

By: Senator(s) Tollison

To: Accountability,
Efficiency, Transparency

SENATE BILL NO. 2104

1 AN ACT TO AMEND SECTION 25-3-95, MISSISSIPPI CODE OF 1972, TO
2 ALLOW STATE EMPLOYEES TO USE MAJOR MEDICAL LEAVE WITHOUT PRIOR USE
3 OF PERSONAL LEAVE TO COVER THE CARE FOR A DEPENDENT WHEN THE
4 DEPENDENT IS DISMISSED FROM A SCHOOL OR DAYCARE DUE TO ILLNESS;
5 AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 25-3-95, Mississippi Code of 1972, is
8 amended as follows:

9 25-3-95. (1) All employees and appointed officers of the
10 State of Mississippi, except employees of the public universities
11 who do not contribute to the Mississippi Public Employees'
12 Retirement System or the State Institutions of Higher Learning
13 Optional Retirement Program, shall accrue credits for major
14 medical leave as follows:

15 Continuous	Accrual Rate	Accrual Rate
16 Service	(Monthly)	(Annually)
17 1 month to 3 years	8 hours per month	12 days per year
18 37 months to 8 years	7 hours per month	10.5 days per year
19 97 months to 15 years	6 hours per month	9 days per year



20 Over 15 years 5 hours per month 7.5 days per year

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

24 Continuous	Accrual Rate	Accrual Rate
25 Service	(Per Month)	(Per Academic Year)
26 1 month to 3 years	13-1/3 hours per month	15 days per
27		academic year
28 37 months to 8 years	14-1/5 hours per month	16 days per
29		academic year
30 97 months to 15 years	15-2/5 hours per month	17 days per
31		academic year
32 Over 15 years	16 hours per month	18 days per
33		academic year

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

39 (2) (a) Major medical leave may be used for the illness or
40 injury of an employee or member of the employee's immediate family
41 as defined in subsection (3) of this section, only after the
42 employee has used one (1) day of accrued personal or compensatory
43 leave for each absence due to illness, or leave without pay if the
44 employee has no accrued personal or compensatory leave; provided



45 that faculty members employed by the eight (8) public universities
46 on a nine-month basis may use major medical leave for the first
47 day of absence due to illness. However, major medical leave may
48 be used, without prior use of personal leave, to cover regularly
49 scheduled visits to a doctor's office or a hospital for the
50 continuing treatment of a chronic disease, as certified in advance
51 by a physician, and to cover the care for a dependent when the
52 dependent is dismissed from a school or daycare due to illness as
53 evidenced by a written notice of dismissal from the school or
54 daycare. For the purposes of this section, "physician" means a
55 doctor of medicine, osteopathy, dental medicine, podiatry or
56 chiropractic. For each absence due to illness of thirty-two (32)
57 consecutive working hours (combined personal leave and major
58 medical leave), major medical leave shall be authorized only when
59 certified by their attending physician.

60 (b) When an employee's absence is due to a work-related
61 injury for which the employee is receiving temporary disability
62 benefits under Section 71-3-17(b) or 71-3-21, the injured employee
63 shall not use accrued personal and/or medical leave and receive
64 workers' compensation benefits simultaneously if the combined
65 receipt of both benefits results in the employee being paid, while
66 absent due to the work-related injury, a total amount that exceeds
67 one hundred percent (100%) of his wages earned in state employment
68 at the time of injury. In such cases, the injured employee may
69 use only as much of his accrued personal and/or medical leave as



70 necessary, which may be fewer than eight (8) hours of accrued
71 personal and/or major medical leave in a day, to constitute the
72 difference between the amount of temporary disability workers'
73 compensation benefits received and one hundred percent (100%) of
74 his wages earned at the time of injury in state employment. It is
75 the intent of the Legislature that no state employee who is absent
76 and disabled from work due to a work-related injury shall receive
77 more than one hundred percent (100%) of his wages earned in state
78 employment at the time of injury through the use of accrued
79 personal and/or medical leave combined with temporary disability
80 benefits under the Workers' Compensation Law. The procedure for
81 implementing this paragraph (b) shall be as directed by the
82 applicable appointing authority. The receipt or payment of
83 benefits in compliance with this paragraph (b) shall be considered
84 the employee's exclusive remedy against the employer in accordance
85 with Section 71-3-9.

86 (3) An employee may use up to three (3) days of earned major
87 medical leave for each occurrence of death in the immediate family
88 requiring the employee's absence from work. No qualifying time or
89 use of personal leave will be required prior to use of major
90 medical leave for this purpose. For the purpose of this
91 subsection (3), the immediate family is defined as spouse, parent,
92 stepparent, sibling, child, stepchild, grandchild, grandparent,
93 son- or daughter-in-law, mother- or father-in-law or brother- or
94 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.

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

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

(5) Upon retirement from active employment, each faculty member of the state-supported public universities who is employed on a nine-month basis shall receive credit and be paid for not more than thirty (30) days of unused major medical leave for service as a state employee. Unused major medical leave in excess of thirty (30) days shall be counted as creditable service for the



purposes of the retirement system as provided in Sections 25-11-103 and 25-13-5.

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

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

(8) Any employee may donate a portion of his or her earned personal leave or major medical leave to another employee who is suffering from a catastrophic injury or illness, as defined in Section 25-3-91, 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 the following:



143 (a) The employee donating the leave (the "donor
144 employee") shall designate the employee who is to receive the
145 leave (the "recipient employee") and the amount of earned personal
146 leave and major medical leave that is to be donated, and shall
147 notify the donor employee's appointing authority or supervisor of
148 his or her designation. The donor employee's appointing authority
149 or supervisor then shall notify the recipient employee's
150 appointing authority or supervisor of the amount of leave that has
151 been donated by the donor employee to the recipient employee.

152 (b) The maximum amount of earned personal leave that an
153 employee may donate to any other employee may not exceed a number
154 of days that would leave the donor employee with fewer than seven
155 (7) days of personal leave left, and the maximum amount of earned
156 major medical leave that an employee may donate to any other
157 employee may not exceed fifty percent (50%) of the earned major
158 medical leave of the donor employee. All donated leave shall be
159 in increments of not less than twenty-four (24) hours.

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

163 (d) Before an employee may receive donated leave, he or
164 she must provide his or her appointing authority or supervisor
165 with a physician's statement that states the beginning date of the
166 catastrophic injury or illness, a description of the injury or



167 illness, and a prognosis for recovery and the anticipated date
168 that the recipient employee will be able to return to work.

169 (e) If an employee is aggrieved by the decision of his
170 or her appointing authority that the employee is not eligible to
171 receive donated leave because the injury or illness of the
172 employee or member of the employee's immediate family is not, in
173 the appointing authority's determination, a catastrophic injury or
174 illness, the employee may appeal the decision to the employee
175 appeals board.

176 (f) Beginning on March 25, 2003, the maximum period of
177 time that an employee may use donated leave without resuming work
178 at his or her place of employment is ninety (90) days, which
179 commences on the first day that the recipient employee uses
180 donated leave. Donated leave that is not used because a recipient
181 employee has used the maximum amount of donated leave authorized
182 under this paragraph shall be returned to the donor employees in
183 the manner provided under paragraph (g) of this subsection.

184 (g) If the total amount of leave that is donated to any
185 employee is not used by the recipient employee, the donated leave
186 shall be returned to the donor employees on a pro rata basis,
187 based on the ratio of the number of days of leave donated by each
188 donor employee to the total number of days of leave donated by all
189 donor employees.

190 (h) The failure of any appointing authority or
191 supervisor of any employee to properly deduct an employee's



192 donation of leave to another employee from the donor employee's
193 earned personal leave or major medical leave shall constitute just
194 cause for the dismissal of the appointing authority or supervisor.

195 (i) No person through the use of coercion, threats or
196 intimidation shall require or attempt to require any employee to
197 donate his or her leave to another employee. Any person who
198 alleges a violation of this paragraph shall report the violation
199 to the executive head of the agency by whom he or she is employed
200 or, if the alleged violator is the executive head of the agency,
201 then the employee shall report the violation to the State
202 Personnel Board. Any person found to have violated this paragraph
203 shall be subject to removal from office or termination of
204 employment.

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

207 (k) Recipient employees of agencies with more than five
208 hundred (500) employees as of March 25, 2003, may receive donated
209 leave only from donor employees within the same agency. A
210 recipient employee in an agency with five hundred (500) or fewer
211 employees as of March 25, 2003, may receive donated leave from any
212 donor employee.

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



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

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

222 (m) Donated leave shall not be used in lieu of
223 disability retirement.

224 (n) For the purposes of this subsection, "immediate
225 family" means spouse, parent, stepparent, sibling, child or
226 stepchild.

227 (9) An employee may use up to six (6) weeks of earned major
228 medical leave for the placement with the employee of a child for
229 adoption or foster care and to care for the newly placed child
230 within one (1) year of placement.

231 **SECTION 2.** This act shall take effect and be in force from
232 and after July 1, 2018.

