

By: Representatives Butler-Washington, Gibbs To: State Affairs;
(72nd), James-Jones, Holloway (27th), Nelson Appropriations A

HOUSE BILL NO. 1361

1 AN ACT TO ESTABLISH THE MISSISSIPPI PAID FAMILY AND MEDICAL
2 LEAVE ACT; TO PROVIDE CERTAIN APPLICABLE DEFINITIONS; TO REQUIRE
3 THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY ESTABLISH AND
4 ADMINISTER A FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM; TO
5 PROVIDE COVERED INDIVIDUALS WITH THE RIGHT TO PAID FAMILY AND
6 MEDICAL LEAVE; TO DETERMINE THE AMOUNT OF FAMILY AND MEDICAL LEAVE
7 INSURANCE BENEFITS FOR COVERED INDIVIDUALS; TO CREATE THE FAMILY
8 AND MEDICAL LEAVE INSURANCE FUND IN THE STATE TREASURY; TO PROVIDE
9 FOR THE DETERMINATION OF INSURANCE PREMIUMS BY THE STATE
10 TREASURER; TO PROTECT THE EMPLOYMENT OF COVERED INDIVIDUALS WHILE
11 THEY ARE ON LEAVE; TO PROHIBIT EMPLOYERS FROM VIOLATING RIGHTS
12 PROTECTED IN THIS ACT; TO REQUIRE THE DIRECTOR OF THE DEPARTMENT
13 TO HOLD VIOLATING EMPLOYERS LIABLE; TO PROVIDE THAT THIS ACT IS TO
14 BE CONSTRUED ALONGSIDE SIMILAR PROVISIONS IN THE FEDERAL FAMILY
15 AND MEDICAL LEAVE ACT; TO REQUIRE THAT CLAIMS BE MADE IN
16 ACCORDANCE WITH RULES PRESCRIBED BY THE DIRECTOR OF THE
17 DEPARTMENT; TO DISQUALIFY COVERED INDIVIDUALS FROM COVERAGE FOR
18 FRAUD, MISREPRESENTATION, OR ERRONEOUS PAYMENT; TO ALLOW COVERED
19 INDIVIDUALS TO ELECT FOR INITIAL COVERAGE OR SUBSEQUENT COVERAGE;
20 TO PRESCRIBE CERTAIN REQUIREMENTS FOR THE FORMATION AND
21 ADMINISTRATION OF THE FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM;
22 TO REQUIRE CERTAIN ACTIONS BY THE DEPARTMENT IF THE INSURANCE
23 BENEFITS IN THIS ACT ARE SUBJECT TO FEDERAL INCOME TAX; TO ALLOW
24 FOR INTERMITTENT OR REDUCED LEAVE; TO REQUIRE THE DEPARTMENT TO
25 MAKE AN ANNUAL REPORT TO THE LEGISLATURE; TO REQUIRE THE
26 DEPARTMENT TO CONDUCT A PUBLIC EDUCATION CAMPAIGN ABOUT THE
27 PROGRAM; TO ENCOURAGE THE DEPARTMENT TO COLLECT DATA FOR THE
28 PURPOSE OF LIMITING THE COST OF THE PROGRAM; TO REQUIRE EMPLOYERS
29 TO PROVIDE WRITTEN NOTICE OF THE PROGRAM TO EMPLOYEES UPON HIRING
30 AND ANNUALLY THEREAFTER; TO BRING FORWARD SECTIONS 25-3-91,
31 25-3-92, 25-3-93 AND 25-3-95, MISSISSIPPI CODE OF 1972, WHICH
32 PROVIDE FOR ADMINISTRATIVE, PERSONAL AND MAJOR MEDICAL LEAVE FOR
33 STATE EMPLOYEES, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR
34 RELATED PURPOSES.



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

36 **SECTION 1. Definitions.** (1) Unless the context clearly
37 requires otherwise, the definitions in this section apply
38 throughout this act:

39 (a) "Alternative base period" means the last four (4)
40 completed calendar quarters immediately preceding the first day of
41 an individual's application year.

42 (b) "Application year" means the twelve-month period
43 beginning on the first day of the calendar week in which an
44 individual files an application for family leave insurance
45 benefits.

46 (c) "Average weekly wage" means one-thirteenth (1/13)
47 of the wages paid during the quarter of the covered individual's
48 base period or alternative base period in which the total wages
49 were highest.

50 (d) "Base period" means the first four (4) of the last
51 five (5) completed calendar quarters immediately preceding the
52 first day of an individual's application year; provided that if
53 the first quarter of the last five (5) completed calendar quarters
54 was included in the base period applicable to any individual's
55 previous application year, the individual's base period shall be
56 the last four (4) completed calendar quarters.

57 (e) "Child" means, regardless of age, a biological,
58 adopted or foster child, stepchild or legal ward, a child of a
59 domestic partner, a child to whom the covered individual stands in



60 loco parentis, or a person to whom the covered individual stood in
61 loco parentis when the person was a minor.

62 (f) "Covered individual" means a person who:

63 (i) Satisfies the following earnings requirements:

64 1. Has earned not less than twenty-six (26)
65 times the minimum weekly benefit amount pursuant to Section
66 71-5-503 from work in the state during the person's base period or
67 alternative base period; and

68 2. Has earned not less than forty (40) times
69 the person's weekly benefit amount pursuant to Section 71-5-503
70 from work in the state during that quarter of the person's base
71 period or alternative base period in which the person's wages were
72 highest;

73 (ii) Meets the administrative requirements
74 outlined in this act and in other law and rules; and

75 (iii) Submits an application.

76 (g) "Department" means the Department of Employment
77 Security.

78 (h) "Director" means the director of the department.

79 (i) "Employee" means an individual employed by an
80 employer within this state.

81 (j) "Employer" has the same meaning as defined in the
82 federal Fair Labor Standards Act of 1938 (29 USC Section 203(d)).

83 (k) "Family and medical leave insurance benefits" means
84 the benefits provided under this act.



85 (1) "Family member" means:
86 (i) A child;
87 (ii) A biological, adoptive or foster parent,
88 stepparent, or legal guardian of a covered individual or a covered
89 individual's spouse or domestic partner or a person who stood in
90 loco parentis when the covered individual or the covered
91 individual's spouse or domestic partner was a minor child;
92 (iii) A person to whom the covered individual is
93 legally married under the laws of a state or jurisdiction of the
94 United States;
95 (iv) A grandparent or step-grandparent of the
96 covered individual or the covered individual's spouse or the
97 domestic partner;
98 (v) A grandchild or step-grandchild of the covered
99 individual or the covered individual's spouse or domestic partner;
100 (vi) A biological, foster, or adopted sibling or
101 the spouse or domestic partner of the sibling;
102 (vii) A domestic partner registered as such under
103 the laws of a state or political subdivision; or
104 (viii) Any other individual related by blood or
105 whose close association with the covered individual is the
106 equivalent of a family relationship.
107 (m) "Health care provider" means any person licensed
108 under federal law, any state law, or the laws of another country
109 wherein the person practices to provide medical or emergency



110 services, including, but not limited to, doctors, nurses and
111 emergency room personnel, clinical social workers, licensed
112 professional counselors or certified midwives.

113 (n) "Paid family and medical leave" means leave taken
114 from employment, self-employment or availability for employment in
115 connection with family and medical leave insurance benefits under
116 this act.

117 (o) "Qualifying exigency leave" means leave for the
118 family member of a service member for a need arising out of a
119 covered individual's family member's active duty service or notice
120 of an impending call or order to active duty in the United States
121 Armed Forces, including, but not limited to:

122 (i) Providing for the care or other needs of the
123 service member's child or other family member;

124 (ii) Making financial or legal arrangements for
125 the service member;

126 (iii) Attending counseling;

127 (iv) Attending military events or ceremonies;

128 (v) Spending time with the service member during
129 rest and recuperation leave;

130 (vi) Spending time with the service member
131 following a return from deployment; or

132 (vii) Making arrangements following the death of
133 the service member.



134 (p) "Serious health condition" has the same meaning as
135 defined in the federal Family and Medical Leave Act of 1993 (29
136 USC 2611(11)).

137 (q) "State average weekly wage" has the same meaning as
138 the term "average weekly wage for the state," as referenced in
139 Section 71-3-3.

140 **SECTION 2. Establishment of program.** The Mississippi
141 Department of Employment Security shall establish and administer a
142 Family and Medical Leave Insurance Program using monies from the
143 Family and Medical Leave Insurance Fund and pay family and medical
144 leave insurance benefits as specified in this act.

145 **SECTION 3. Entitlement to paid leave.** (1) Beginning on
146 January 1, 2027, a covered individual has the right to take paid
147 family and medical leave and to receive family and medical leave
148 insurance benefits pursuant to this act if the individual meets
149 one (1) of the following requirements:

150 (a) Because of birth, adoption, or placement through
151 foster care, is caring for a new child within the first year of
152 the anticipated birth, adoption or placement;

153 (b) Is caring for a family member with a serious health
154 condition;

155 (c) Has a serious health condition; or

156 (d) Because of any qualifying exigency leave arising
157 out of the deployment of a family member of the covered
158 individual.



159 (2) Benefits are payable to an individual who is not
160 currently employed and has been separated from employment for not
161 more than twenty-six (26) weeks at the start of the individual's
162 paid family and medical leave, but who is a covered individual
163 meeting one (1) of the requirements listed in subsection (1)(a)
164 through (d) of this section.

165 (3) The maximum number of weeks for which a covered
166 individual may take paid family and medical leave and for which
167 family and medical leave insurance benefits are payable in an
168 application year is twelve (12) weeks.

169 **SECTION 4. Amount of family and medical leave insurance**

170 **benefits.** (1) The amount of family and medical leave insurance
171 benefits is determined as follows:

172 (a) The weekly benefit is ninety percent (90%) of a
173 covered individual's average weekly wage; however, if a covered
174 individual's average weekly wage is less than Thirty Dollars
175 (\$30.00), then the weekly benefit must be Thirty Dollars (\$30.00).

176 (b) The maximum weekly benefit is the state average
177 weekly wage, except that for paid family and medical leave
178 beginning before January 1, 2027, the maximum weekly benefit is
179 One Thousand Dollars (\$1,000.00).

180 (2) Family and medical leave insurance benefits are not
181 payable until the covered individual accumulates at least one (1)
182 day or eight (8) consecutive hours of family and medical leave.



183 **SECTION 5. Creation of the family and medical leave**

184 **insurance fund.** (1) There is created in the State Treasury the
185 Family and Medical Leave Insurance Fund, referred to in this
186 section as the "fund." Monies in the fund may be used, upon
187 appropriation by the Legislature, only to pay family and medical
188 leave insurance benefits under this act and to administer the
189 family and medical leave insurance program pursuant to this act.
190 Only the director may authorize expenditures from the fund.

191 (2) Whenever, in the judgment of the State Treasurer, there
192 will be in the Family and Medical Leave Insurance Fund an amount
193 of funds in excess of that amount deemed by the State Treasurer to
194 be sufficient to meet the current expenditures properly payable
195 therefrom, the State Treasurer shall have full power to invest,
196 reinvest, manage, contract, sell or exchange investments acquired
197 with such excess funds in the manner prescribed by Section
198 27-105-33. Interest earned on the investment of monies in the
199 fund, and monies remaining in the fund at the end of a fiscal
200 year, remain in the fund and do not revert to the General Fund or
201 another fund.

202 **SECTION 6. Premiums.** (1) The State Treasurer is

203 responsible for determining the amount of premiums necessary to
204 finance the Family and Medical Leave Insurance Program annually,
205 not later than October 1, for the coming calendar year. Beginning
206 on October 1, 2025, the State Treasurer shall set the premium as a
207 percentage of employee wages based on sound actuarial principles.



208 (2) Beginning on January 1, 2026, an employee must pay
209 premiums in an amount determined by the State Treasurer under
210 subsection (1) of this section.

211 (3) An employer shall collect the premium amount from each
212 employee and shall remit the premium amount to the State
213 Treasurer, who shall transfer the premiums to the State Treasury
214 for deposit in the Family and Medical Leave Insurance Fund.

215 **SECTION 7. Employment protection.** (1) Any covered
216 individual who exercises the individual's right to family and
217 medical leave shall, upon the expiration of that leave, be
218 entitled to be restored by their employer to the position held by
219 the covered individual when the leave began, or to a position with
220 equivalent seniority, status, employment benefits, pay, and other
221 terms and conditions of employment, including fringe benefits and
222 service credits that the covered individual was entitled to at the
223 beginning of leave.

224 (2) During leave taken pursuant to this act, the employer
225 shall maintain any health care benefits that the covered
226 individual had before taking such leave for the duration of the
227 leave as if the covered individual remained in employment
228 continuously from the date that the individual began the leave
229 until the date the individual returns from paid family and medical
230 leave. However, the covered individual shall continue to pay the
231 covered individual's share of the cost of health care benefits as
232 required before the beginning of the leave.



233 **SECTION 8. Prohibited acts.** (1) It is unlawful for an
234 employer or another person to interfere with, restrain, or deny
235 the exercise of, or the attempt to exercise, any right protected
236 under this act.

237 (2) An employer, temporary help company, employment agency,
238 employee organization or other person shall not discharge, expel,
239 demote, or otherwise discriminate or take adverse employment
240 action against a person because the person:

241 (a) Files, applies for, or uses benefits provided for
242 under this act;

243 (b) Takes leave from work under this act;

244 (c) Intends to file a claim, a complaint, or an appeal
245 in relation to this act;

246 (d) Testifies, is about to testify, or assists in a
247 proceeding under this act at any time, including the period in
248 which the person receives family and medical leave insurance
249 benefits under this act; or

250 (e) Exercises other rights under this act.

251 (3) It is unlawful for an employer's absence control policy
252 to count paid family and medical leave taken under this act as an
253 absence that may lead to or result in discipline, discharge,
254 demotion, suspension or other adverse action.

255 (4) The protections provided in this section apply to a
256 person who mistakenly but in good faith alleges a violation of
257 this act.



258 **SECTION 9. Enforcement.** (1) Any employer who violates
259 Section 7 or 8 of this act shall be held liable for damages and
260 such equitable relief as provided under 29 USC Section 2617(a),
261 including that an action to recover such damages or equitable
262 relief may be maintained against any employer who violates Section
263 7 or 8 of this act in the manner prescribed in 29 USC Section
264 2617(a).

265 (2) It shall be the duty of the director to administer this
266 act. The director shall have the power and authority to adopt,
267 amend, or rescind such rules, in accordance with the Mississippi
268 Administrative Procedures Law, Section 25-43-1.101 et seq., and to
269 employ such persons, make such expenditures, require such reports,
270 make such investigations, and take such other action as deemed
271 necessary or suitable to that end, and such rules and regulations
272 shall be effective as provided in the Mississippi Administrative
273 Procedures Law in the manner, not inconsistent with this act, that
274 the director prescribes.

275 **SECTION 10. Coordination of benefits.** (1) (a) Leave taken
276 with family and medical leave insurance benefits under this act
277 that also qualifies as leave under the federal Family and Medical
278 Leave Act of 1993 (FMLA) (29 USC Section 2601 et seq.) shall run
279 concurrently with leave taken under the FMLA.

280 (b) An employer may require that family and medical
281 leave insurance benefit payments made pursuant to this act be made
282 concurrently or otherwise coordinated with payment made or leave



283 allowed under the terms of short-term disability or designated
284 family care leave under a collective bargaining agreement or
285 employer policy. The employer must give employees written notice
286 of this requirement when the employee requests leave under this
287 act, or when the employer acquires knowledge that an employee's
288 leave may be for a qualifying reason under Section 3(1) of this
289 act.

290 (2) (a) This act does not diminish an employer's obligation
291 to comply with a collective bargaining agreement or employer
292 policy, as applicable, that provides greater leave or more
293 generous benefits.

294 (b) An agreement by an individual to waive the
295 individual's rights under this act is void as against public
296 policy.

297 **SECTION 11. Appeals.** (1) Claims for benefits must be made
298 in accordance with rules that the director prescribes.

299 (2) An applicant for family and medical leave insurance
300 benefits who is dissatisfied with any determination of their claim
301 for family and medical leave insurance benefits under this act may
302 appeal the determination within ninety (90) days of receiving
303 notice of the determination in the manner provided in Section
304 71-5-519.

305 **SECTION 12. Erroneous payments and disqualification for**
306 **benefits.** (1) A covered individual may be disqualified from
307 family and medical leave insurance benefits for up to one (1) year



308 if the individual willfully makes a false statement or
309 misrepresentation regarding a material fact, or willfully failed
310 to report a material fact, to obtain benefits under this act.

311 (2) If family and medical leave insurance benefits are paid
312 erroneously or as a result of willful misrepresentation, or if a
313 claim for family and medical leave insurance benefits is rejected
314 after benefits are paid, then the department may seek repayment of
315 benefits from the recipient. The director may exercise discretion
316 to waive, in whole or in part, the amount of any such payments
317 where the recovery would be against equity and good conscience.

318 **SECTION 13. Elective coverage.** (1) A self-employed person,
319 including an independent contractor, sole proprietor, partner, or
320 joint venturer, may elect coverage under this act for an initial
321 period of not less than three (3) years or a subsequent period of
322 not less than one (1) year immediately following another period of
323 coverage. A self-employed person who elects coverage shall become
324 eligible for family and medical leave insurance benefits
325 immediately when that individual has met the requirements of
326 Section 1 (1)(f)(i) of this act. The self-employed person must
327 file a notice of election in writing with the director, as
328 required by the department. The election becomes effective on the
329 date of filing the notice.

330 (2) A self-employed person who has elected coverage may
331 withdraw from coverage within thirty (30) days after the end of
332 the three-year period of coverage, or at other times as the



333 director may prescribe by rule, by filing written notice with the
334 director, the withdrawal to take effect not sooner than thirty
335 (30) days after filing the notice.

336 (3) A person who has elected coverage under this section and
337 is no longer a self-employed person shall be excused from their
338 obligations under this section, as the department shall prescribe
339 by rule.

340 **SECTION 14. Administration.** (1) The department shall
341 establish procedures and forms for filing claims for benefits
342 under this act. The department shall notify the employer within
343 five (5) business days of the department's receipt of a claim
344 being filed pursuant to this act.

345 (2) The department shall use information sharing and
346 integration technology to facilitate the disclosure of relevant
347 information or records so long as an individual consents to the
348 disclosure in the manner provided by applicable law.

349 (3) Information contained in the files and records
350 pertaining to an individual under this act are confidential and
351 not open to public inspection under the Mississippi Public Records
352 Act of 1983 in Section 25-61-1 et seq., other than to public
353 employees in the performance of their official duties. However,
354 an individual, or an authorized representative of a an individual,
355 may review the records or receive specific information from the
356 records on the presentation of the signed authorization of the
357 individual.



358 (4) The director may promulgate rules in accordance with the
359 Mississippi Administrative Procedures Law in Section 25-43-1.101
360 et seq., as necessary to implement this act. In promulgating
361 rules, the director shall maintain, to the extent possible,
362 consistency with the rules promulgated to implement the federal
363 Family and Medical Leave Act of 1993 (29 USC 2601 et seq.).

364 **SECTION 15. Income taxes.** If the federal Internal Revenue
365 Service determines that family and medical leave insurance
366 benefits under this act are subject to federal income tax, then
367 the department must advise an individual filing a new claim for
368 family and medical leave insurance benefits, at the time the
369 individual files the claim, that:

370 (a) The federal Internal Revenue Service has determined
371 that benefits are subject to federal income tax; and

372 (b) Requirements exist pertaining to estimated tax
373 payments.

374 **SECTION 16. Intermittent or reduced leave schedule.** (1) A
375 covered individual shall be entitled, at the option of the covered
376 individual, to take paid family and medical leave on an
377 intermittent or reduced leave schedule in which all of the leave
378 authorized under this act is not taken sequentially. Family and
379 medical leave insurance benefits for intermittent or reduced leave
380 schedules shall be prorated.

381 (2) The covered individual shall make a reasonable effort to
382 schedule intermittent or reduced leave so as not to disrupt unduly



383 the operations of the employer. The covered individual shall
384 provide the employer with prior notice of the schedule on which
385 the covered individual will be taking leave, to the extent
386 practicable. Leave taken on an intermittent leave schedule shall
387 not result in a reduction of the total amount of leave to which a
388 covered individual is entitled beyond the amount of leave actually
389 taken.

390 **SECTION 17. Reports.** No later than April 1, 2027, and by
391 April 1 of each later year, the department shall report to the
392 Legislature on projected and actual program participation, premium
393 rates, fund balances and outreach efforts.

394 **SECTION 18. Public education campaign.** The department shall
395 conduct a public education campaign to inform workers and
396 employers about the program and the availability of paid family
397 leave and medical leave. The department may use a portion of the
398 funds collected for the paid family and medical leave insurance
399 program in a given year to pay for the public education campaign.
400 Outreach information must be available in English, Spanish and
401 other languages spoken by more than ten percent (10%) of the
402 state's population.

403 **SECTION 19. Data collection.** The department is encouraged
404 to use state data collection and technology to the extent possible
405 in order to keep the cost of the family and medical leave
406 insurance program down and to integrate the program with existing
407 state policies.



408 **SECTION 20. Notice to employees.** (1) An employer shall
409 provide written notice to each employee upon hiring and each
410 calendar year thereafter. An employer shall also provide written
411 notice to an employee when the employee requests leave under this
412 act, or when the employer acquires knowledge that an employee's
413 leave may be for a qualifying reason under Section 3(1) of this
414 act. The notice must include:

415 (a) The employee's right to family and medical leave
416 insurance benefits under this act and the terms under which it may
417 be used;

418 (b) The amount of family and medical leave insurance
419 benefits;

420 (c) The procedure for filing a claim for benefits;

421 (d) The right to employment restoration and benefits
422 continuation under Section 7 of this act;

423 (e) A statement that discrimination and retaliatory
424 personnel actions against a person for requesting, applying for,
425 or using family and medical leave insurance benefits is prohibited
426 under Section 8 of this act;

427 (f) A statement informing the employee whether the
428 employer requires payment pursuant to this act be made
429 concurrently or otherwise coordinated with payment made or leave
430 allowed under the terms of short-term disability or designated
431 family care leave under a collective bargaining agreement or
432 employer policy under Section 10 of this act; and



433 (g) That the employee has a right to enforce their
434 rights under this act pursuant to Section 9 of this act.

435 (2) An employer shall also display and maintain a poster in
436 a conspicuous place accessible to employees at the employer's
437 place of business that contains the information required by
438 subsection (1) of this section in English, Spanish and any
439 language that is the first language spoken by at least ten percent
440 (10%) of the employer's workforce, as long as the notice has been
441 made publicly available by the by the department. The director
442 may adopt regulations to establish additional requirements
443 concerning the means by which employers provide the notice.

444 **SECTION 21.** Section 25-3-91, Mississippi Code of 1972, is
445 brought forward as follows:

446 25-3-91. For purposes of Sections 25-3-91 through 25-3-99,
447 the following words and terms shall have the meaning described
448 herein, unless the context requires otherwise:

449 (a) "Appointing authority" shall mean such person,
450 agency or authority authorized by law to employ individuals in
451 state government, but shall not include the Board of Directors of
452 the Mississippi Industries for the Blind.

453 (b) "Catastrophic injury or illness" means a
454 life-threatening injury or illness of an employee or a member of
455 an employee's immediate family which totally incapacitates the
456 employee from work, as verified by a licensed physician, and
457 forces the employee to exhaust all leave time earned by that



458 employee, resulting in the loss of compensation from the state for
459 the employee. Conditions that are short-term in nature,
460 including, but not limited to, common illnesses such as influenza
461 and the measles, and common injuries, are not catastrophic.
462 Chronic illnesses or injuries, such as cancer or major surgery,
463 which result in intermittent absences from work and which are
464 long-term in nature and require long recuperation periods may be
465 considered catastrophic.

466 (c) "Employee" means a person appointed to a position
467 in the state service or nonstate service as defined in Section
468 25-9-107, for which he is compensated on a full-time permanent or
469 provisional basis, a temporary basis, or a part-time basis.
470 However, in order for an employee to be eligible to receive
471 donated leave, the employee must meet the requirements provided in
472 Section 25-3-95(8).

473 (d) "Workday" shall mean a day as defined in Section
474 25-1-98.

475 (e) "Temporary employment" means the employment of a
476 person in a temporary or time-limited position not to exceed
477 twelve (12) months.

478 (f) "Part-time employment" means the employment of a
479 person in a part-time position.

480 **SECTION 22.** Section 25-3-92, Mississippi Code of 1972, is
481 brought forward as follows:



482 25-3-92. (1) When, in the opinion of the appointing
483 authority, it is essential that a state employee work after normal
484 working hours, the employee may receive credit for compensatory
485 leave. Except as otherwise provided in Section 37-13-89, when, in
486 the opinion of the appointing authority, it is essential that a
487 state employee work during an official state holiday, the employee
488 shall receive credit for compensatory leave.

489 (2) State employees may be granted administrative leave with
490 pay. For the purposes of this section, "administrative leave"
491 means discretionary leave with pay, other than personal leave or
492 major medical leave.

493 (a) The appointing authority may grant administrative
494 leave to any employee serving as a witness or juror or party
495 litigant, as verified by the clerk of the court, in addition to
496 any fees paid for such services, and such services or necessary
497 appearance in any court shall not be counted as personal leave.

498 (b) The Governor or the appointing authority may grant
499 administrative leave with pay to state employees on a local or
500 statewide basis in the event of extreme weather conditions or in
501 the event of a man-made, technological or natural disaster or
502 emergency. Any employee on a previously approved leave during the
503 affected period shall be eligible for such administrative leave
504 granted by the Governor or appointing authority, and shall not be
505 charged for his previously approved leave during the affected
506 period.



507 (c) The appointing authority may grant administrative
508 leave with pay to any employee who is a certified disaster service
509 volunteer of the American Red Cross who participates in
510 specialized disaster relief services for the American Red Cross in
511 this state and in states contiguous to this state when the
512 American Red Cross requests the employee's participation.
513 Administrative leave granted under this paragraph shall not exceed
514 twenty (20) days in any twelve-month period. An employee on leave
515 under this paragraph shall not be deemed to be an employee of the
516 state for purposes of workers' compensation or for purposes of
517 claims against the state allowed under Chapter 46, Title 11,
518 Mississippi Code of 1972. As used in this paragraph, the term
519 "disaster" includes disasters designated at Level II and above in
520 American Red Cross national regulations and procedures.

521 **SECTION 23.** Section 25-3-93, Mississippi Code of 1972, is
522 brought forward as follows:

523 25-3-93. (1) (a) Except as provided in subsection (1)(b),
524 all employees and appointed officers of the State of Mississippi,
525 who are employees as defined in Section 25-3-91, shall be allowed
526 credit for personal leave computed as follows:

527	Continuous	Accrual Rate	Accrual Rate
528	Service	(Monthly)	(Annually)
529	1 month to 3 years	12 hours per month	18 days per year
530	37 months to 8 years	14 hours per month	21 days per year
531	97 months to 15 years	16 hours per month	24 days per year



532 Over 15 years 18 hours per month 27 days per year

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

537 (b) Temporary employees who work less than a full
538 workweek and part-time employees shall be allowed credit for
539 personal leave computed on a pro rata basis. Faculty members
540 employed by the eight (8) public universities on a nine-month
541 contract, and employees of the public universities who do not
542 contribute to the Mississippi Public Employees' Retirement System
543 or the State Institutions of Higher Learning Optional Retirement
544 Program, shall not be eligible for personal leave.

545 (2) For the purpose of computing credit for personal leave,
546 each appointed officer or employee shall be considered to work not
547 more than five (5) days each week. Leaves of absence granted by
548 the appointing authority for one (1) year or less shall be
549 permitted without forfeiting previously accumulated continuous
550 service. The provisions of this section shall not apply to
551 military leaves of absence. The time for taking personal leave,
552 except when such leave is taken due to an illness, shall be
553 determined by the appointing authority of which such employees are
554 employed.

555 (3) For the purpose of Sections 25-3-91 through 25-3-99, the
556 earned personal leave of each employee shall be credited monthly



557 after the completion of each calendar month of service, and the
558 appointing authority shall not increase the amount of personal
559 leave to an employee's credit. It shall be unlawful for an
560 appointing authority to grant personal leave in an amount greater
561 than was earned and accumulated by the officer or employee.

562 (4) Employees are encouraged to use earned personal leave.
563 Personal leave may be used for vacations and personal business as
564 scheduled by the appointing authority and shall be used for
565 illnesses of the employee requiring absences of one (1) day or
566 less. Accrued personal or compensatory leave shall be used for
567 the first day of an employee's illness requiring his absence of
568 more than one (1) day. Accrued personal or compensatory leave may
569 also be used for an illness in the employee's immediate family as
570 defined in Section 25-3-95. There shall be no limit to the
571 accumulation of personal leave. Upon termination of employment
572 each employee shall be paid for not more than thirty (30) days of
573 accumulated personal leave. Unused personal leave in excess of
574 thirty (30) days shall be counted as creditable service for the
575 purposes of the retirement system as provided in Sections
576 25-11-103 and 25-13-5.

577 (5) Any state law enforcement officer who is injured by
578 wound or accident in the line of duty shall not be required to use
579 earned personal leave during the period of recovery from such
580 injury. As used in this subsection, the term "state law
581 enforcement officer" means a person employed by a state agency



582 who, as a condition of his or her employment, is required by law
583 to complete a course of study at the Law Enforcement Officers
584 Training Academy.

585 (6) Any employee may donate a portion of his or her earned
586 personal leave to another employee who is suffering from a
587 catastrophic injury or illness, or to another employee who has a
588 member of his or her immediate family who is suffering from a
589 catastrophic injury or illness, in accordance with subsection (8)
590 of Section 25-3-95.

591 **SECTION 24.** Section 25-3-95, Mississippi Code of 1972, is
592 brought forward as follows:

593 25-3-95. (1) All employees and appointed officers of the
594 State of Mississippi, except employees of the public universities
595 who do not contribute to the Mississippi Public Employees'
596 Retirement System or the State Institutions of Higher Learning
597 Optional Retirement Program, shall accrue credits for major
598 medical leave as follows:

599	Continuous	Accrual Rate	Accrual Rate
600	Service	(Monthly)	(Annually)
601	1 month to 3 years	8 hours per month	12 days per year
602	37 months to 8 years	7 hours per month	10.5 days per year
603	97 months to 15 years	6 hours per month	9 days per year
604	Over 15 years	5 hours per month	7.5 days per year



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

608	Continuous	Accrual Rate	Accrual Rate
609	Service	(Per Month)	(Per Academic Year)
610	1 month to 3 years	13-1/3 hours per month	15 days per
611			academic year
612	37 months to 8 years	14-1/5 hours per month	16 days per
613			academic year
614	97 months to 15 years	15-2/5 hours per month	17 days per
615			academic year
616	Over 15 years	16 hours per month	18 days per
617			academic year

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

623 (2) (a) Major medical leave may be used for the illness or
624 injury of an employee or member of the employee's immediate family
625 as defined in subsection (3) of this section, only after the
626 employee has used one (1) day of accrued personal or compensatory
627 leave for each absence due to illness, or leave without pay if the
628 employee has no accrued personal or compensatory leave; provided
629 that faculty members employed by the eight (8) public universities



630 on a nine-month basis may use major medical leave for the first
631 day of absence due to illness. However, major medical leave may
632 be used, without prior use of personal leave, to cover regularly
633 scheduled visits to a doctor's office or a hospital for the
634 continuing treatment of a chronic disease, as certified in advance
635 by a physician. For the purposes of this section, "physician"
636 means a doctor of medicine, osteopathy, dental medicine, podiatry
637 or chiropractic. For each absence due to illness of thirty-two
638 (32) consecutive working hours (combined personal leave and major
639 medical leave) major medical leave shall be authorized only when
640 certified by their attending physician.

641 (b) When an employee's absence is due to a work-related
642 injury for which the employee is receiving temporary disability
643 benefits under Section 71-3-17(b) or 71-3-21, the injured employee
644 shall not use accrued personal and/or medical leave and receive
645 workers' compensation benefits simultaneously if the combined
646 receipt of both benefits results in the employee being paid, while
647 absent due to the work-related injury, a total amount that exceeds
648 one hundred percent (100%) of his wages earned in state employment
649 at the time of injury. In such cases, the injured employee may
650 use only as much of his accrued personal and/or medical leave as
651 necessary, which may be fewer than eight (8) hours of accrued
652 personal and/or major medical leave in a day, to constitute the
653 difference between the amount of temporary disability workers'
654 compensation benefits received and one hundred percent (100%) of



655 his wages earned at the time of injury in state employment. It is
656 the intent of the Legislature that no state employee who is absent
657 and disabled from work due to a work-related injury shall receive
658 more than one hundred percent (100%) of his wages earned in state
659 employment at the time of injury through the use of accrued
660 personal and/or medical leave combined with temporary disability
661 benefits under the Workers' Compensation Law. The procedure for
662 implementing this paragraph (b) shall be as directed by the
663 applicable appointing authority. The receipt or payment of
664 benefits in compliance with this paragraph (b) shall be considered
665 the employee's exclusive remedy against the employer in accordance
666 with Section 71-3-9.

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

678 (4) Employees and appointed officers of the State of
679 Mississippi having unused, accumulated sick leave or annual leave



680 earned prior to July 1, 1984, shall be credited with major medical
681 leave and personal leave as follows: All unused annual leave
682 shall be credited as personal leave.

683 Unused sick leave shall be divided between major medical
684 leave and personal leave at rates determined by the employee's
685 sick leave balance on June 30, 1984. The rates of conversion
686 shall be as follows:

687 Sick Leave	Percentage	Percentage
688 Balance as of	Converted to	Converted to
689 June 30, 1984	Personal Leave	Major Medical Leave
690 1 - 200 hours	20%	80%
691 201 - 400 hours	25%	75%
692 401 - 600 hours	30%	70%
693 601 or more hours	35%	65%

694 (5) Upon retirement from active employment, each faculty
695 member of the state-supported public universities who is employed
696 on a nine-month basis shall receive credit and be paid for not
697 more than thirty (30) days of unused major medical leave for
698 service as a state employee. Unused major medical leave in excess
699 of thirty (30) days shall be counted as creditable service for the
700 purposes of the retirement system as provided in Sections
701 25-11-103 and 25-13-5.

702 (6) Any state law enforcement officer who is injured by
703 wound or accident in the line of duty shall not be required to use
704 earned major medical leave during the period of recovery from such



705 injury. As used in this subsection, the term "state law
706 enforcement officer" means a person employed by a state agency
707 who, as a condition of his or her employment, is required by law
708 to complete a course of study at the Law Enforcement Officers
709 Training Academy.

710 (7) For the purpose of Sections 25-3-91 through 25-3-99, the
711 earned major medical leave of each employee shall be credited
712 monthly after the completion of each calendar month, and the
713 appointing authority shall not increase the amount of major
714 medical leave to an employee's credit. It shall be unlawful for
715 an appointing authority to grant major medical leave in an amount
716 greater than was earned and accumulated by the officer or
717 employee.

718 (8) Any employee may donate a portion of his or her earned
719 personal leave or major medical leave to another employee who is
720 suffering from a catastrophic injury or illness, as defined in
721 Section 25-3-91, or to another employee who has a member of his or
722 her immediate family who is suffering from a catastrophic injury
723 or illness, in accordance with the following:

724 (a) The employee donating the leave (the "donor
725 employee") shall designate the employee who is to receive the
726 leave (the "recipient employee") and the amount of earned personal
727 leave and major medical leave that is to be donated, and shall
728 notify the donor employee's appointing authority or supervisor of
729 his or her designation. The donor employee's appointing authority



730 or supervisor then shall notify the recipient employee's
731 appointing authority or supervisor of the amount of leave that has
732 been donated by the donor employee to the recipient employee.

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

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

744 (d) Before an employee may receive donated leave, he or
745 she must provide his or her appointing authority or supervisor
746 with a physician's statement that states the beginning date of the
747 catastrophic injury or illness, a description of the injury or
748 illness, and a prognosis for recovery and the anticipated date
749 that the recipient employee will be able to return to work.

750 (e) If an employee is aggrieved by the decision of his
751 or her appointing authority that the employee is not eligible to
752 receive donated leave because the injury or illness of the
753 employee or member of the employee's immediate family is not, in
754 the appointing authority's determination, a catastrophic injury or



755 illness, the employee may appeal the decision to the employee
756 appeals board.

757 (f) Beginning on March 25, 2003, the maximum period of
758 time that an employee may use donated leave without resuming work
759 at his or her place of employment is ninety (90) days, which
760 commences on the first day that the recipient employee uses
761 donated leave. Donated leave that is not used because a recipient
762 employee has used the maximum amount of donated leave authorized
763 under this paragraph shall be returned to the donor employees in
764 the manner provided under paragraph (g) of this subsection.

765 (g) If the total amount of leave that is donated to any
766 employee is not used by the recipient employee, the donated leave
767 shall be returned to the donor employees on a pro rata basis,
768 based on the ratio of the number of days of leave donated by each
769 donor employee to the total number of days of leave donated by all
770 donor employees.

771 (h) The failure of any appointing authority or
772 supervisor of any employee to properly deduct an employee's
773 donation of leave to another employee from the donor employee's
774 earned personal leave or major medical leave shall constitute just
775 cause for the dismissal of the appointing authority or supervisor.

776 (i) No person through the use of coercion, threats or
777 intimidation shall require or attempt to require any employee to
778 donate his or her leave to another employee. Any person who
779 alleges a violation of this paragraph shall report the violation



780 to the executive head of the agency by whom he or she is employed
781 or, if the alleged violator is the executive head of the agency,
782 then the employee shall report the violation to the State
783 Personnel Board. Any person found to have violated this paragraph
784 shall be subject to removal from office or termination of
785 employment.

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

788 (k) Recipient employees of agencies with more than five
789 hundred (500) employees as of March 25, 2003, may receive donated
790 leave only from donor employees within the same agency. A
791 recipient employee in an agency with five hundred (500) or fewer
792 employees as of March 25, 2003, may receive donated leave from any
793 donor employee.

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

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

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

803 (m) Donated leave shall not be used in lieu of
804 disability retirement.



805 (n) For the purposes of this subsection, "immediate
806 family" means spouse, parent, stepparent, sibling, child or
807 stepchild.

808 (9) An employee may use up to six (6) weeks of earned major
809 medical leave for the placement with the employee of a child for
810 adoption or foster care and to care for the newly placed child
811 within one (1) year of placement.

812 **SECTION 25.** This act shall take effect and be in force from
813 and after January 1, 2024.

