

By: Senator(s) Turner-Ford

To: Public Health and
Welfare; Judiciary, Division
A

SENATE BILL NO. 2776

1 AN ACT TO CREATE THE HEALTHY AND SAFE FAMILIES AND WORKPLACES
2 ACT; TO REQUIRE EMPLOYERS WITH 18 OR MORE EMPLOYEES TO PROVIDE
3 THREE PAID SICK AND SAFE LEAVE DAYS IN 2019, FOUR PAID SICK AND
4 SAFE LEAVE DAYS IN 2020 AND FIVE PAID SICK AND SAFE LEAVE DAYS
5 THEREAFTER; TO ENUMERATE EXEMPTIONS TO THIS REQUIREMENT; TO
6 ENUMERATE THE PURPOSES FOR WHICH SICK AND SAFE LEAVE TIME MAY BE
7 USED AND DESCRIBE THE DOCUMENTATION AN EMPLOYER MAY REQUIRE; TO
8 PREEMPT MUNICIPALITIES FROM IMPOSING REQUIREMENTS AT VARIANCE WITH
9 THOSE IN THIS ACT; TO AUTHORIZE THE MISSISSIPPI ATTORNEY GENERAL
10 TO PROMULGATE GUIDELINES AND REGULATIONS FOR THE IMPLEMENTATION
11 AND ENFORCEMENT OF THIS ACT; TO FINE EMPLOYERS FOR VIOLATION OF
12 THIS ACT; TO PROHIBIT EMPLOYERS FROM DISCLOSING OR REQUIRING THE
13 DISCLOSURE OF PERSONAL DETAILS RELATED TO THE EMPLOYEE'S NEED FOR
14 TAKING SICK AND SAFE LEAVE TIME; TO PROVIDE FOR THE DISSEMINATION
15 OF INFORMATION REGARDING THE AVAILABILITY OF PAID SICK AND SAFE
16 LEAVE TIME UNDER THIS ACT; TO PROVIDE ACCEPTABLE SCHEDULES OF PAID
17 SICK AND SAFE LEAVE TIME FOR EMPLOYERS NOT WISHING TO TRACK
18 EMPLOYEES' ACCRUAL OF SUCH TIME; AND FOR RELATED PURPOSES.

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

20 **SECTION 1. Short title.** This act shall be known and may be
21 cited as the "Healthy and Safe Families and Workplaces Act."

22 **SECTION 2. Legislative purpose.** The purpose of this act is
23 to ensure that employees in Mississippi can address their own
24 health and safety needs, as well as the health and safety needs of
25 their family members, by requiring employers to allow employees to
26 earn a minimum level of paid leave time, including time to care



27 for their family members, and allow for ease and uniformity of
28 administration for the business community in providing paid leave
29 for their employees.

30 **SECTION 3. Definitions.** As used in the act, the following
31 words and terms have the following meanings:

32 (a) "Care recipient" means a person for whom the
33 employee is responsible for providing or arranging health- or
34 safety-related care, including, but not limited to, helping the
35 person obtain diagnostic, preventive, routine or therapeutic
36 health treatment or ensuring the person is safe following domestic
37 violence, sexual assault or stalking.

38 (b) "Child" means a biological, adopted or foster son
39 or daughter, a stepson or stepdaughter, a legal ward, or a son or
40 daughter of an employee who stands in loco parentis to that child.

41 (c) "Domestic violence" means certain crimes as defined
42 in Section 97-3-7.

43 (d) "Employee" means any person suffered or permitted
44 to work by an employer but shall not include:

45 (i) Any individual employed in domestic service or
46 in or about a private home;

47 (ii) Any individual employed by the United States;

48 (iii) Any individual engaged in the activities of
49 an educational, charitable, religious or nonprofit organization
50 where the employer-employee relationship does not, in fact, exist,



51 or where the services rendered to the organizations are on a
52 voluntary basis;

53 (iv) Newspaper deliverers on home delivery, shoe
54 shiners in shoeshine establishments, caddies on golf courses, pin
55 persons in bowling alleys and ushers in theatres;

56 (v) Traveling salespersons or outside
57 salespersons;

58 (vi) Service performed by an individual in the
59 employ of his or her son, daughter or spouse and service performed
60 by a child under the age of twenty-one (21) in the employ of his
61 or her father or mother;

62 (vii) Any individual employed between May 1 and
63 October 1 in a resort establishment that regularly serves meals to
64 the general public and that is open for business not more than six
65 (6) months a year;

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

73 (ix) Independent contractors, subcontractors, work
74 study participants as described in 42 U.S.C. Section 2753.23, and



75 apprenticeships and interns as defined in Fair Labor Standards Act
76 Section 3(g).

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

86 (f) "Family member" means a child, parent, spouse,
87 mother-in-law, father-in-law, grandparent, grandchild, sibling,
88 care recipient or member of the employee's household.

89 (g) "Health-care professional" means any person
90 licensed under federal or Mississippi law to provide medical or
91 emergency services, including, but not limited to: doctors,
92 nurses and emergency room personnel.

93 (h) "Paid sick leave time" or "paid sick and safe leave
94 time" means time that is compensated at the same hourly rate and
95 with the same benefits, including health-care benefits, as the
96 employee normally earns during hours worked and is provided by an
97 employer to an employee for the purposes described in Section 6 of
98 this act.



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

103 (j) "Seasonal employee" means a person as defined in 26
104 C.F.R. Section 54.4980H-1(a) (38).

105 (k) "Sexual assault" means a crime as defined in
106 Section 97-3-65, 97-3-71, 97-3-95 or 97-5-23.

107 (l) "Sibling" means a brother or a sister, whether
108 related through half blood, whole blood or adoption, a foster
109 sibling, or a stepsibling.

110 (m) "Spouse" means a party to a marriage recognized
111 under Mississippi law.

112 (n) "Stalking" means a crime as described in Section
113 97-3-107.

114 (o) "Temporary employee" means any person working for,
115 or obtaining employment pursuant to an agreement with any
116 employment agency, placement service, or training school or
117 center.

118 (p) "Unpaid sick time" is time that is used for the
119 purposes described in Section 6 of this act.

120 (q) "Year" means a regular and consecutive
121 twelve-month-period as determined by the employer.

122 **SECTION 4. Exemptions.** (1) Nothing in this act shall be
123 construed to conflict with the provisions of the Food Code or the



124 Rules and Regulations pertaining to Reporting Infectious,
125 Environmental and Occupational Diseases.

126 (2) Any employer with a paid leave time-off policy or paid
127 sick and safe leave policy who makes available at least
128 twenty-four (24) hours during calendar year 2019, thirty-two (32)
129 hours during calendar year 2020 and forty (40) hours per calendar
130 year thereafter of paid time off or paid sick and safe leave time
131 to employees or any employer who offers unlimited paid time off or
132 paid sick and safe time is exempt from Section 5, subsections (1),
133 (2), (3) and (5), of this act. Employers that provide at least
134 twenty-four (24) hours during calendar year 2019, thirty-two (32)
135 hours during calendar year 2020 and forty (40) hours per calendar
136 year thereafter of paid sick or safe leave or paid time off that
137 can be used for the purposes consistent with this act at the
138 beginning of each benefit year do not need to track accrual, allow
139 any carryover, or payout.

140 (3) Any employer that employs less than eighteen (18)
141 employees as defined in this act is exempt from Section 5 of this
142 act; provided, however, that any such employer shall not take an
143 adverse action against an employee of the employer solely based
144 upon the employee's use of up to twenty-four (24) hours during
145 calendar year 2019, thirty-two (32) hours during calendar year
146 2020 and forty (40) hours per calendar year thereafter, subject to
147 Sections 6 and 10 of this act.



148 (4) Any employer is not required to provide any paid sick
149 and/or safe leave time to any employees who are employed by a
150 municipality or the state.

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

154 (a) Is employed by a health-care facility;

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

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

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

162 **SECTION 5. Accrual of paid sick and safe leave time.** (1)

163 All employees employed by an employer of eighteen (18) or more
164 employees in Mississippi shall accrue a minimum of one (1) hour of
165 paid sick and safe leave time for every thirty-five (35) hours
166 worked up to a maximum of twenty-four (24) hours during the
167 calendar year of 2019, thirty-two (32) hours during calendar year
168 2020 and up to a maximum of forty (40) hours per year thereafter,
169 unless the employer chooses to provide a higher annual limit in
170 both accrual and use. In determining the number of employees who
171 are employed by an employer for compensation, all employees
172 defined in Section 3(d) of this act shall be counted.



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

180 (3) Paid sick and safe leave time as provided in this act
181 shall begin to accrue at the commencement of employment or
182 pursuant to the law's effective date, July 1, 2019, whichever is
183 later. An employer may provide all paid sick and safe leave time
184 that an employee is expected to accrue in a year at the beginning
185 of the year.

186 (4) An employer may require a waiting period for newly hired
187 employees of up to ninety (90) days. During this waiting period,
188 an employee shall accrue earned sick time pursuant to this section
189 or the employer's policy, if exempt under Section 4(2) of this
190 act, but shall not be permitted to use the earned sick time until
191 after he or she has completed the waiting period.

192 (5) Paid sick and safe leave time shall be carried over to
193 the following calendar year; however, an employee's use of paid
194 sick and safe leave time provided under this act in each calendar
195 year shall not exceed twenty-four (24) hours during calendar year
196 2019 and thirty-two (32) hours during calendar year 2020 and forty
197 (40) hours per year thereafter. Alternatively, in lieu of



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

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

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



222 accrue additional sick and safe leave time at the recommencement
223 of employment.

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

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

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

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



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

250 **SECTION 6. Use of paid sick and safe leave time.** (1) Paid
251 sick and safe leave time shall be provided to an employee by an
252 employer for:

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

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

262 (c) Closure of the employee's place of business by
263 order of a public official due to a public health emergency or an
264 employee's need to care for a child whose school or place of care
265 has been closed by order of a public official due to a public
266 health emergency, or care for oneself or a family member when it
267 has been determined by the health authorities having jurisdiction
268 or by a health-care provider that the employee's or family
269 member's presence in the community may jeopardize the health of
270 others because of their exposure to a communicable disease,



271 whether or not the employee or family member has actually
272 contracted the communicable disease; or

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

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

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

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



295 (5) Unless otherwise in conflict with state or federal law
296 or regulations, an employee may decide how much sick time to use;
297 provided, however, that an employer may set a minimum increment
298 for the use of sick time, not to exceed four (4) hours per day,
299 provided such minimum increment is reasonable under the
300 circumstances.

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

312 (a) An employer may require written documentation for
313 an employee's use of earned sick time that occurs within two (2)
314 weeks prior to an employee's final scheduled day of work before
315 termination of employment.

316 (b) Documentation signed by a health-care professional
317 indicating that paid sick leave time is necessary shall be
318 considered reasonable documentation under subsection (1) of this
319 section.



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

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

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

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

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

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

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



344 (9) If an employee is committing fraud or abuse by engaging
345 in an activity that is not consistent with allowable purposes for
346 paid sick and safe leave in this section, an employer may
347 discipline the employee, up to and including termination of
348 employment for misuse of sick leave.

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

355 (11) An employer may not require, as a condition of
356 providing earned paid sick and safe time under this act, that the
357 employee search for or find a replacement worker to cover the
358 hours during which the employee is using paid sick and safe leave
359 time. However, if an employee is absent from work for any reason
360 listed in Section 6(1) of this act, and by mutual consent of the
361 employer and the employee the employee works an equivalent number
362 of additional hours or shifts during the same or the next pay
363 period as the hours or shifts not worked due to reasons listed in
364 Section 6(1) of this act, an employee shall not be required to use
365 accrued and earned paid or unpaid sick time for the employee's
366 absence during that time period, and the employer shall not be
367 required to pay for sick time taken during the time period.



368 **SECTION 7. Uniformity.** No municipality shall establish,
369 mandate, or otherwise require an employer to provide benefits in
370 excess of those required under this act, including paid sick and
371 safe leave to its employees, other than the paid sick and safe
372 leave requirements provided by this act, or to apply sick and safe
373 leave policies to statutorily exempt employees and workers.

374 **SECTION 8. Regulations.** The Mississippi Attorney General
375 shall coordinate implementation and enforcement of this act and
376 shall promulgate appropriate guidelines or regulations for such
377 purposes. All regulations to be drafted by the Mississippi
378 Attorney General pursuant to this act shall conform with existing
379 applicable regulations and statutes that govern this title.

380 **SECTION 9. Enforcement.** An employer who violates this act
381 shall be liable for a civil penalty in an amount not less than One
382 Hundred Dollars (\$100.00) for the first violation, and each
383 subsequent violation shall be subject to the penalties under
384 Section 71-1-53.

385 **SECTION 10. Confidentiality and nondisclosure.** An employer
386 may not require disclosure of details relating to domestic
387 violence, sexual assault, sexual contact or stalking or the
388 details of an employee's or an employee's family member's health
389 information as a condition of providing paid sick and safe leave
390 time under this act. If an employer possesses health information
391 or information pertaining to domestic violence, sexual assault,
392 sexual contact or stalking about an employee or employee's family



393 member, such information shall be treated as confidential and not
394 disclosed except to the affected employee or with the permission
395 of the affected employee unless required by existing regulation or
396 statute.

397 **SECTION 11. Greater sick and safe leave policies.** (1)

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

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

407 (3) Nothing in this act shall be construed as diminishing
408 the rights of public employees regarding paid sick and safe leave
409 or use of sick and safe leave time as provided in the general
410 laws.

411 **SECTION 12. Public education and outreach.** The Mississippi
412 Attorney General shall develop and implement a multilingual
413 outreach program to inform employers, employees, parents and
414 persons who are under the care of a health-care provider about the
415 availability of paid sick and safe leave time under this act.
416 This program shall include the distribution of notices and other
417 written materials in English and in all languages spoken by more



418 than five percent (5%) of Mississippi's population and any
419 language deemed appropriate by the Mississippi Attorney General to
420 all child-care and elder-care providers, domestic violence
421 shelters or victim services organizations, schools, hospitals,
422 community health centers and other health-care providers.

423 **SECTION 13. Allowable substitution of employers' sick and**

424 **safe leave time.** (1) Employers may have different paid leave
425 policies for different groups of employees, provided that all
426 policies meet the minimum requirements of this act.

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

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

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

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

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



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

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

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

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

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

462 **SECTION 14. Severability.** If any provision of this act or
463 any rule or regulation created under this act, or the application
464 of any provision of this act to any person or circumstance, shall
465 be held invalid by any court of competent jurisdiction, the
466 remainder of the act, rule or regulation and the application of



467 such provision to other persons or circumstances shall not be
468 affected thereby. The invalidity of any section or sections or
469 parts of any section of this act shall not affect the validity of
470 the remainder of this act and to this end the provisions of the
471 act are declared to be severable.

472 **SECTION 15.** This act shall be codified as a new chapter in
473 Title 71 of the Mississippi Code of 1972.

474 **SECTION 16.** This act shall take effect and be in force from
475 and after July 1, 2019.

