

By: Representative McLean

To: State Affairs;
Appropriations A

HOUSE BILL NO. 866

1 AN ACT TO AMEND SECTION 25-3-91, MISSISSIPPI CODE OF 1972, TO
2 DEFINE CERTAIN TERMS FOR THE PURPOSE OF THE LEAVE LAWS FOR STATE
3 EMPLOYEES; TO AMEND SECTION 25-3-95, MISSISSIPPI CODE OF 1972, TO
4 EXPAND THE AUTHORIZED PURPOSES FOR THE USE OF MAJOR MEDICAL LEAVE
5 BY STATE EMPLOYEES; TO AMEND SECTION 25-3-93, MISSISSIPPI CODE OF
6 1972, TO CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED
7 PURPOSES.

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

9 **SECTION 1.** Section 25-3-91, Mississippi Code of 1972, is
10 amended as follows:

11 25-3-91. For purposes of Sections 25-3-91 through 25-3-99,
12 the following words and terms shall have the meaning described
13 herein, unless the context requires otherwise:

14 (a) "Appointing authority" * * * means such person,
15 agency or authority authorized by law to employ individuals in
16 state government, but shall not include the Board of Directors of
17 the Mississippi Industries for the Blind.

18 (b) "Catastrophic injury or illness" means a
19 life-threatening injury or illness of an employee or a member of
20 an employee's immediate family which totally incapacitates the



21 employee from work, as verified by a licensed physician, and
22 forces the employee to exhaust all leave time earned by that
23 employee, resulting in the loss of compensation from the state for
24 the employee. Conditions that are short-term in nature,
25 including, but not limited to, common illnesses such as influenza
26 and the measles, and common injuries, are not catastrophic.
27 Chronic illnesses or injuries, such as cancer or major surgery,
28 which result in intermittent absences from work and which are
29 long-term in nature and require long recuperation periods may be
30 considered catastrophic.

31 (c) "Domestic violence" has the meaning as defined in
32 Section 97-3-7.

33 (* * *d) "Employee" means a person appointed to a
34 position in the state service or nonstate service as defined in
35 Section 25-9-107, for which he or she is compensated on a
36 full-time permanent or provisional basis, a temporary basis, or a
37 part-time basis. However, in order for an employee to be eligible
38 to receive donated leave, the employee must meet the requirements
39 provided in Section 25-3-95(8).

40 (f) "Family member" means:

41 (i) Regardless of age, a biological, adopted or
42 foster child, stepchild or legal ward, a child of a domestic
43 partner, a child to whom the employee stands in loco parentis, or
44 an individual to whom the employee stood in loco parentis when the
45 individual was a minor;



46 (ii) A biological, foster, stepparent or adoptive
47 parent or legal guardian of an employee or an employee's spouse or
48 domestic partner or a person who stood in loco parentis when the
49 employee or employee's spouse or domestic partner was a minor
50 child;

51 (iii) A person to whom the employee is legally
52 married under the laws of any state, or a domestic partner of an
53 employee as registered under the laws of any state or political
54 subdivision;

55 (iv) A grandparent, grandchild or sibling (whether
56 of a biological, foster, adoptive or step relationship) of the
57 employee or the employee's spouse or domestic partner; or

58 (v) A person for whom the employee is responsible
59 for providing or arranging health or safety-related care,
60 including, but not limited to, helping that individual obtain
61 diagnostic, preventive, routine or therapeutic health treatment or
62 ensuring the person is safe following domestic violence, sexual
63 assault or stalking.

64 (g) "Health care professional" means any person
65 licensed under federal or state law to provide medical or nursing
66 services, including, but not limited to, doctors and nurses.

67 (* * *h) "Workday" * * * means a day as defined in
68 Section 25-1-98.



69 (* * *i) "Temporary employment" means the employment
70 of a person in a temporary or time-limited position not to exceed
71 twelve (12) months.

72 (* * *j) "Part-time employment" means the employment
73 of a person in a part-time position.

74 (k) "Sexual assault" has the same meaning "sexual
75 battery" as defined in Section 97-3-95.

76 (l) "Stalking" has the meaning as defined in Section
77 97-3-107.

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

80 25-3-95. (1) All employees and appointed officers of the
81 State of Mississippi, except employees of the public universities
82 who do not contribute to the Mississippi Public Employees'
83 Retirement System or the State Institutions of Higher Learning
84 Optional Retirement Program, shall accrue credits for major
85 medical leave as follows:

| 86 Continuous | Accrual Rate | Accrual Rate |
|--------------------------|-------------------|--------------------|
| 87 Service | (Monthly) | (Annually) |
| 88 1 month to 3 years | 8 hours per month | 12 days per year |
| 89 37 months to 8 years | 7 hours per month | 10.5 days per year |
| 90 97 months to 15 years | 6 hours per month | 9 days per year |
| 91 Over 15 years | 5 hours per month | 7.5 days per year |



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

| Continuous Service | Accrual Rate (Per Month) | Accrual Rate (Per Academic Year) |
|-----------------------|-----------------------------|-------------------------------------|
| 1 month to 3 years | 13-1/3 hours per month | 15 days per academic year |
| 37 months to 8 years | 14-1/5 hours per month | 16 days per academic year |
| 97 months to 15 years | 15-2/5 hours per month | 17 days per academic year |
| Over 15 years | 16 hours per month | 18 days per academic year |

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

(2) (a) Major medical leave may be used for * * * any of the purposes authorized in paragraph (b) this subsection, only after the employee has used one (1) day of accrued personal or compensatory leave for each absence due to * * * an authorized purpose, or leave without pay if the employee has no accrued personal or compensatory leave; provided that faculty members employed by the eight (8) public universities on a nine-month



basis may use major medical leave for the first day of absence due to * * * an authorized purpose. However, major medical leave may be used, without prior use of personal leave, to cover regularly scheduled visits to a * * * health care professional's office or a hospital for the continuing treatment of a chronic disease, as certified in advance by a * * * health care professional.

(b) The authorized purposes for the use of major medical leave are the following:

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

(ii) Care of a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care or treatment of a mental or physical illness, injury or health condition; care of a family member who needs preventive medical care; or in the case of an employee's child, to attend a school meeting or a meeting at a place where the child is receiving care necessitated by the child's health condition or disability, domestic violence, sexual assault or stalking;

(iii) Absence necessary due to domestic violence, sexual assault or stalking, provided the leave is to allow the



employee to obtain for the employee or the employee's family member:

1. Medical attention needed to recover from physical or psychological injury or disability caused by domestic violence, sexual assault or stalking;

2. Services from a victim services organization;

3. Psychological or other counseling;

4. Relocation or taking steps to secure an existing home due to the domestic violence, sexual assault or stalking; or

5. Legal services, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the domestic violence, sexual assault or stalking.

(c) For each absence due to an authorized purpose of thirty-two (32) consecutive working hours (combined personal leave and major medical leave), an employer may require reasonable documentation that the major medical leave has been used for an authorized purpose under paragraph (b) of this subsection.

(i) Documentation signed by a health care professional indicating that major medical leave is or was necessary shall be considered reasonable documentation. However, if the employee or employee's family member did not receive services from a health care professional, or if documentation



cannot be obtained from a health care professional in a reasonable time or without added expense, the employee may provide a written statement indicating that the employee is taking or took major medical leave for an authorized purpose under paragraph (b). A written statement under this subparagraph (i) may be written in the employee's first language and need not be notarized or in any particular format.

(ii) In cases of domestic violence, sexual assault, or stalking, one (1) of the following types of documentation selected by the employee shall be considered reasonable documentation:

1. A police report indicating that the employee or the employee's family member was a victim of domestic violence, sexual assault or stalking;

2. A written statement from a witness advocate affirming that the employee or employee's family member is or was receiving services from a victim services organization;

3. A court document indicating that the employee or employee's family member is or was involved in legal action related to domestic violence, sexual assault or stalking; or

4. A written statement from the employee affirming that the employee or employee's family member is taking or took major medical leave for an authorized purpose under paragraph (b). A written statement under this item 4 may be



191 written in the employee's first language and need not be notarized
192 or in any particular format.

193 (iii) An employer may not require that the
194 documentation explain the nature of the illness, details of the
195 underlying health needs, or the details of the domestic violence,
196 sexual assault or stalking.

197 (* * *d) When an employee's absence is due to a
198 work-related injury for which the employee is receiving temporary
199 disability benefits under Section 71-3-17(b) or 71-3-21, the
200 injured employee shall not use accrued personal and/or medical
201 leave and receive workers' compensation benefits simultaneously if
202 the combined receipt of both benefits results in the employee
203 being paid, while absent due to the work-related injury, a total
204 amount that exceeds one hundred percent (100%) of his or her wages
205 earned in state employment at the time of injury. In such cases,
206 the injured employee may use only as much of his or her accrued
207 personal and/or medical leave as necessary, which may be fewer
208 than eight (8) hours of accrued personal and/or major medical
209 leave in a day, to constitute the difference between the amount of
210 temporary disability workers' compensation benefits received and
211 one hundred percent (100%) of his or her wages earned at the time
212 of injury in state employment. It is the intent of the
213 Legislature that no state employee who is absent and disabled from
214 work due to a work-related injury shall receive more than one
215 hundred percent (100%) of his or her wages earned in state



employment at the time of injury through the use of accrued personal and/or medical leave combined with temporary disability benefits under the Workers' Compensation Law. The procedure for implementing this paragraph (* * *d) shall be as directed by the applicable appointing authority. The receipt or payment of benefits in compliance with this paragraph (* * *d) shall be considered the employee's exclusive remedy against the employer in accordance with Section 71-3-9.

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

* * *

(* * *4) 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.

(* * *5) 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.

(* * *6) 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.

(* * *7) 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:



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

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

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

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



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

292 (e) If an employee is aggrieved by the decision of his
293 or her appointing authority that the employee is not eligible to
294 receive donated leave because the injury or illness of the
295 employee or member of the employee's immediate family is not, in
296 the appointing authority's determination, a catastrophic injury or
297 illness, the employee may appeal the decision to the employee
298 appeals board.

299 (f) * * * The maximum period of time that an employee
300 may use donated leave without resuming work at his or her place of
301 employment is ninety (90) days, which commences on the first day
302 that the recipient employee uses donated leave. Donated leave
303 that is not used because a recipient employee has used the maximum
304 amount of donated leave authorized under this paragraph shall be
305 returned to the donor employees in the manner provided under
306 paragraph (g) of this subsection.

307 (g) If the total amount of leave that is donated to any
308 employee is not used by the recipient employee, the donated leave
309 shall be returned to the donor employees on a pro rata basis,
310 based on the ratio of the number of days of leave donated by each
311 donor employee to the total number of days of leave donated by all
312 donor employees.

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



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

318 (i) No person through the use of coercion, threats or
319 intimidation shall require or attempt to require any employee to
320 donate his or her leave to another employee. Any person who
321 alleges a violation of this paragraph shall report the violation
322 to the executive head of the agency by whom he or she is employed
323 or, if the alleged violator is the executive head of the agency,
324 then the employee shall report the violation to the State
325 Personnel Board. Any person found to have violated this paragraph
326 shall be subject to removal from office or termination of
327 employment.

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

330 (k) Recipient employees of agencies with more than five
331 hundred (500) employees as of March 25, 2003, may receive donated
332 leave only from donor employees within the same agency. A
333 recipient employee in an agency with five hundred (500) or fewer
334 employees as of March 25, 2003, may receive donated leave from any
335 donor employee.

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



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

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

345 (m) Donated leave shall not be used in lieu of
346 disability retirement.

347 (n) For the purposes of this subsection, "immediate
348 family" means spouse, parent, stepparent, sibling, child or
349 stepchild.

350 (* * *8) An employee may use up to six (6) weeks of earned
351 major medical leave for the placement with the employee of a child
352 for adoption or foster care and to care for the newly placed child
353 within one (1) year of placement.

354 **SECTION 3.** Section 25-3-93, Mississippi Code of 1972, is
355 amended as follows:

356 25-3-93. (1) (a) Except as provided in subsection (1)(b),
357 all employees and appointed officers of the State of Mississippi,
358 who are employees as defined in Section 25-3-91, shall be allowed
359 credit for personal leave computed as follows:

| 360 Continuous | Accrual Rate | Accrual Rate |
|------------------------|--------------------|------------------|
| 361 Service | (Monthly) | (Annually) |
| 362 1 month to 3 years | 12 hours per month | 18 days per year |



363 37 months to 8 years 14 hours per month 21 days per year
364 97 months to 15 years 16 hours per month 24 days per year
365 Over 15 years 18 hours per month 27 days per year

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

370 (b) Temporary employees who work less than a full
371 workweek and part-time employees shall be allowed credit for
372 personal leave computed on a pro rata basis. Faculty members
373 employed by the eight (8) public universities on a nine-month
374 contract, and employees of the public universities who do not
375 contribute to the Mississippi Public Employees' Retirement System
376 or the State Institutions of Higher Learning Optional Retirement
377 Program, shall not be eligible for personal leave.

378 (2) For the purpose of computing credit for personal leave,
379 each appointed officer or employee shall be considered to work not
380 more than five (5) days each week. Leaves of absence granted by
381 the appointing authority for one (1) year or less shall be
382 permitted without forfeiting previously accumulated continuous
383 service. The provisions of this section shall not apply to
384 military leaves of absence. The time for taking personal leave,
385 except when such leave is taken due to an illness, shall be
386 determined by the appointing authority of which such employees are
387 employed.



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

395 (4) Employees are encouraged to use earned personal leave.
396 Personal leave may be used for vacations and personal business as
397 scheduled by the appointing authority and shall be used * * * by
398 the employee for an authorized purpose under Section 25-3-95(2)(b)
399 requiring absences of one (1) day or less. Accrued personal or
400 compensatory leave shall be used for the first day of an
401 employee's * * * authorized purpose under Section 25-3-95(2)(b)
402 requiring his or her absence of more than one (1) day. Accrued
403 personal or compensatory leave may also be used for an * * *
404 authorized purpose under Section 25-3-95(2)(b) involving the
405 employee's * * * family * * * member. There shall be no limit to
406 the accumulation of personal leave. Upon termination of
407 employment each employee shall be paid for not more than thirty
408 (30) days of accumulated personal leave. Unused personal leave in
409 excess of thirty (30) days shall be counted as creditable service
410 for the purposes of the retirement system as provided in Sections
411 25-11-103 and 25-13-5.



412 (5) Any state law enforcement officer who is injured by
413 wound or accident in the line of duty shall not be required to use
414 earned personal leave during the period of recovery from such
415 injury. As used in this subsection, the term "state law
416 enforcement officer" means a person employed by a state agency
417 who, as a condition of his or her employment, is required by law
418 to complete a course of study at the Law Enforcement Officers
419 Training Academy.

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

426 **SECTION 4.** This act shall take effect and be in force from
427 and after July 1, 2025.

