

By: Representatives Currie, Boyd, Crawford

To: Appropriations

HOUSE BILL NO. 1172

1 AN ACT TO AMEND SECTIONS 25-3-93 AND 25-3-95, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT STATE LAW ENFORCEMENT OFFICERS WHO
3 ARE INJURED BY WOUND OR ACCIDENT IN THE LINE OF DUTY SHALL NOT BE
4 REQUIRED TO USE EARNED PERSONAL LEAVE OR MAJOR MEDICAL LEAVE
5 DURING THE PERIOD OF RECOVERY FROM THE INJURY; AND FOR RELATED
6 PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** Section 25-3-93, Mississippi Code of 1972, is
9 amended as follows:

10 25-3-93. (1) (a) Except as provided in subsection (1)(b),
11 all employees and appointed officers of the State of Mississippi,
12 who are employees as defined in Section 25-3-91, shall be allowed
13 credit for personal leave computed as follows:

14 Continuous	Accrual Rate	Accrual Rate
15 Service	(Monthly)	(Annually)
16 1 month to 3 years	12 hours per month	18 days per year
17 37 months to 8 years	14 hours per month	21 days per year
18 97 months to 15 years	16 hours per month	24 days per year
19 Over 15 years	18 hours per month	27 days per year



20 However, employees who were hired prior to July 1, 1984, who
21 have continuous service of more than five (5) years but not more
22 than eight (8) years shall accrue fifteen (15) hours of personal
23 leave each month.

24 (b) Temporary employees who work less than a full
25 workweek and part-time employees shall be allowed credit for
26 personal leave computed on a pro rata basis. Faculty members
27 employed by the eight (8) public universities on a nine-month
28 contract, and employees of the public universities who do not
29 contribute to the Mississippi Public Employees' Retirement System
30 or the State Institutions of Higher Learning Optional Retirement
31 Program, shall not be eligible for personal leave.

32 (2) For the purpose of computing credit for personal leave,
33 each appointed officer or employee shall be considered to work not
34 more than five (5) days each week. Leaves of absence granted by
35 the appointing authority for one (1) year or less shall be
36 permitted without forfeiting previously accumulated continuous
37 service. The provisions of this section shall not apply to
38 military leaves of absence. The time for taking personal leave,
39 except when such leave is taken due to an illness, shall be
40 determined by the appointing authority of which such employees are
41 employed.

42 (3) For the purpose of Sections 25-3-91 through 25-3-99, the
43 earned personal leave of each employee shall be credited monthly
44 after the completion of each calendar month of service, and the



45 appointing authority shall not increase the amount of personal
46 leave to an employee's credit. It shall be unlawful for an
47 appointing authority to grant personal leave in an amount greater
48 than was earned and accumulated by the officer or employee.

49 (4) Employees are encouraged to use earned personal leave.
50 Personal leave may be used for vacations and personal business as
51 scheduled by the appointing authority and shall be used for
52 illnesses of the employee requiring absences of one (1) day or
53 less. Accrued personal or compensatory leave shall be used for
54 the first day of an employee's illness requiring his absence of
55 more than one (1) day. Accrued personal or compensatory leave may
56 also be used for an illness in the employee's immediate family as
57 defined in Section 25-3-95. There shall be no limit to the
58 accumulation of personal leave. Upon termination of employment
59 each employee shall be paid for not more than thirty (30) days of
60 accumulated personal leave. Unused personal leave in excess of
61 thirty (30) days shall be counted as creditable service for the
62 purposes of the retirement system as provided in Sections
63 25-11-103 and 25-13-5.

64 (5) Any state law enforcement officer * * * who is injured
65 by wound or accident in the line of duty shall not be required to
66 use earned personal leave during the period of recovery from such
67 injury. As used in this subsection, the term "state law
68 enforcement officer" means a person employed by a state agency
69 who, as a condition of his or her employment, is required by law



to complete a course of study at the Law Enforcement Officers
Training Academy.

(6) Any employee may donate a portion of his or her earned
personal leave to another employee who is suffering from a
catastrophic injury or illness, or to another employee who has a
member of his or her immediate family who is suffering from a
catastrophic injury or illness, in accordance with subsection (8)
of Section 25-3-95.

SECTION 2. Section 25-3-95, Mississippi Code of 1972, is
amended as follows:

25-3-95. (1) All employees and appointed officers of the
State of Mississippi, except employees of the public universities
who do not contribute to the Mississippi Public Employees'
Retirement System or the State Institutions of Higher Learning
Optional Retirement Program, shall accrue credits for major
medical leave as follows:

Continuous Service	Accrual Rate (Monthly)	Accrual Rate (Annually)
1 month to 3 years	8 hours per month	12 days per year
37 months to 8 years	7 hours per month	10.5 days per year
97 months to 15 years	6 hours per month	9 days per year
Over 15 years	5 hours per month	7.5 days per year

Faculty members employed by the eight (8) public universities
on a nine-month contract shall accrue credit for major medical
leave as follows:



95	Continuous	Accrual Rate	Accrual Rate
96	Service	(Per Month)	(Per Academic Year)
97	1 month to 3 years	13-1/3 hours per month	15 days per
98			academic year
99	37 months to 8 years	14-1/5 hours per month	16 days per
100			academic year
101	97 months to 15 years	15-2/5 hours per month	17 days per
102			academic year
103	Over 15 years	16 hours per month	18 days per
104			academic year

105 Part-time employees shall accrue major medical leave on a pro
106 rata basis. There shall be no maximum limit to major medical
107 leave accumulation. All unused major medical leave shall be
108 counted as creditable service for the purposes of the retirement
109 system as provided in Sections 25-11-103 and 25-13-5.

110 (2) (a) Major medical leave may be used for the illness or
111 injury of an employee or member of the employee's immediate family
112 as defined in subsection (3) of this section, only after the
113 employee has used one (1) day of accrued personal or compensatory
114 leave for each absence due to illness, or leave without pay if the
115 employee has no accrued personal or compensatory leave; provided
116 that faculty members employed by the eight (8) public universities
117 on a nine-month basis may use major medical leave for the first
118 day of absence due to illness. However, major medical leave may
119 be used, without prior use of personal leave, to cover regularly



120 scheduled visits to a doctor's office or a hospital for the
121 continuing treatment of a chronic disease, as certified in advance
122 by a physician. For the purposes of this section, "physician"
123 means a doctor of medicine, osteopathy, dental medicine, podiatry
124 or chiropractic. For each absence due to illness of thirty-two
125 (32) consecutive working hours (combined personal leave and major
126 medical leave) major medical leave shall be authorized only when
127 certified by their attending physician.

128 (b) When an employee's absence is due to a
129 work-related injury for which the employee is receiving temporary
130 disability benefits under Section 71-3-17(b) or 71-3-21, the
131 injured employee shall not use accrued personal and/or medical
132 leave and receive workers' compensation benefits simultaneously if
133 the combined receipt of both benefits results in the employee
134 being paid, while absent due to the work-related injury, a total
135 amount that exceeds one hundred percent (100%) of his wages earned
136 in state employment at the time of injury. In such cases, the
137 injured employee may use only as much of his accrued personal
138 and/or medical leave as necessary, which may be fewer than eight
139 (8) hours of accrued personal and/or major medical leave in a day,
140 to constitute the difference between the amount of temporary
141 disability workers' compensation benefits received and one hundred
142 percent (100%) of his wages earned at the time of injury in state
143 employment. It is the intent of the Legislature that no state
144 employee who is absent and disabled from work due to a



work-related injury shall receive more than one hundred percent (100%) of his wages earned in state employment at the time of injury through the use of accrued personal and/or medical leave combined with temporary disability benefits under the Workers' Compensation Law. The procedure for implementing this paragraph (b) shall be as directed by the applicable appointing authority. The receipt or payment of benefits in compliance with this paragraph (b) shall be considered the employee's exclusive remedy against the employer in accordance with Section 71-3-9.

(3) An employee may use up to three (3) days of earned major medical leave for each occurrence of death in the immediate family requiring the employee's absence from work. No qualifying time or use of personal leave will be required prior to use of major medical leave for this purpose. For the purpose of this subsection (3), the immediate family is defined as spouse, parent, stepparent, sibling, child, stepchild, grandchild, grandparent, son- or daughter-in-law, mother- or father-in-law or brother- or sister-in-law. Child means a biological, adopted or foster child, or a child for whom the individual stands or stood in loco parentis.

(4) Employees and appointed officers of the State of Mississippi having unused, accumulated sick leave or annual leave earned prior to July 1, 1984, shall be credited with major medical leave and personal leave as follows: All unused annual leave shall be credited as personal leave.



170 Unused sick leave shall be divided between major medical
171 leave and personal leave at rates determined by the employee's
172 sick leave balance on June 30, 1984. The rates of conversion
173 shall be as follows:

174 Sick Leave	Percentage	Percentage
175 Balance as of	Converted to	Converted to
176 June 30, 1984	Personal Leave	Major Medical Leave
177 1 - 200 hours	20%	80%
178 201 - 400 hours	25%	75%
179 401 - 600 hours	30%	70%
180 601 or more hours	35%	65%

181 (5) Upon retirement from active employment each faculty
182 member of the state-supported public universities who is employed
183 on a nine-month basis shall receive credit and be paid for not
184 more than thirty (30) days of unused major medical leave for
185 service as a state employee. Unused major medical leave in excess
186 of thirty (30) days shall be counted as creditable service for the
187 purposes of the retirement system as provided in Sections
188 25-11-103 and 25-13-5.

189 (6) Any state law enforcement officer * * * who is injured
190 by wound or accident in the line of duty shall not be required to
191 use earned major medical leave during the period of recovery from
192 such injury. As used in this subsection, the term "state law
193 enforcement officer" means a person employed by a state agency
194 who, as a condition of his or her employment, is required by law



195 to complete a course of study at the Law Enforcement Officers
196 Training Academy.

197 (7) For the purpose of Sections 25-3-91 through 25-3-99, the
198 earned major medical leave of each employee shall be credited
199 monthly after the completion of each calendar month, and the
200 appointing authority shall not increase the amount of major
201 medical leave to an employee's credit. It shall be unlawful for
202 an appointing authority to grant major medical leave in an amount
203 greater than was earned and accumulated by the officer or
204 employee.

205 (8) Any employee may donate a portion of his or her earned
206 personal leave or major medical leave to another employee who is
207 suffering from a catastrophic injury or illness, as defined in
208 Section 25-3-91, or to another employee who has a member of his or
209 her immediate family who is suffering from a catastrophic injury
210 or illness, in accordance with the following:

211 (a) The employee donating the leave (the "donor
212 employee") shall designate the employee who is to receive the
213 leave (the "recipient employee") and the amount of earned personal
214 leave and major medical leave that is to be donated, and shall
215 notify the donor employee's appointing authority or supervisor of
216 his or her designation. The donor employee's appointing authority
217 or supervisor then shall notify the recipient employee's
218 appointing authority or supervisor of the amount of leave that has
219 been donated by the donor employee to the recipient employee.



220 (b) The maximum amount of earned personal leave that an
221 employee may donate to any other employee may not exceed a number
222 of days that would leave the donor employee with fewer than seven
223 (7) days of personal leave left, and the maximum amount of earned
224 major medical leave that an employee may donate to any other
225 employee may not exceed fifty percent (50%) of the earned major
226 medical leave of the donor employee. All donated leave shall be
227 in increments of not less than twenty-four (24) hours.

228 (c) An employee must have exhausted all of his or her
229 earned personal leave and major medical leave before he or she
230 will be eligible to receive any leave donated by another employee.

231 (d) Before an employee may receive donated leave, he or
232 she must provide his or her appointing authority or supervisor
233 with a physician's statement that states the beginning date of the
234 catastrophic injury or illness, a description of the injury or
235 illness, and a prognosis for recovery and the anticipated date
236 that the recipient employee will be able to return to work.

237 (e) If an employee is aggrieved by the decision of his
238 or her appointing authority that the employee is not eligible to
239 receive donated leave because the injury or illness of the
240 employee or member of the employee's immediate family is not, in
241 the appointing authority's determination, a catastrophic injury or
242 illness, the employee may appeal the decision to the employee
243 appeals board.



244 (f) Beginning on March 25, 2003, the maximum period of
245 time that an employee may use donated leave without resuming work
246 at his or her place of employment is ninety (90) days, which
247 commences on the first day that the recipient employee uses
248 donated leave. Donated leave that is not used because a recipient
249 employee has used the maximum amount of donated leave authorized
250 under this paragraph shall be returned to the donor employees in
251 the manner provided under paragraph (g) of this subsection.

252 (g) If the total amount of leave that is donated to any
253 employee is not used by the recipient employee, the donated leave
254 shall be returned to the donor employees on a pro rata basis,
255 based on the ratio of the number of days of leave donated by each
256 donor employee to the total number of days of leave donated by all
257 donor employees.

258 (h) The failure of any appointing authority or
259 supervisor of any employee to properly deduct an employee's
260 donation of leave to another employee from the donor employee's
261 earned personal leave or major medical leave shall constitute just
262 cause for the dismissal of the appointing authority or supervisor.

263 (i) No person through the use of coercion, threats or
264 intimidation shall require or attempt to require any employee to
265 donate his or her leave to another employee. Any person who
266 alleges a violation of this paragraph shall report the violation
267 to the executive head of the agency by whom he or she is employed
268 or, if the alleged violator is the executive head of the agency,



269 then the employee shall report the violation to the State
270 Personnel Board. Any person found to have violated this paragraph
271 shall be subject to removal from office or termination of
272 employment.

273 (j) No employee can donate leave after tendering notice
274 of separation for any reason or after termination.

275 (k) Recipient employees of agencies with more than five
276 hundred (500) employees as of March 25, 2003, may receive donated
277 leave only from donor employees within the same agency. A
278 recipient employee in an agency with five hundred (500) or fewer
279 employees as of March 25, 2003, may receive donated leave from any
280 donor employee.

281 (l) In order for an employee to be eligible to receive
282 donated leave, the employee must:

283 (i) Have been employed for a total of at least
284 twelve (12) months by the employer on the date on which the leave
285 is donated; and

286 (ii) Have been employed for at least one thousand
287 two hundred fifty (1,250) hours of service with such employer
288 during the previous twelve-month period from the date on which the
289 leave is donated.

290 (m) Donated leave shall not be used in lieu of
291 disability retirement.



292 (n) For the purposes of this subsection, "immediate
293 family" means spouse, parent, stepparent, sibling, child or
294 stepchild.

295 **SECTION 3.** This act shall take effect and be in force from
296 and after July 1, 2013.

