



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

## BILL ANALYSIS



Telephone: (517) 373-5383  
Fax: (517) 373-1986

Senate Bill 1175 (Substitute S-1 as reported)  
Sponsor: Senator Mike Shirkey  
Committee: Government Operations

**CONTENT**

The bill would amend the Earned Sick Time Act to rename it the "Paid Medical Leave Act" and to do the following:

- Modify or add various terms and definitions, including "eligible employee", "employer", "family member", and "paid medical leave", and eliminate certain terms, such as "domestic partner", "earned sick time" and "small business".
- Require an employer to provide an eligible employee paid medical leave at a rate of at least one hour for every 40, instead of 30, hours worked; allow an employer to limit an eligible employee's accrual of paid medical leave to 36 hours; and eliminate separate requirements for small businesses and all other employers.
- Specify that an employer would not have to allow an eligible employee to use more than 36, instead of 72, hours of earned sick time in a single benefit year.
- Allow an employer, as an alternative to hourly accrual, to provide at least 36 hours of paid medical leave to an employee at the beginning of a benefit year.
- Specify that there would be a rebuttable presumption that an employer was in compliance with the Act if the employer provided 36 hours of paid leave to an eligible employer each benefit year.
- Eliminate a provision that prohibits an employer from requiring an employee to search or secure a replacement worker as a condition of using paid leave.
- Eliminate the Act's current documentation and notice requirements for employees, and require an eligible employee to comply with his or her employer's usual and customary notice, procedural, and documentation requirements for requesting paid leave.
- Eliminate a provision requiring an employer to pay for the out-of-pocket costs incurred by an employee for obtaining specific documentation required by the employer.
- Eliminate a provision requiring an employer to reinstate an employee's previously accrued paid medical leave if the employer separated from employment but was rehired by the same employer within six months of separation.
- Eliminate a requirement for a different employer succeeding or taking the place of an existing employer to assume responsibility for the paid leave time for employees who remained employed by the successor employer.
- Specify that if an employer violated the Act, an eligible employee could file a claim with the Department of Licensing and Regulatory Affairs (LARA) within six months, instead of three years, after the violation or the date the employee knew of the violation.
- Allow LARA to grant an eligible employee or former eligible employee payment of all paid medical leave improperly withheld instead of that remedy and all damages incurred by the complainant as a result of the violation, and back pay and reinstatement in the event of a job loss.
- Eliminate a provision allowing an employee to bring a civil action for a violation.

- Eliminate a provision authorizing LARA to bring a civil action against an employer if there were reasonable cause to believe an employer was violating the Act, and LARA was subsequently unable to obtain voluntary compliance within a reasonable time.
- Require an employer to retain for at least one, instead of three, years records documenting hours worked and paid medical leave taken by eligible employees.
- Eliminate a presumption that an employer violated the Act if a question arose as to an employer's violation of the Act and the employer did not maintain or retain adequate records, or did not allow LARA reasonable access to the records.

The bill also would repeal Sections 6, 9, and 13 of the Act. (Section 6 prohibits an employee from interfering with or denying the exercise of rights protected under the Act, or from taking retaliatory personnel action or discriminating against an employee because he or she exercised a right protected under the Act. Section 9 requires LARA to develop and implement a multilingual outreach program to inform individual about the availability of earned sick time. Section 13 allows the Director of LARA to promulgate rules as necessary to administer the Act.)

MCL 408.961 et al.

Legislative Analyst: Jeff Mann

### **FISCAL IMPACT**

The bill would have a negative fiscal impact on State government and an indeterminate negative fiscal impact on local government. Costs to State and local government include any additional expenses incurred due to the use of paid medical leave by employees beyond their current benefits. The Department of Licensing and Regulatory Affairs (LARA) also would incur significant costs due to the bill's provisions.

The bill would require LARA to establish a communications system for receiving complaints against employers. In addition, the Department would be responsible for monitoring employer compliance, investigating alleged violations, and processing appeals. The Department anticipates increased expenses associated with public outreach and the production of communications materials to meet the bill's requirements.

An estimated 8.0 to 14.0 FTEs could be required in the Wage and Hour Division, depending upon the volume of inquiries, complaints, and investigations initiated as a result of the bill. The addition of these FTEs would result in a cost of approximately \$840,000 to \$1,525,000. The Department also could incur additional, currently unknown, expenses related to the production and distribution of posters and other informational material.

Employers who did not provide paid medical leave could be charged an administrative fine of up to \$1,000. A violation of the posting requirements could result in an administrative fine of up to \$100. Revenue from these fines would be deposited into the General Fund in accordance with Michigan Compiled Laws 18.1443.

Date Completed: 11-30-18

Fiscal Analyst: Elizabeth Raczkowski

floor\sb1175

Bill Analysis @ [www.senate.michigan.gov/sfa](http://www.senate.michigan.gov/sfa)

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.