

By: Representative Williams-Barnes

To: Workforce Development;
Public Health and Human
Services

HOUSE BILL NO. 1358

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 2020, FOUR PAID SICK AND
4 SAFE LEAVE DAYS IN 2021 AND FIVE PAID SICK AND SAFE LEAVE DAYS
5 THEREAFTER; TO ENUMERATE EXEMPTIONS TO THIS REQUIREMENT; TO
6 SPECIFY 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 REQUIRE THE ATTORNEY GENERAL TO PROMULGATE
10 GUIDELINES AND REGULATIONS FOR THE IMPLEMENTATION AND ENFORCEMENT
11 OF THIS ACT; TO FINE EMPLOYERS FOR VIOLATIONS OF THIS ACT; TO
12 PROHIBIT EMPLOYERS FROM DISCLOSING OR REQUIRING THE DISCLOSURE OF
13 PERSONAL DETAILS RELATED TO THE EMPLOYEE'S NEED FOR TAKING SICK
14 AND SAFE LEAVE TIME; TO PROVIDE FOR THE DISSEMINATION OF
15 INFORMATION REGARDING THE AVAILABILITY OF PAID SICK AND SAFE LEAVE
16 TIME; TO PROVIDE ACCEPTABLE SCHEDULES OF PAID SICK AND SAFE LEAVE
17 TIME FOR EMPLOYERS NOT WISHING TO TRACK EMPLOYEES' ACCRUAL OF SUCH
18 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 this act, the following
31 words and phrases 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 does 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. In
82 determining the number of employees performing work for an
83 employer as defined in 29 C.F.R. Section 791.2 of the federal Fair
84 Labor Standards Act, 29 U.S.C. Section 201 et seq., the total
85 number of employees in that group must 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, nurses
92 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) This act may not be construed
123 to conflict with the provisions of the Food Code or the Rules and



124 Regulations pertaining to Reporting Infectious, Environmental and
125 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 2020, thirty-two (32)
129 hours during calendar year 2021 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
132 or paid sick and safe time, is exempt from subsections (1), (2),
133 (3) and (5) of Section 5 of this act. Employers that provide at
134 least twenty-four (24) hours during calendar year 2020, thirty-two
135 (32) hours during calendar year 2021 and forty (40) hours per
136 calendar year thereafter of paid sick or safe leave or paid time
137 off that can be used for the purposes consistent with this act at
138 the beginning of each benefit year do not need to track accrual,
139 allow 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; however, the employer may not take an adverse action against
143 an employee of the employer solely based upon the employee's use
144 of up to twenty-four (24) hours during calendar year 2020,
145 thirty-two (32) hours during calendar year 2021 and forty (40)
146 hours per calendar year thereafter, subject to Sections 6 and 10
147 of this act.



148 (4) An 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 must 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 2020, thirty-two (32) hours during calendar year
168 2021 and forty (40) hours per year thereafter, unless the employer
169 chooses to provide a higher annual limit in both accrual and use.
170 In determining the number of employees who are employed by an
171 employer for compensation, all employees defined in Section 3(d)
172 of this act must 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., are assumed to work
176 forty (40) hours in each workweek for purposes of paid sick and
177 safe leave time accrual unless their normal workweek is less than
178 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 begins to accrue at the commencement of employment or on July 1,
182 2020, whichever is later. An employer may provide all paid sick
183 and safe leave time that an employee is expected to accrue in a
184 year at the beginning of the year.

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

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



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

203 (6) This act may not be construed as requiring financial or
204 other reimbursement to an employee from an employer upon the
205 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 federal
211 Fair Labor Standards Act, 29 U.S.C. 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 must be reinstated. The employee also is
219 entitled to use accrued paid sick and safe leave time and accrue
220 additional sick and safe leave time at the recommencement of
221 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 that employee.

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

239 (11) Seasonal employees are entitled to use accrued paid
240 sick and safe leave time beginning on the one hundred fiftieth
241 calendar day following commencement of their employment, unless
242 otherwise permitted by the employer. On and after the one hundred
243 fiftieth calendar day of employment, employees may use paid sick
244 and safe leave time as it is accrued. During this waiting period,
245 an employee must accrue earned sick time pursuant to this act but



246 may not be permitted to use the earned sick time until after he or
247 she has completed the waiting period.

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

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

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

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



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

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

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

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



295 sick time, not to exceed four (4) hours per day, if the minimum
296 increment is reasonable under the circumstances.

297 (6) For paid sick and safe leave time of more than three (3)
298 consecutive work days, an employer may require reasonable
299 documentation that the paid sick and safe leave time has been used
300 for a purpose covered by subsection (1) of this section if the
301 employer has notified the employee in writing of this requirement
302 in advance of the employee's use of paid sick and safe time. An
303 employer may not require that the documentation explain the nature
304 of the illness or the details of the domestic violence, sexual
305 assault or stalking unless required by existing government
306 regulation or law. This provision may not be construed to
307 conflict with existing government regulation or law.

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

312 (b) Documentation signed by a health-care professional
313 indicating that paid sick leave time is necessary must be
314 considered reasonable documentation under subsection (1) of this
315 section.

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



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

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

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

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

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

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

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



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

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

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

364 **SECTION 7. Uniformity.** A municipality must establish,
365 mandate or otherwise require an employer to provide benefits in
366 excess of those required under this act, including paid sick and
367 safe leave to its employees other than the paid sick and safe



368 leave requirements provided by this act, or to apply sick and safe
369 leave policies to statutorily exempt employees and workers.

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

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

381 **SECTION 10. Confidentiality and nondisclosure.** An employer
382 may not require disclosure of details relating to domestic
383 violence, sexual assault, sexual contact or stalking or the
384 details of an employee's or an employee's family member's health
385 information as a condition of providing paid sick and safe leave
386 time under this act. If an employer possesses health information
387 or information pertaining to domestic violence, sexual assault,
388 sexual contact or stalking about an employee or employee's family
389 member, the information must be treated as confidential and may
390 not be disclosed except to the affected employee or with the
391 permission of the affected employee unless required by existing
392 regulation or statute.



393 **SECTION 11. Greater sick and safe leave policies.** (1) This
394 act must be construed in a manner to discourage or prohibit an
395 employer from the adoption of a paid sick and safe leave time
396 policy that provides greater rights or benefits than those
397 provided pursuant to this act.

398 (2) This act may not be construed as diminishing the
399 obligation of an employer to comply with any contract, collective
400 bargaining agreement, employment benefit plan or other agreement
401 that provides greater sick and safe leave time to an employee than
402 required in this act.

403 (3) This act may not be construed as diminishing the rights
404 of public employees regarding paid sick and safe leave or use of
405 sick and safe leave time as provided in the general laws.

406 **SECTION 12. Public education and outreach.** The Mississippi
407 Attorney General shall develop and implement a multilingual
408 outreach program to inform employers, employees, parents and
409 persons who are under the care of a health-care provider about the
410 availability of paid sick and safe leave time under this act.
411 This program must include the distribution of notices and other
412 written materials in English and in all languages spoken by more
413 than five percent (5%) of Mississippi's population and any
414 language deemed appropriate by the Mississippi Attorney General to
415 all child-care and elder-care providers, domestic violence
416 shelters or victim services organizations, schools, hospitals,
417 community health centers and other health-care providers.



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

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

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

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

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

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

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

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

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

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



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

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

456 **SECTION 14. Severability.** If any provision of this act or
457 any rule or regulation created under this act, or the application
458 of any provision of this act to any person or circumstance, is
459 held invalid by any court of competent jurisdiction, the remainder
460 of the act, rule or regulation and the application of such
461 provision to other persons or circumstances will not be affected
462 thereby. The invalidity of any section or sections or parts of
463 any section of this act does not affect the validity of the
464 remainder of this act, and to this end, the provisions of the act
465 are declared to be severable.

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



468 **SECTION 16.** This act shall take effect and be in force from
469 and after July 1, 2020.

