

By: Representative Williams-Barnes

To: Workforce Development;
Public Health and Human
Services

HOUSE BILL NO. 1044

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 2022, FOUR PAID SICK AND
4 SAFE LEAVE DAYS IN 2023 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 organization 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; or

73 (ix) Independent contractors, subcontractors, work
74 study participants as described in 42 USC 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 CFR Section 791.2 of the federal Fair
84 Labor Standards Act, 29 USC Section 201 et seq., the total number
85 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 stood
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 CFR 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 2022, thirty-two (32)
129 hours during calendar year 2023 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 2022, thirty-two
135 (32) hours during calendar year 2023 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 2022,
145 thirty-two (32) hours during calendar year 2023 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 2022, thirty-two (32) hours during calendar year
168 2023 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 USC Section 213(a)(1) of the federal Fair Labor Standards
175 Act, 29 USC Section 201 et seq., are assumed to work forty (40)
176 hours in each workweek for purposes of paid sick and safe leave
177 time accrual unless their normal workweek is less than forty (40)
178 hours, in which case paid sick and safe leave time accrues based
179 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 2022, 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 2022,
195 thirty-two (32) hours during calendar year 2023 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 CFR Section 791.2 of the federal
211 Fair Labor Standards Act, 29 USC Section 201 et seq., the employee
212 is entitled to all paid sick and safe leave time accrued at the
213 prior division, entity or location and is entitled to use all paid
214 sick and safe leave time as provided in this act. When there is a
215 separation from employment and the employee is rehired within one
216 hundred thirty-five (135) days of separation by the same employer,
217 previously accrued paid sick and safe leave time that had not been
218 used must be reinstated. The employee also is entitled to use
219 accrued paid sick and safe leave time and accrue additional sick
220 and safe leave time at the recommencement of employment.

221 (8) When a different employer succeeds or takes the place of
222 an existing employer, all employees of the original employer who



223 remain employed by the successor employer within the state are
224 entitled to all earned paid sick and safe leave time they accrued
225 when employed by the original employer and are entitled to use
226 earned paid sick and safe leave time previously accrued.

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

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

238 (11) Seasonal employees are entitled to use accrued paid
239 sick and safe leave time beginning on the one hundred fiftieth
240 calendar day following commencement of their employment, unless
241 otherwise permitted by the employer. On and after the one hundred
242 fiftieth calendar day of employment, employees may use paid sick
243 and safe leave time as it is accrued. During this waiting period,
244 an employee must accrue earned sick time pursuant to this act but
245 may not be permitted to use the earned sick time until after he or
246 she has completed the waiting period.



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

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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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



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

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

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

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



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

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

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

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



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

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

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

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

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

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

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

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

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

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



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

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

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

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



467 **SECTION 16.** This act shall take effect and be in force from
468 and after July 1, 2022.

