

By: Representative Cockerham

To: Workforce Development;  
Judiciary A

HOUSE BILL NO. 1489

1 AN ACT TO CREATE THE "HEALTHY AND SAFE FAMILIES WORKPLACES  
 2 ACT" TO ENSURE THAT EMPLOYEES IN MISSISSIPPI CAN ADDRESS THEIR OWN  
 3 HEALTH AND SAFETY NEEDS, AS WELL AS THE HEALTH AND SAFETY NEEDS OF  
 4 THEIR FAMILY MEMBERS, BY REQUIRING EMPLOYERS TO ALLOW EMPLOYEES TO  
 5 EARN A MINIMUM LEVEL OF PAID LEAVE TIME INCLUDING TIME TO CARE FOR  
 6 THEIR FAMILY MEMBERS AND ALLOW FOR EASE AND UNIFORMITY OF  
 7 ADMINISTRATION FOR THE BUSINESS COMMUNITY IN PROVIDING PAID LEAVE  
 8 FOR THEIR EMPLOYEES; TO PROVIDE FOR DEFINITIONS AND EXEMPTIONS; TO  
 9 ESTABLISH THE MINIMUM PAID SICK AND SAFE LEAVE TIME; TO PROVIDE  
 10 FOR THE USE OF PAID SICK AND SAFE LEAVE TIME; AND FOR RELATED  
 11 PURPOSES.

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

13 **SECTION 1.** This act shall be known and may be cited as the  
 14 "Healthy and Safe Families Workplaces Act."

15 **SECTION 2.** The purpose of this act is to ensure that  
 16 employees in Mississippi can address their own health and safety  
 17 needs, as well as the health and safety needs of their family  
 18 members, by requiring employers to allow employees to earn a  
 19 minimum level of paid leave time including time to care for their  
 20 family members and allow for ease and uniformity of administration  
 21 for the business community in providing paid leave for their  
 22 employees.



23           **SECTION 3.** For purposes of this act, the following words and  
24 terms shall have the meaning described herein, unless the context  
25 requires otherwise:

26           (1) "Care recipient" means a person for whom the employee is  
27 responsible for providing or arranging health- or safety-related  
28 care, including, but not limited to, helping the person obtain  
29 diagnostic, preventive, routine, or therapeutic health treatment  
30 or ensuring the person is safe following domestic violence, sexual  
31 assault, or stalking.

32           (2) "Child" means a biological, adopted, or foster son or  
33 daughter, a stepson or stepdaughter, a legal ward, or a son or  
34 daughter of an employee who stands in loco parentis to that child.

35           (3) "Department" means Mississippi Department of Employment  
36 Security.

37           (4) "Domestic violence" means certain crimes when committed  
38 by one (1) family or household member against another as defined  
39 in Section 43-17-5.

40           (5) "Employee" means any person suffered or permitted to  
41 work by an employer, except "employee" shall not include:

42                   (a) Any individual employed in domestic service or in  
43 or about a private home;

44                   (b) Any individual employed by the United States;

45                   (c) Any individual engaged in the activities of an  
46 educational, charitable, religious, or nonprofit organization  
47 where the employer-employee relationship does not, in fact, exist,



48 or where the services rendered to the organizations are on a  
49 voluntary basis;

50 (d) Newspaper deliverers on home delivery, shoe shiners  
51 in shoe shine establishments, caddies on golf courses, pin persons  
52 in bowling alleys, ushers in theatres;

53 (e) Traveling salespersons or outside salespersons;

54 (f) Service performed by an individual in the employ of  
55 his or her son, daughter, or spouse and service performed by a  
56 child under the age of twenty-one (21) in the employ of his or her  
57 father or mother;

58 (g) Any individual employed between May 1 and October 1  
59 in a resort establishment that regularly serves meals to the  
60 general public and that is open for business not more than six (6)  
61 months a year;

62 (h) Any individual employed by an organized camp that  
63 does not operate for more than seven (7) months in any calendar  
64 year. However, this exemption does not apply to individuals  
65 employed by the camp on an annual, full-time basis. "Organized  
66 camp" means any camp, except a trailer camp, having a structured  
67 program including, but not limited to, recreation, education, and  
68 religious, or any combination of these.

69 (i) Independent contractors, subcontractors, work study  
70 participants as described pursuant to 42 USC Section 2753.23,  
71 apprenticeships and interns as defined under Fair Labor Standards  
72 Act Section 3(g).



73           (6) "Employer" means any individual or entity that includes  
74 any individual, partnership, association, corporation, business  
75 trust, or any person or group of persons acting directly or  
76 indirectly in the interest of an employer, in relation to an  
77 employee as defined in this section, but does not include the  
78 federal government, and provided that in determining the number of  
79 employees performing work for an employer as defined in 29 C.F.R.  
80 Section 791.2. of the Federal Fair Labor Standards Act, 29 USC  
81 Section 201 et seq., the total number of employees in that group  
82 shall be counted.

83           (7) "Family member" means a child, parent, spouse,  
84 mother-in-law, father-in-law, grandparent(s), grandchildren,  
85 sibling(s), care recipient, or member of the employee's household.

86           (8) "Health care professional" means any person licensed  
87 under federal or Mississippi law to provide medical or emergency  
88 services, including, but not limited to: doctors, nurses, and  
89 emergency room personnel.

90           (9) "Paid sick leave time" or "paid sick and safe leave  
91 time" means time that is compensated at the same hourly rate and  
92 with the same benefits, including health care benefits, as the  
93 employee normally earns during hours worked and is provided by an  
94 employer to an employee for the purposes described in Section 6 of  
95 this act, but in no case shall the hourly wage paid leave be less  
96 than that provided under the Fair Labor Standards Act.



97 (10) "Parent" means a biological, foster, or adoptive  
98 parent, a stepparent, a legal guardian, or other person who stands  
99 in loco parentis to the employee or the employee's spouse when  
100 he/she was a child or parent of the employee's spouse.

101 (11) "Seasonal employee" means a person as defined in 26  
102 C.F.R. Section 54.4980H-1(a)(38).

103 (12) "Sexual assault" means an act as defined in Section  
104 45-33-23(h) as a sex offense.

105 (13) "Sibling" means a brother or a sister, whether related  
106 through half blood, whole blood, or adoption, a foster sibling, or  
107 a step-sibling.

108 (14) "Stalking" means an act as defined in Section 97-3-107  
109 or Section 97-45-15.

110 (15) "Temporary employee" means any person working for, or  
111 obtaining employment pursuant to an agreement with any employment  
112 agency, placement service, or training school or center.

113 (16) "Unpaid sick time" is time that is used for the  
114 purposes described in Section 6 of this act.

115 (17) "Year" means a regular and consecutive  
116 twelve-month-period as determined by the employer; except that for  
117 the purposes of Section 7 of this act, "year" means a calendar  
118 year.

119 **SECTION 4.** (1) Any employer with a paid leave time off  
120 policy or paid sick and safe leave policy who makes available at  
121 least twenty-four (24) hours during calendar year 2020, thirty-two



122 (32) hours during calendar year 2021 and forty (40) hours per  
123 calendar year thereafter of paid time off or paid sick and safe  
124 leave time to employees or any employer who offers unlimited paid  
125 time off or paid sick and safe time is exempt from subsections  
126 (1), (2), (3) and (5) of Section 5 of this act. Employers that  
127 provide at least twenty-four (24) hours during calendar year 2020,  
128 thirty-two (32) hours during calendar year 2021, and forty (40)  
129 hours per calendar year thereafter of paid sick or safe leave or  
130 paid time off that can be used for the purposes consistent with  
131 this act at the beginning of each benefit year do not need to  
132 track accrual, allow any carryover, or payout.

133 (2) Any employer that employs less than eighteen (18)  
134 employees as defined in this act is exempt from Section 5 of this  
135 act; provided, however, that any such employer shall not take an  
136 adverse action against an employee of the employer solely based  
137 upon the employee's use of up to twenty-four (24) hours during  
138 calendar year 2020, thirty-two (32) hours during calendar year  
139 2021, and forty (40) hours per calendar year thereafter, subject  
140 to provisions of Sections 6 and 10 of this act.

141 (3) Any employer is not required to provide any paid sick  
142 and/or safe leave time to any employees who are employed by a  
143 municipality or the state.

144 (4) Any employer in the construction industry, as classified  
145 as code under the North American Industry Classification System,  
146 is not required to provide any paid sick and/or safe leave time to



147 any employees who work under a collective bargaining agreement  
148 until July 1, 2020.

149 (5) Any employee licensed to practice nursing pursuant to  
150 Chapter 15 of Title 73 is not subject to the provisions of this  
151 chapter if the employee:

152 (a) Is employed by a health care facility;

153 (b) Is under no obligation to work a regular schedule;

154 (c) Works only when he or she indicates that he or she  
155 is available to work and has no obligation to work when he or she  
156 does not indicate availability; and

157 (d) Receives higher pay than that paid to an employee  
158 of the same health care facility performing the same job on a  
159 regular schedule.

160 **SECTION 5.** (1) All employees employed by an employer of  
161 eighteen (18) or more employees in Mississippi shall accrue a  
162 minimum of one (1) hour of paid sick and safe leave time for every  
163 thirty-five (35) hours worked up to a maximum of twenty-four (24)  
164 hours during the calendar year of 2020, thirty-two (32) hours  
165 during calendar year 2021, and up to a maximum of forty (40) hours  
166 per year thereafter, unless the employer chooses to provide a  
167 higher annual limit in both accrual and use. In determining the  
168 number of employees who are employed by an employer for  
169 compensation, all employees defined in subsection (5) of Section 3  
170 of this act shall be counted.



171 (2) Employees who are exempt from the overtime requirements  
172 under 29 USC Section 213(a)(1) of the Federal Fair Labor Standards  
173 Act, 29 USC Section 201 et seq., will be assumed to work forty  
174 (40) hours in each work week for purposes of paid sick and safe  
175 leave time accrual unless their normal work week is less than  
176 forty (40) hours, in which case paid sick and safe leave time  
177 accrues based upon that normal work week.

178 (3) Paid sick and safe leave time as provided in this act  
179 shall begin to accrue at the commencement of employment or  
180 pursuant to the effective date of this act, whichever is later.  
181 An employer may provide all paid sick and safe leave time that an  
182 employee is expected to accrue in a year at the beginning of the  
183 year.

184 (4) An employer may require a waiting period for newly hired  
185 employees of up to ninety (90) days. During this waiting period,  
186 an employee shall accrue earned sick time pursuant to this section  
187 or the employer's policy, if exempt under Section 4 of this act,  
188 but shall not be permitted to use the earned sick time until after  
189 he or she has completed the waiting period.

190 (5) Paid sick and safe leave time shall be carried over to  
191 the following calendar year; however, an employee's use of paid  
192 sick and safe leave time provided under this act in each calendar  
193 year shall not exceed twenty-four (24) hours during calendar year  
194 2020, and thirty-two (32) hours during calendar year 2021, and  
195 forty (40) hours per year thereafter. Alternatively, in lieu of





196 carryover of unused earned paid sick and safe leave time from one  
197 (1) year to the next, an employer may pay an employee for unused  
198 earned paid sick and safe leave time at the end of a year and  
199 provide the employee with an amount of paid sick and safe leave  
200 time that meets or exceeds the requirements of this chapter that  
201 is available for the employee's immediate use at the beginning of  
202 the subsequent year.

203 (6) Nothing in this chapter shall be construed as requiring  
204 financial or other reimbursement to an employee from an employer  
205 upon the employee's termination, resignation, retirement, or other  
206 separation from employment for accrued paid sick and safe leave  
207 time that has not been used.

208 (7) If an employee is transferred to a separate division,  
209 entity, or location within the state, but remains employed by the  
210 same employer as defined in 29 C.F.R. Section 791.2. of the  
211 Federal Fair Labor Standards Act, 29 USC Section 201 et seq., the  
212 employee is entitled to all paid sick and safe leave time accrued  
213 at the prior division, entity, or location and is entitled to use  
214 all paid sick and safe leave time as provided in this act. When  
215 there is a separation from employment and the employee is rehired  
216 within one hundred thirty-five (135) days of separation by the  
217 same employer, previously accrued paid sick and safe leave time  
218 that had not been used shall be reinstated. Further, the employee  
219 shall be entitled to use accrued paid sick and safe leave time and



220 accrue additional sick and safe leave time at the re-commencement  
221 of employment.

222 (8) When a different employer succeeds or takes the place of  
223 an existing employer, all employees of the original employer who  
224 remain employed by the successor employer within the state are  
225 entitled to all earned paid sick and safe leave time they accrued  
226 when employed by the original employer, and are entitled to use  
227 earned paid sick and safe leave time previously accrued.

228 (9) At its discretion, an employer may loan sick and safe  
229 leave time to an employee in advance of accrual by such employee.

230 (10) Temporary employees shall be entitled to use accrued  
231 paid sick and safe leave time beginning on the one hundred  
232 eightieth calendar day following commencement of their employment,  
233 unless otherwise permitted by the employer. On and after the one  
234 hundred eightieth calendar day of employment, employees may use  
235 paid sick and safe leave time as it is accrued. During this  
236 waiting period, an employee shall accrue earned sick time pursuant  
237 to this act, but shall not be permitted to use the earned sick  
238 time until after he or she has completed the waiting period.

239 (11) Seasonal employees shall be entitled to use accrued  
240 paid sick and safe leave time beginning on the one hundred  
241 fiftieth calendar day following commencement of their employment,  
242 unless otherwise permitted by the employer. On and after the one  
243 hundred fiftieth calendar day of employment, employees may use  
244 paid sick and safe leave time as it is accrued. During this



245 waiting period, an employee shall accrue earned sick time pursuant  
246 to this chapter, but shall not be permitted to use the earned sick  
247 time until after he or she has completed the waiting period.

248 **SECTION 6.** (1) Paid sick and safe leave time shall be  
249 provided to an employee by an employer for:

250 (a) An employee's mental or physical illness, injury,  
251 or health condition; an employee's need for medical diagnosis,  
252 care, or treatment of a mental or physical illness, injury, or  
253 health condition; an employee's need for preventive medical care;

254 (b) Care of a family member with a mental or physical  
255 illness, injury, or health condition; care of a family member who  
256 needs medical diagnosis, care, or treatment of a mental or  
257 physical illness, injury, or health condition; care of a family  
258 member who needs preventive medical care;

259 (c) Closure of the employee's place of business by  
260 order of a public official due to a public health emergency or an  
261 employee's need to care for a child whose school or place of care  
262 has been closed by order of a public official due to a public  
263 health emergency, or care for oneself or a family member when it  
264 has been determined by the health authorities having jurisdiction  
265 or by a health care provider that the employee's or family  
266 member's presence in the community may jeopardize the health of  
267 others because of their exposure to a communicable disease,  
268 whether or not the employee or family member has actually  
269 contracted the communicable disease; or



270 (d) Time off needed when the employee or a member of  
271 the employee's family is a victim of domestic violence, sexual  
272 assault, or stalking.

273 (2) Paid sick and safe leave time shall be provided upon the  
274 request of an employee. Such request may be made orally, in  
275 writing, by electronic means, or by any other means acceptable to  
276 the employer. When possible, the request shall include the  
277 expected duration of the absence.

278 (3) When the use of paid sick and safe leave time is  
279 foreseeable, the employee shall provide notice of the need for  
280 such time to the employer in advance of the use of the sick and  
281 safe leave time and shall make a reasonable effort to schedule the  
282 use of sick and safe leave time in a manner that does not unduly  
283 disrupt the operations of the employer.

284 (4) An employer that requires notice of the need to use  
285 earned paid sick and safe leave time where the need is not  
286 foreseeable shall provide a written policy that contains  
287 procedures for the employee to provide notice. An employer that  
288 has not provided to the employee a copy of its written policy for  
289 providing such notice shall not deny earned paid sick and safe  
290 leave time to the employee based on noncompliance with such a  
291 policy.

292 (5) Unless otherwise in conflict with state or federal law  
293 or regulations, an employee may decide how much sick time to use;  
294 provided, however, that an employer may set a minimum increment



295 for the use of sick time, not to exceed four (4) hours per day,  
296 provided such minimum increment is reasonable under the  
297 circumstances.

298 (6) For paid sick and safe leave time of more than three (3)  
299 consecutive work days, an employer may require reasonable  
300 documentation that the paid sick and safe leave time has been used  
301 for a purpose covered by subsection (1) of this section if the  
302 employer has notified the employee in writing of this requirement  
303 in advance of the employee's use of paid sick and safe leave time.  
304 An employer may not require that the documentation explain the  
305 nature of the illness or the details of the domestic violence,  
306 sexual assault, or stalking unless required by existing government  
307 regulation or law. Nothing in this provision shall be construed  
308 to conflict with existing government regulation or law.

309 (a) An employer may require written documentation for  
310 an employee's use of earned sick leave time that occurs within two  
311 (2) weeks before an employee's final scheduled day of work before  
312 termination of employment.

313 (b) Documentation signed by a health care professional  
314 indicating that paid sick leave time is necessary shall be  
315 considered reasonable documentation under paragraph (a) of this  
316 subsection (6).

317 (c) One of the following, of the employee's choosing,  
318 shall be considered reasonable documentation of an absence under  
319 subsection (1) (d) of this section:



320 (i) An employee's written statement that the  
321 employee or the employee's family member is a victim of domestic  
322 violence, sexual assault, or stalking and that the leave taken was  
323 for one (1) of the purposes of subsection (1)(d) of this section;

324 (ii) A police report indicating that the employee  
325 or employee's family member was a victim of domestic violence,  
326 sexual assault, or stalking;

327 (iii) A court document indicating that the  
328 employee or employee's family member is involved in legal action  
329 related to domestic violence, sexual assault, or stalking; or

330 (iv) A signed statement from a victim and witness  
331 advocate affirming that the employee or employee's family member  
332 is receiving services from a victim services organization or is  
333 involved in legal action related to domestic violence, sexual  
334 assault, or stalking.

335 (7) An employer's requirements for verification may not  
336 result in an unreasonable burden or expense on the employee and  
337 may not exceed privacy or verification requirements otherwise  
338 established by law.

339 (8) Paid sick and safe leave time cannot be used as an  
340 excuse to be late for work without an authorized purpose.

341 (9) If an employee is committing fraud or abuse by engaging  
342 in an activity that is not consistent with allowable purposes for  
343 paid sick and safe leave time in this section, an employer may



344 discipline the employee, up to and including termination of  
345 employment for misuse of sick leave.

346 (10) If an employee is exhibiting a clear pattern of taking  
347 leave on days just before or after a weekend, vacation, or  
348 holiday, an employer may discipline the employee for misuse of  
349 paid sick and safe leave, unless the employee provides reasonable  
350 documentation that the paid sick and safe leave time has been used  
351 for a purpose covered by subsection (1) of this section.

352 (11) An employer may not require, as a condition of  
353 providing earned paid sick and safe leave time under this chapter,  
354 that the employee search for or find a replacement worker to cover  
355 the hours during which the employee is using paid sick and safe  
356 leave time. However, if an employee is absent from work for any  
357 reason listed in subsection (1) of this section and by mutual  
358 consent of the employer and the employee, the employee works an  
359 equivalent number of additional hours or shifts during the same or  
360 the next pay period as the hours or shifts not worked due to  
361 reasons listed in subsection (1) of this section, an employee  
362 shall not be required to use accrued and earned paid or unpaid  
363 sick time for the employee's absence during that time period, and  
364 the employer shall not be required to pay for sick leave time  
365 taken during the time period.

366 **SECTION 7.** No county or municipality shall establish,  
367 mandate, or otherwise require an employer to provide benefits in  
368 excess of those required under this chapter, including paid sick



369 and safe leave time to its employees, other than the paid sick and  
370 safe leave time requirements provided by this act, or to apply  
371 sick and safe leave time policies to statutorily exempt employees  
372 and workers.

373 **SECTION 8.** (1) The department shall coordinate  
374 implementation and enforcement of this act and shall promulgate  
375 necessary rules and regulations for such purposes.

376 (2) Enforcement and notice requirements pursuant to this act  
377 shall be in accordance with enforcement and notice requirements  
378 established by the department.

379 (3) Any employee or former employee aggrieved by a violation  
380 of the provisions of this act shall be entitled to the  
381 protections and relief established by the department.

382 (4) An employer who violates this act shall be liable for a  
383 civil penalty in an amount not less than One Hundred Dollars  
384 (\$100.00) for the first violation, and each subsequent violation  
385 shall be subject to the penalties determined by the department.

386 **SECTION 9.** An employer may not require disclosure of details  
387 relating to domestic violence, sexual assault, sexual contact, or  
388 stalking or the details of an employee's or an employee's family  
389 member's health information as a condition of providing paid sick  
390 and safe leave time under this act. If an employer possesses  
391 health information or information pertaining to domestic violence,  
392 sexual assault, sexual contact, or stalking about an employee or  
393 employee's family member, such information shall be treated as





394 confidential and not disclosed except to the affected employee or  
395 with the permission of the affected employee unless required by  
396 existing regulation or statute.

397 **SECTION 10.** (1) Nothing in this act shall be construed in a  
398 manner to discourage or prohibit an employer from the adoption of  
399 a paid sick and safe leave time policy that provides greater  
400 rights or benefits than those provided pursuant to this act.

401 (2) Nothing in this act shall be construed as diminishing  
402 the obligation of an employer to comply with any contract,  
403 collective bargaining agreement, employment benefit plan or other  
404 agreement that provides greater sick and safe leave time to an  
405 employee than required in this act.

406 (3) Nothing in this act shall effect the provisions for  
407 leave for state employees provided in Sections 25-3-91 through  
408 25-3-103.

409 **SECTION 11.** The department shall develop and implement a  
410 multilingual outreach program to inform employers, employees,  
411 parents, and persons who are under the care of a health care  
412 provider about the availability of paid sick and safe leave time  
413 under this act. This program shall include the distribution of  
414 notices and other written materials in English and in all  
415 languages spoken by more than five percent (5%) of Mississippi's  
416 population and any language deemed appropriate by the department  
417 to all child care and elder care providers, domestic violence



418 shelters or victim services organizations, schools, hospitals,  
419 community health centers, and other health care providers.

420 **SECTION 12.** (1) Employers may have different paid leave  
421 policies for different groups of employees, provided that all  
422 policies meet the minimum requirements of this chapter.

423 (2) Employers that prefer not to track accrual of paid sick  
424 and safe leave time over the course of the benefit year may also  
425 use the following schedules for providing lump sums of sick leave  
426 or paid time off to their employees. Employers using these  
427 schedules will be in compliance even if an employee's hours vary  
428 from week to week. For employees working an average of:

429 (a) Thirty-seven and one-half (37.5) to forty (40)  
430 hours per week, provide eight (8) hours per month for five (5)  
431 months;

432 (b) Thirty (30) hours per week, provide five (5) hours  
433 per month for eight (8) months;

434 (c) Twenty-four (24) hours per week, provide four (4)  
435 hours per month for ten (10) months;

436 (d) Twenty (20) hours per week, provide four (4) hours  
437 per month for nine (9) months;

438 (e) Sixteen (16) hours per week, provide three (3)  
439 hours per month for ten (10) months;

440 (f) Ten (10) hours per week, provide two (2) hours per  
441 month for ten (10) months;



442 (g) Five (5) hours per week, provide one (1) hour per  
443 month for ten (10) months.

444 (3) In the case of an employer whose regular work day for  
445 full-time employees is less than eight (8) hours per day, if the  
446 employer provides five (5) days of paid sick and safe leave time  
447 consisting of the number of hours per day that constitute that  
448 full-time employee's work day and provides them at the beginning  
449 of the year, the employer shall be in compliance with this  
450 section.

451 (4) Employers that provide forty (40) or more hours of paid  
452 time off or vacation to employees that also may be used as paid  
453 sick and safe leave time, consistent with this section, shall not  
454 be required to provide additional sick leave time to employees who  
455 use all their time for other purposes and have need of paid sick  
456 and safe leave time later in the year, provided that the  
457 employers' leave policies make clear that additional time will not  
458 be provided.

459 **SECTION 13.** If any provision of this act or any rule or  
460 regulation created under this act, or the application of any  
461 provision of this act to any person or circumstance shall be held  
462 invalid by any court of competent jurisdiction, the remainder of  
463 the act, rule or regulation and the application of such provision  
464 to other persons or circumstances shall not be affected thereby.  
465 The invalidity of any section or sections or parts of any section  
466 of this act shall not affect the validity of the remainder of this



467 act and to this end the provisions of the chapter are declared to  
468 be severable.

469           **SECTION 14.** This act shall take effect and be in force from  
470 and after July 1, 2019.

