

By: Senator(s) Turner-Ford

To: Labor; Economic and Workforce Development

SENATE BILL NO. 2087

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,



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

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

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

38 (f) "Family member" means:

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

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



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

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

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

62 (g) "Health care professional" means any person
63 licensed under Federal or State law to provide medical or
64 emergency services, including, but not limited to, doctors,
65 nurses and emergency room personnel.

66 (h) "Retaliatory personnel action" means denial of
67 any right guaranteed under this act and any threat, discharge,
68 suspension, demotion, reduction of hours, reporting or
69 threatening to report an employee's suspected citizenship or
70 immigration status, or the suspected citizenship or immigration
71 status of a family member of the employee to a federal, state
72 or local agency, or any other adverse action against an
73 employee for the exercise of any right guaranteed herein



74 including any sanctions against an employee who is the
75 recipient of public benefits for rights guaranteed under this
76 act. Retaliation shall also include interference with or
77 punishment for in any manner participating in or assisting an
78 investigation, proceeding or hearing under this act.

79 (i) "Sexual assault" is as defined in Section
80 97-3-95.

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

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

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

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



98 (3) Earned paid sick time as provided in this section
99 shall begin to accrue at the commencement of employment or on
100 the date this law goes into effect, whichever is later. An
101 employer shall be entitled to use paid sick time as it is
102 accrued. An employer may provide all paid sick time that an
103 employee is expected to accrue in a year at the beginning of
104 the year.

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

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



122 (6) Nothing in this act shall be construed as requiring
123 financial or other reimbursement to an employee from an
124 employer upon the employee's termination, resignation,
125 retirement or other separation from employment for paid sick
126 time under this act that has not been used, unless such
127 financial or other reimbursement is required under another law.

128 (7) If an employee is transferred to a separate division,
129 entity or location, but remains employed by the same employer,
130 the employee is entitled to all earned paid sick time accrued
131 at the prior division, entity or location and is entitled to
132 use all earned paid sick time as provided in this section.
133 When there is a separation from employment and the employee is
134 rehired within twelve (12) months of separation by the same
135 employer, previously accrued earned paid sick time that had not
136 been used shall be reinstated. Further, the employee shall be
137 entitled to use accrued earned paid sick time and accrue
138 additional earned paid sick time at the re-commencement of
139 employment.

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



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

150 **SECTION 4. Use of earned paid sick time.** (1) Earned paid
151 sick time shall be provided to an employee by an employer for:

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

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

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



170 (i) Medical attention needed to recover from
171 physical or psychological injury or disability caused by
172 domestic violence, sexual assault or stalking;
173 (ii) Services from a victim services
174 organization;
175 (iii) Psychological or other counseling;
176 (iv) Relocation or taking steps to secure an
177 existing home due to the domestic violence, sexual assault or
178 stalking; or
179 (v) Legal services, including preparing for or
180 participating in any civil or criminal legal proceeding related
181 to or resulting from the domestic violence, sexual assault or
182 stalking.

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

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



194 (4) An employer that requires notice of the need to use
195 earned paid sick time shall provide a written policy that
196 contains reasonable procedures for the employee to provide
197 notice. An employer that has not provided to the employee a
198 copy of its written policy for providing such notice shall not
199 deny earned paid sick time to the employee based on
200 noncompliance with such a policy.

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

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

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

213 (a) Documentation signed by a health care
214 professional indicating that earned paid sick time is or was
215 necessary shall be considered reasonable documentation.
216 However, if the employee or employee's family member did not
217 receive services from a health care professional, or if
218 documentation cannot be obtained from a health care



219 professional in reasonable time or without added expense, the
220 employee can provide a written statement indicating that the
221 employee is taking or took paid sick time for a qualifying
222 purpose covered by subsection (1) of this section. Such
223 employee writing may be written in the employee's first
224 language and need not be notarized or in any particular format.

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

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

232 (ii) A written statement from a witness advocate
233 affirming that the employee or employee's family member is or
234 was receiving services from a victim services organization;

235 (iii) A court document indicating that the
236 employee or employee's family member is or was involved in
237 legal action related to domestic violence, sexual assault or
238 stalking; or

239 (iv) A written statement from the employee
240 affirming that the employee or employee's family member is
241 taking or took paid sick time for a qualifying purpose of
242 subsection (1) of this section. A written statement pursuant



243 to this subsection may be written in the employee's first
244 language and need not be notarized or in any particular format.

245 (c) An employer may not require that the
246 documentation explain the nature of the illness, details of the
247 underlying health needs, or the details of the domestic
248 violence, sexual assault or stalking.

249 **SECTION 5. Exercise of rights protected; retaliation**

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

256 (2) An employer shall not take retaliatory personnel
257 action or discriminate against an employee or former employee
258 because the person has exercised or attempted to exercise
259 rights protected under this act. Such rights include but are
260 not limited to the right to request or use paid sick time
261 pursuant to this act; the right to file a complaint with the
262 department or courts or inform any person about any employer's
263 alleged violation of this act; the right to participate in an
264 investigation, hearing or proceeding or cooperate with or
265 assist the department in its investigations of alleged
266 violations of this act; the right to inform any person of his
267 or her potential rights under this act; or the right to



268 disclose or intend to disclose a violation of this act through
269 a good faith written or oral communication to an employer, an
270 employer's agent, other employee, a government agency, an
271 attorney or legal aid organization, a community or labor
272 organization, or to the public such as through print, online,
273 social or any other media.

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

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

281 **SECTION 6. Notice and posting.** (1) Employers shall give
282 employees written notice of the following at the commencement
283 of employment: employees are entitled to earned paid sick time
284 and the amount of earned paid sick time, the terms of its use
285 guaranteed under this act, that retaliatory personnel action
286 against employees who request or use paid sick time is
287 prohibited, that each employee has the right to file a
288 complaint or bring a civil action if earned sick time as
289 required by this act is denied by the employer or the employee
290 is subjected to retaliatory personnel action for requesting or
291 taking paid sick time, and the contact information for the



292 department where questions about rights and responsibilities
293 under this act can be answered.

294 (2) The amount of paid sick time available to the
295 employee, the amount of paid sick time taken by the employee to
296 date in the year, and the amount of pay the employee has
297 received as paid sick time shall be recorded in, or on an
298 attachment to, the employee's regular paycheck.

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

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

313 (5) An employer who willfully violates the notice and
314 posting requirements of this section shall be subject to a
315 civil fine in an amount not to exceed One Hundred Dollars



316 (\$100.00) for each separate offense. Each day that a violation
317 occurs or is not corrected shall constitute a separate offense.

318 **SECTION 7. Employer records.** Employers shall retain
319 records documenting compliance with the applicable requirements
320 of this act, including hours worked by employees and earned
321 sick time taken by employees, for a period of three (3) years,
322 and shall allow the department access to such records and other
323 information, in accordance with applicable law and with
324 appropriate notice and at a mutually agreeable time, to monitor
325 compliance with the requirements of this act or in furtherance
326 of an investigation conducted pursuant to this act. When an
327 issue arises as to an employee's entitlement to paid sick time
328 under this act, if the employer does not maintain or retain
329 adequate records documenting hours worked by the employee and
330 paid sick time taken by the employee or other information
331 required to be maintained by this act, or does not allow the
332 department reasonable access to such records, it shall be
333 presumed in an administrative or civil action that the employer
334 has violated the act, absent clear and convincing evidence
335 otherwise.

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



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

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

356 (c) Upon receiving a complaint alleging a violation
357 of this act, the department shall investigate such complaint
358 and attempt to resolve it through mediation between the
359 complainant and the subject of the complaint, or other means.
360 The department shall keep complainants notified regarding the
361 status of their complaint and any resultant investigation. If
362 the department believes that a violation has occurred, it shall
363 issue to the offending person or entity a notice of violation
364 and the relief required of the offending person or entity. The



365 department shall prescribe the form and wording of such notices
366 of violation, including any method of appealing the decision of
367 the department.

368 (d) The department shall have the power to impose
369 penalties provided for in this act and to grant an employee or
370 former employee all appropriate relief. Such relief shall
371 include, but not be limited to, the following, to the extent
372 permitted under state law:

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

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

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

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

387 (b) Upon prevailing in an action brought pursuant to
388 this section, aggrieved persons shall recover the full amount
389 of any unpaid earned sick time plus any actual damages suffered



390 as the result of the employer's violation of this act plus an
391 equal amount of liquidated damages. Aggrieved persons shall
392 also be entitled to reasonable attorney's fees.

393 (c) Upon prevailing in an action brought pursuant to
394 this section, aggrieved persons shall be entitled to such legal
395 or equitable relief as may be appropriate to remedy the
396 violation, including, without limitation, reinstatement to
397 employment, back pay and injunctive relief.

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

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

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

408 **SECTION 10. Confidentiality and nondisclosure.** (1)

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



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

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

419 (b) Be treated as confidential medical records; and

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

422 **SECTION 11. Encouragement of more generous earned paid**

423 **sick time policies; no effect on more generous policies or**

424 **laws.** (1) Nothing in this act shall be construed to
425 discourage or prohibit an employer from the adoption or
426 retention of an earned paid sick time policy more generous than
427 the one required herein.

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

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

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



439 **SECTION 12.** **Other legal requirements.** This act provides
440 minimum requirements pertaining to earned paid sick time and
441 shall not be construed to preempt, limit, or otherwise affect
442 the applicability of any other law, regulation, requirement,
443 policy, or standard that provides for greater accrual or use by
444 employees of earned paid sick time or that extends other
445 protections to employees.

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

452 **SECTION 14.** This act will take effect on January 1, 2025.

