

By: Senator(s) Turner-Ford

To: Labor; Economic and
Workforce Development

SENATE BILL NO. 2022

1 AN ACT TO ESTABLISH THE MISSISSIPPI SICK AND SAFE LEAVE ACT
2 TO BE ADMINISTERED BY THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT
3 SECURITY; TO PROVIDE APPLICABLE DEFINITIONS; TO PROVIDE GUIDELINES
4 FOR ACCRUAL OF EARNED PAID SICK LEAVE; TO ESTABLISH PROPER USES OF
5 EARNED PAID SICK LEAVE; TO PROHIBIT EMPLOYERS FROM VIOLATING
6 EMPLOYEE RIGHTS ESTABLISHED IN THIS ACT; TO REQUIRE EMPLOYERS TO
7 NOTIFY EMPLOYEES OF CERTAIN ASPECTS OF PAID SICK AND SAFE LEAVE
8 UPON THE COMMENCEMENT OF EMPLOYMENT; TO REQUIRE EMPLOYERS TO
9 RETAIN RECORDS OF COMPLIANCE WITH THIS ACT; TO ENABLE THE
10 DEPARTMENT OF EMPLOYMENT SECURITY TO REGULATE AND ENFORCE THIS
11 ACT; TO REQUIRE EMPLOYERS TO COMPLY WITH CERTAIN CONFIDENTIALITY
12 AND NONDISCLOSURE STANDARDS; TO ENCOURAGE AND ALLOW MORE GENEROUS
13 EARNED PAID SICK LEAVE POLICIES; TO PROVIDE A LEGAL BASELINE FOR
14 PAID SICK LEAVE; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** Sections 1 through 14 of this act shall be known
17 and cited as the "Mississippi Sick and Safe Leave Act."

18 **SECTION 2. Definitions.** For purposes of this act:

19 (a) "Department" means the Mississippi Department of
20 Employment Security.

21 (b) "Domestic violence" is as defined in Section
22 97-3-7.

23 (c) "Earned paid sick time" means time that is
24 compensated at the same hourly rate and with the same benefits,



including health care benefits, as the employee normally earns during hours worked and is provided by an employer to an employee for the purposes described in Section 13 of this act, but in no case shall this hourly amount be less than that provided under 29 USC Section 206(a)(1).

(d) "Employee" is as defined in the Fair Labor Standards Act 29 USC Section 203(e). "Employee" does not include an "employee" as defined by 45 USC 351(d) who is subject to the Federal Railroad Unemployment Insurance Act, 45 USC 351 et seq.

(e) "Employer" is as defined in the Fair Labor Standards Act 29 USC Section 203(d). For the purposes of this act, "employer" does not include the United States government.

(f) "Family member" means:

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

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

(iii) A person to whom the employee is legally married under the laws of any state, or a domestic partner of an



employee as registered under the laws of any state or political subdivision;

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

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

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

(h) "Retaliatory personnel action" means denial of any right guaranteed under this act and any threat, discharge, suspension, demotion, reduction of hours, reporting or threatening to report an employee's suspected citizenship or immigration status, or the suspected citizenship or immigration status of a family member of the employee to a federal, state or local agency, or any other adverse action against an employee for the exercise of any right guaranteed herein, including any sanctions against an employee who is the recipient of public benefits for rights guaranteed under this



act. Retaliation shall also include interference with or punishment for in any manner participating in or assisting an investigation, proceeding or hearing under this act.

(i) "Sexual assault" is as defined in Section 97-3-95.

(j) "Stalking" is as defined in Section 97-3-107.

(k) "Year" means a regular and consecutive twelve-month period as determined by the employer, except that for the purposes of Sections 7 and 9 of this act, "year" shall mean a calendar year.

SECTION 3. Accrual of earned paid sick time. (1) All employees shall accrue a minimum of one (1) hour of earned paid sick time for every thirty (30) hours worked. Employees shall not use more than forty (40) hours of earned paid sick time in a year, unless the employer selects a higher limit.

(2) Employees who are exempt from overtime requirements under 29 USC Section 213(a)(1) of the Federal Fair Labor Standards Act will be assumed to work forty (40) hours in each work week for purposes of earned paid sick time accrual unless their normal work week is less than forty (40) hours, in which case earned paid sick time accrues based upon that normal work week.

(3) Earned paid sick time as provided in this section shall begin to accrue at the commencement of employment or on the date this law goes into effect, whichever is later. An



100 employer shall be entitled to use paid sick time as it is
101 accrued. An employer may provide all paid sick time that an
102 employee is expected to accrue in a year at the beginning of
103 the year.

104 (4) Earned paid sick time that is unused shall be carried
105 over to the following year, but this act does not require an
106 employer to permit an employee to use more than forty (40)
107 hours of paid sick time per year. Alternatively, in lieu of
108 carryover of unused earned paid sick time from one (1) year to
109 the next, an employer may pay an employee for unused earned
110 paid sick time at the end of a year and provide the employee
111 with an amount of paid sick time that meets or exceeds the
112 requirements of this section that is available for the
113 employee's immediate use at the beginning of the subsequent
114 year.

115 (5) Any employer with a paid leave policy, such as a paid
116 time off policy, who makes available an amount of paid leave
117 sufficient to meet the accrual requirements of this section
118 that may be used for the same purposes and under the same
119 conditions as earned paid sick time under this act is not
120 required to provide additional paid sick time.

121 (6) Nothing in this act shall be construed as requiring
122 financial or other reimbursement to an employee from an
123 employer upon the employee's termination, resignation,
124 retirement or other separation from employment for paid sick



time under this act that has not been used, unless such financial or other reimbursement is required under another law.

(7) If an employee is transferred to a separate division, entity or location, but remains employed by the same employer, the employee is entitled to all earned paid sick time accrued at the prior division, entity or location and is entitled to use all earned paid sick time as provided in this section. When there is a separation from employment and the employee is rehired within twelve (12) months of separation by the same employer, previously accrued earned paid sick time that had not been used shall be reinstated. Further, the employee shall be entitled to use accrued earned paid sick time and accrue additional earned paid sick time at the recommencement of employment.

(8) When a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all earned paid sick time they accrued or received under this act when employed by the original employer, and are entitled to use earned paid sick time previously accrued or received under this act.

(9) At its discretion, an employer may loan earned paid sick time to an employee in advance of accrual by such employee.



149 **SECTION 4.** **Use of earned paid sick time.** (1) Earned paid

150 sick time shall be provided to an employee by an employer for:

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

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

165 (c) Absence necessary due to domestic violence,
166 sexual assault or stalking, provided the leave is to allow the
167 employee to obtain for the employee or the employee's family
168 member:

169 (i) Medical attention needed to recover from
170 physical or psychological injury or disability caused by
171 domestic violence, sexual assault or stalking;

172 (ii) Services from a victim services
173 organization;



(iii) Psychological or other counseling;

(iv) Relocation or taking steps to secure an existing home due to the domestic violence, sexual assault or stalking; or

(v) 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.

(2) Earned paid sick time shall be provided upon the request of an employee. Such request may be made orally, in writing, by electronic means or by any other means acceptable to the employer. When possible, the request shall include the expected duration of the absence.

(3) When the use of earned paid sick time is foreseeable, the employee shall make a good faith effort to provide notice of the need for such time to the employer in advance of the use of the earned paid sick time and shall make a reasonable effort to schedule the use of paid sick time in a manner that does not unduly disrupt the operations of the employer.

(4) An employer that requires notice of the need to use earned paid sick time shall provide a written policy that contains reasonable procedures for the employee to provide notice. An employer that has not provided to the employee a copy of its written policy for providing such notice shall not



198 deny earned paid sick time to the employee based on
199 noncompliance with such a policy.

200 (5) An employer may not require, as a condition of an
201 employee's taking earned paid sick time, that the employee
202 search for or find a replacement worker to cover the hours
203 during which the employee is using earned paid sick time.

204 (6) Earned paid sick time may be used in the smaller of
205 hourly increments or the smallest increment that the employer's
206 payroll system uses to account for absences or use of other
207 time.

208 (7) For earned paid sick time of three (3) or more
209 consecutive work days, an employer may require reasonable
210 documentation that the earned paid sick time has been used for
211 a purpose covered by subsection (1) of this section.

212 (a) Documentation signed by a health care
213 professional indicating that earned paid sick time is or was
214 necessary shall be considered reasonable documentation.
215 However, if the employee or employee's family member did not
216 receive services from a health care professional, or if
217 documentation cannot be obtained from a health care
218 professional in reasonable time or without added expense, the
219 employee can provide a written statement indicating that the
220 employee is taking or took paid sick time for a qualifying
221 purpose covered by subsection (1) of this section. Such



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

(b) 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:

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

(ii) 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;

(iii) 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

(iv) A written statement from the employee affirming that the employee or employee's family member is taking or took paid sick time for a qualifying purpose of subsection (1) of this section. A written statement pursuant to this subsection may be written in the employee's first language and need not be notarized or in any particular format.

(c) An employer may not require that the documentation explain the nature of the illness, details of the



underlying health needs, or the details of the domestic violence, sexual assault or stalking.

SECTION 5. Exercise of rights protected; retaliation

prohibited. (1) It shall be unlawful for an employer or any other person to interfere with, restrain or deny the exercise of, or the attempt to exercise, any right protected under this act. An employee need not explicitly refer to this act or the rights enumerated herein to be protected from retaliatory personnel actions.

(2) An employer shall not take retaliatory personnel action or discriminate against an employee or former employee because the person has exercised or attempted to exercise rights protected under this act. Such rights include, but are not limited to, the right to request or use paid sick time pursuant to this act; the right to file a complaint with the department or courts or inform any person about any employer's alleged violation of this act; the right to participate in an investigation, hearing or proceeding or cooperate with or assist the department in its investigations of alleged violations of this act; the right to inform any person of his or her potential rights under this act; or the right to disclose or intend to disclose a violation of this act through a good faith written or oral communication to an employer, an employer's agent, other employee, a government agency, an attorney or legal aid organization, a community or labor



organization, or to the public such as through print, online, social or any other media.

(3) It shall be unlawful for an employer's absence control policy to count paid sick time taken under this act as an absence that may lead to or result in a retaliatory personnel action or any other adverse action.

(4) Protections of this section shall apply to any person who mistakenly but in good faith alleges violations of this act.

SECTION 6. Notice and posting. (1) Employers shall give employees written notice of the following at the commencement of employment: employees are entitled to earned paid sick time and the amount of earned paid sick time, the terms of its use guaranteed under this act, that retaliatory personnel action against employees who request or use paid sick time is prohibited, that each employee has the right to file a complaint or bring a civil action if earned sick time as required by this act is denied by the employer or the employee is subjected to retaliatory personnel action for requesting or taking paid sick time, and the contact information for the department where questions about rights and responsibilities under this act can be answered.

(2) The amount of paid sick time available to the employee, the amount of paid sick time taken by the employee to date in the year, and the amount of pay the employee has



received as paid sick time shall be recorded in, or on an attachment to, the employee's regular paycheck.

(3) Employers shall display a poster that contains the information required in subsection (1) of this section in a conspicuous and accessible place in each establishment where such employees are employed; provided, however, that in cases where the employer does not maintain a physical workplace, or an employee teleworks or performs work through a web-based or app-based platform, notification shall be sent via electronic communication or a conspicuous posting in the web-based or app-based platform.

(4) The department shall create and make available to employers, in all languages deemed appropriate by the department, model notices and posters that contain the information required under subsection (1) of this section for employers' use in complying with subsections (1) and (3) of this section.

(5) An employer that willfully violates the notice and posting requirements of this section shall be subject to a civil fine in an amount not to exceed One Hundred Dollars (\$100.00) for each separate offense. Each day that a violation occurs or is not corrected shall constitute a separate offense.

SECTION 7. Employer records. Employers shall retain records documenting compliance with the applicable requirements of this act, including hours worked by employees and earned



sick time taken by employees, for a period of three (3) years, and shall allow the department access to such records and other information, in accordance with applicable law and with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of this act or in furtherance of an investigation conducted pursuant to this act. When an issue arises as to an employee's entitlement to paid sick time under this act, if the employer does not maintain or retain adequate records documenting hours worked by the employee and paid sick time taken by the employee or other information required to be maintained by this act, or does not allow the department reasonable access to such records, it shall be presumed in an administrative or civil action that the employer has violated the act, absent clear and convincing evidence otherwise.

SECTION 8. Regulations. The department shall be authorized to coordinate implementation and enforcement of this act and shall promulgate appropriate guidelines or regulations for such purposes.

SECTION 9. Enforcement. (1) (a) The department shall have the authority to take complaints, investigate those complaints in a timely manner and seek penalties under this act and to bring charges for noncompliance against any employer or employee.



(b) Any person alleging a violation of this act shall have the right to file a complaint with the department within two (2) years of the date of the person knew or should have known of the alleged violation. The department shall encourage reporting pursuant to this subsection by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the employee or person reporting the violation; provided, however, that with the authorization of such person, the department may disclose his or her name and identifying information as necessary to enforce this act or for other appropriate purposes.

(c) Upon receiving a complaint alleging a violation of this act, the department shall investigate such complaint and attempt to resolve it through mediation between the complainant and the subject of the complaint, or other means. The department shall keep complainants notified regarding the status of their complaint and any resultant investigation. If the department believes that a violation has occurred, it shall issue to the offending person or entity a notice of violation and the relief required of the offending person or entity. The department shall prescribe the form and wording of such notices of violation, including any method of appealing the decision of the department.

(d) The department shall have the power to impose penalties provided for in this act and to grant an employee or



former employee all appropriate relief. Such relief shall include, but not be limited to, the following, to the extent permitted under state law:

(i) The full amount of any unpaid earned paid sick time;

(ii) Actual damages suffered as the result of the employer's violation of this act, plus an equal amount of liquidated damages; and

(iii) Such equitable and legal relief as may be appropriate to remedy the violation, including, without limitation, reinstatement.

(2) (a) The department, the Attorney General or any person aggrieved by a violation of this act may bring a civil action in a court of competent jurisdiction against an employer violating this act. Such action may be brought by a person aggrieved by a violation of this section without first filing an administrative complaint.

(b) Upon prevailing in an action brought pursuant to this section, aggrieved persons shall recover the full amount of any unpaid earned sick time plus any actual damages suffered as the result of the employer's violation of this act plus an equal amount of liquidated damages. Aggrieved persons shall also be entitled to reasonable attorney's fees.

(c) Upon prevailing in an action brought pursuant to this section, aggrieved persons shall be entitled to such legal



or equitable relief as may be appropriate to remedy the violation, including, without limitation, reinstatement to employment, back pay and injunctive relief.

(d) Any person aggrieved by a violation of this act may file a complaint with the Attorney General. The filing of a complaint with the Attorney General will not preclude the filing of a civil action.

(e) The Attorney General may bring a civil action to enforce this act.

(f) The statute of limitations for a civil action brought pursuant to this section shall be for a period of two (2) years from the date the alleged violation occurred or the date the employee knew or should have known of the violation.

SECTION 10. Confidentiality and nondisclosure. (1)

Unless otherwise required by law, an employer may not require disclosure of details relating to domestic violence, sexual assault, or stalking or the details of an employee's or an employee's family member's health information as a condition of providing earned paid sick time under this act.

(2) Unless otherwise required by law, any health or safety information possessed by an employer regarding an employee or employee's family member must:

(a) Be maintained on a separate form and in a separate file from other personal information;

(b) Be treated as confidential medical records; and



(c) Not be disclosed except to the affected employee or with the express permission of the affected employee.

SECTION 11. Encouragement of more generous earned paid sick time policies; no effect on more generous policies or laws. (1) Nothing in this act shall be construed to discourage or prohibit an employer from the adoption or retention of an earned paid sick time policy more generous than the one required herein.

(2) Nothing in this act shall be construed as diminishing the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan or other agreement providing more generous paid sick time to an employee than required herein.

(3) Nothing in this act shall be construed as diminishing the rights of public employees regarding paid sick time or use of paid sick time as provided in Mississippi.

(4) The rights and remedies under this act may not be waived by any agreement, policy, form or condition of employment.

SECTION 12. Other legal requirements. This act provides minimum requirements pertaining to earned paid sick time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater accrual or use by



employees of earned paid sick time or that extends other
protections to employees.

SECTION 13. Severability. If any provision of this act or
application thereof to any person or circumstance is judged
invalid, the invalidity shall not affect other provisions or
applications of the act which can be given effect without the
invalid provision or application, and to this end the
provisions of this act are declared severable.

SECTION 14. This act shall take effect and be in force
from and after January 1, 2026.

