less than the minimum hourly wage rate**  
28 **established** in section 4 of the improved workforce opportunity wage  
29 act, 2018 PA 337, MCL 408.934. ~~An employer is not required to~~



1 ~~include overtime pay, holiday pay, bonuses, commissions,~~  
2 ~~supplemental pay, piece-rate pay, or gratuities in the calculation~~  
3 ~~of an eligible employee's normal hourly wage or base wage.~~ **For any**  
4 **employee whose hourly wage varies depending on the work performed,**  
5 **the "normal hourly wage" means the average hourly wage of the**  
6 **employee in the pay period immediately prior to the pay period in**  
7 **which the employee used paid earned sick time.**

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

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

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

14 **(8) An employer shall not require an employee to search for or**  
15 **secure a replacement worker as a condition for using earned sick**  
16 **time.**

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

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

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

29 **(a) The ~~eligible~~ employee's mental or physical illness,**

1 injury, or health condition; medical diagnosis, care, or treatment  
 2 of the ~~eligible~~-employee's mental or physical illness, injury, or  
 3 health condition; or preventative medical care for the ~~eligible~~  
 4 employee.

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

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

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

21 **(e) ~~(d)~~ For closure of the ~~eligible~~-employee's primary**  
 22 **workplace by order of a public official due to a public health**  
 23 **emergency; for an ~~eligible~~-employee's need to care for a ~~child~~**  
 24 **family member whose school or place of care has been closed by**  
 25 **~~order of a local, state, or federal~~ public official or at the**  
 26 **discretion of the school or place of care due to a public health**  
 27 **emergency, including if the school or place of care is physically**  
 28 **closed but continues to provide instruction remotely; or if it has**  
 29 **been determined by the health authorities having jurisdiction or by**

1 a health care ~~provider~~**professional** that the ~~eligible~~-employee's or  
2 ~~eligible~~-employee's family member's presence in the community would  
3 jeopardize the health of others because of the ~~eligible~~-employee's  
4 or family member's exposure to a communicable disease, whether or  
5 not the ~~eligible~~-employee or family member has actually contracted  
6 the communicable disease.

7 (f) If an emergency is declared by a local official, the  
8 governor, or the President of the United States because of a  
9 natural disaster, public health crisis, epidemic, or pandemic, the  
10 employee's inability to work or work remotely during the emergency  
11 or an extension of the emergency for any of the following reasons:

12 (i) The employee had close contact with an individual who  
13 tested positive for a communicable illness related to the emergency  
14 or with an individual who displayed 1 or more of the principal  
15 symptoms of a communicable illness related to the emergency.

16 (ii) The employee is subject to an individual or local, state,  
17 or federal quarantine or isolation order, including a shelter-in-  
18 place or stay-at-home order, related to the declared emergency.

19 (iii) The employee is required to care for a family member when  
20 the family member's usual care professional is unavailable because  
21 of the emergency.

22 (iv) The employee has a condition or characteristic that might  
23 increase the employee's susceptibility of contracting, or increase  
24 the health risks associated with contracting, a communicable  
25 illness related to the emergency including, but not limited to,  
26 age, heart disease, asthma, lung disease, diabetes, kidney disease,  
27 or a weakened or compromised immune system.

28 (v) For any other reason related to the emergency as described  
29 in a rule promulgated under this act.

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.~~

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

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

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

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

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

28       **(2) If the employee's need to use earned sick time is**  
29 **foreseeable, an employer may require advance notice, not to exceed**

1 7 days before the date the earned sick time is to begin, of the  
2 intention to use the earned sick time. If the employee's need for  
3 the earned sick time is not foreseeable, an employer may require  
4 the employee to give notice of the intention as soon as  
5 practicable. For earned sick time that is used for a purpose  
6 described in subsection (1)(f), an employer may only require the  
7 employee to give notice of the intention to use the earned sick  
8 time as soon as practicable.

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

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

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

29 (b) A signed statement from a victim and witness advocate

1 affirming that the employee or employee's family member is  
2 receiving services from a victim services organization.

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

6 (5) An employer shall not require that documentation provided  
7 by an employee under subsection (4) explain the nature of the  
8 illness or the details of the violence. If an employer chooses to  
9 require documentation for earned sick time, the employer is  
10 responsible for paying all out-of-pocket expenses the employee  
11 incurs in obtaining the documentation. If the employee does have  
12 health insurance, the employer is responsible for paying any costs  
13 charged to the employee by the health care professional for  
14 providing the specific documentation required by the employer.

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

28 (7) ~~(6)~~ This act does not require an employer to provide ~~paid~~  
29 ~~medical leave~~ **earned sick time** for any purposes other than as

1 described in this section.

2       Sec. 5. (1) If an ~~eligible~~ employee is transferred to a  
 3 separate division, entity, or location, but remains employed by the  
 4 same employer, the ~~eligible~~ employee retains all ~~paid medical leave~~  
 5 **earned sick time** that was accrued at the prior division, entity, or  
 6 location and may use the accrued ~~paid medical leave~~ **earned sick**  
 7 **time** pursuant to section 4. If an ~~eligible~~ employee separates from  
 8 employment and is rehired by the same employer **within 6 months**  
 9 **after the separation**, the employer ~~is not required to allow the~~  
 10 ~~eligible employee to retain any~~ **shall reinstate previously accrued**,  
 11 unused ~~paid medical leave that the eligible employee previously~~  
 12 ~~accumulated while working for the employer.~~ **earned sick time and**  
 13 **shall allow the reinstated employee to use that earned sick time**  
 14 **and accrue additional earned sick time upon reinstatement.**

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

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

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

1           (2) An employer shall not take retaliatory personnel action or  
2 discriminate against an employee because the employee has exercised  
3 a right protected under this act. Rights protected by this act  
4 include, but are not limited to, the right to use earned sick time  
5 pursuant to this act, the right to file a complaint or inform any  
6 person about any employer's alleged violation of this act, the  
7 right to cooperate with the department in its investigations of  
8 alleged violations of this act, and the right to inform any person  
9 of his or her rights under this act.

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

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

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

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

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

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

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

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

28           Sec. 7. (1) If an employer violates this act, the eligible  
29 employee affected by the violation, at any time within ~~6 months~~ 3



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

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

6 (i) Payment for used earned sick time.

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

8 (iii) Payment of back wages.

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

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

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

17 (2) The director shall enforce this act. The director shall  
18 establish a system utilizing multiple means of communication to  
19 receive complaints regarding ~~non-compliance~~ **noncompliance** with this  
20 act and investigate complaints received by the department in a  
21 timely manner.

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

1 **other appropriate purposes.**

2       (4) ~~(3)~~ Upon receiving a complaint alleging a violation of  
 3 this act, the department shall investigate the complaint and  
 4 attempt to resolve it through mediation between the complainant and  
 5 the subject of the complaint, or other means. The department shall  
 6 keep complainants notified regarding the status of their complaint  
 7 and any resultant investigation. If the department determines that  
 8 a violation has occurred, it shall issue to the offending person a  
 9 notice of violation and the relief required of the offending  
 10 person. The department shall prescribe the form and wording of  
 11 notices of violation, which must include the method of appealing  
 12 the determination of the department.

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

22       (6) **If the director determines that there is reasonable cause**  
 23 **to believe that an employer violated this act and the department is**  
 24 **subsequently unable to obtain voluntary compliance by the employer**  
 25 **within a reasonable time, the department shall bring a civil action**  
 26 **as provided in subsection (1)(a) on behalf of the employee. The**  
 27 **department may investigate and file a civil action under subsection**  
 28 **(1)(a) on behalf of all employees of that employer who are**  
 29 **similarly situated at the same work site and who have not brought a**

1 civil action under subsection (1) (a). A contract or agreement  
 2 between the employer and the employee or any acceptance by the  
 3 employee of a paid or unpaid leave policy that provides fewer  
 4 rights or benefits than provided by this act is void and  
 5 unenforceable.

6 (7) ~~(5) An~~ In addition to liability for civil remedies  
 7 described in this section, an employer that fails to provide paid  
 8 ~~medical leave~~ earned sick time in violation of this act or takes  
 9 retaliatory personnel action against an employee or former employee  
 10 is subject to ~~an administrative~~ a civil fine of not more than  
 11 \$1,000.00.

12 (8) ~~(6) An~~ employer that willfully violates ~~the~~ a notice or  
 13 posting requirement of section 8 is subject to ~~an administrative~~ a  
 14 civil fine of not more than \$100.00 for each separate violation.

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

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

22 (b) The employer's choice of how to calculate a year under  
 23 section 3(9).

24 (c) ~~(b)~~ The terms under which ~~paid medical leave~~ earned sick  
 25 time may be used.

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

29 (e) ~~(e)~~ The ~~eligible~~ employee's right to bring a civil action

1 or file a complaint with the department for any violation of this  
2 act.

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

7 (3) An employer shall display at the employer's place of  
8 business, in a conspicuous place that is accessible to employees, a  
9 poster that contains the information listed in subsection (1). The  
10 poster displayed should be in English, Spanish, and in any other  
11 language that is the first language spoken by at least 10% of the  
12 employer's workforce, if the department has translated the poster  
13 into that language. If an employer does not maintain a physical  
14 workplace or if 1 or more of the employer's employees work  
15 remotely, the employer shall share the poster, or the information  
16 included on the poster, with its employees via an electronic  
17 communication or via a web-based platform or website that is  
18 accessible to its employees.

19 (4) ~~(2)~~ The department shall create and make available to  
20 employers ~~at no cost,~~ **notices and** posters that contain the  
21 information ~~required~~ **listed** under subsection (1) for employers' use  
22 in complying with this section. **The department shall provide the**  
23 **notices and posters in English, Spanish, and any other languages**  
24 **the department determines are appropriate.**

25 **Sec. 8b.** The department shall develop and implement a  
26 multilingual outreach program to inform employees, parents, and  
27 individuals who are under the care of a health care professional  
28 about the availability of earned sick time under this act. The  
29 program must include distribution of notices and other written

1 materials in English and in other languages to child care and elder  
 2 care providers, domestic violence shelters, schools, hospitals,  
 3 community health centers, and other health care professionals.

4       Sec. 10. An employer shall retain for not less than ~~1 year~~ **3**  
 5 **years** records documenting the hours worked and ~~paid medical leave~~  
 6 **earned sick time** taken by ~~eligible~~ employees. ~~These records shall~~  
 7 ~~be open to inspection by the director at any reasonable time.~~ **To**  
 8 **monitor compliance with this act, an employer shall allow the**  
 9 **department access to those records, with appropriate notice and at**  
 10 **a mutually agreeable time. If a question arises as to whether an**  
 11 **employer has violated an employee's right to earned sick time under**  
 12 **this act and the employer does not maintain or retain adequate**  
 13 **records documenting the hours worked and earned sick time taken by**  
 14 **the employee or does not allow the department reasonable access to**  
 15 **those records, there is a presumption that the employer has**  
 16 **violated the act, which can be rebutted only by clear and**  
 17 **convincing evidence.**

18       Sec. 11. **This act provides minimum requirements pertaining to**  
 19 **earned sick time and does not preempt, limit, or otherwise affect**  
 20 **the applicability of any other law, regulation, requirement,**  
 21 **policy, or standard, including a collective bargaining agreement,**  
 22 **that provides for greater accrual or use of time off, whether paid**  
 23 **or unpaid, or that extends other protections to employees.** This act  
 24 does not do any of the following:

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

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

29       (c) Subject to section 12, preempt or override the terms of

1 any collective bargaining agreement in effect prior to the  
2 effective date of this act.

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

6 **Sec. 12b. The director may promulgate rules in accordance with**  
7 **the administrative procedures act of 1969, 1969 PA 306, MCL 24.201**  
8 **to 24.328, as necessary to administer this act.**

9 Sec. 14. If any portion of this act or the application thereof  
10 to any person or circumstances shall be found to be invalid by a  
11 court, such invalidity shall not affect, impair, or invalidate the  
12 other portions or applications of the act that can be given effect  
13 without the invalid portion or application, and to this end the  
14 provisions of this act are declared to be severable. ~~If a federal~~  
15 ~~paid medical leave mandate is enacted, this act does not apply as~~  
16 ~~of the effective date of the mandate.~~

17 Enacting section 1. The local government labor regulatory  
18 limitation act, 2015 PA 105, MCL 123.1381 to 123.1396, is repealed.