

By: Senator(s) England

To: Judiciary, Division A

SENATE BILL NO. 2438

1 AN ACT TO BE KNOWN AS THE MISSISSIPPI STATE EMPLOYEES PAID
2 PARENTAL LEAVE ACT; TO PROVIDE FOR SIX WEEKS OF PAID PARENTAL
3 LEAVE FOR ELIGIBLE STATE EMPLOYEES WHO ARE THE PRIMARY CAREGIVERS
4 OF A CHILD AND TWO WEEKS OF PAID PARENTAL LEAVE FOR THE SECONDARY
5 CAREGIVERS, TO BE USED TO CARE FOR THE CHILD AFTER THE BIRTH OR
6 ADOPTION OF THE CHILD; TO DEFINE "ELIGIBLE EMPLOYEE," "PAID
7 PARENTAL LEAVE," "PRIMARY CAREGIVER" AND "SECONDARY CAREGIVER" FOR
8 THE PURPOSES OF THIS ACT; TO PROVIDE THAT THE EMPLOYEE SHALL BE
9 COMPENSATED AT 100% OF THE EMPLOYEE'S REGULAR SALARY WHILE TAKING
10 THE PAID PARENTAL LEAVE; TO PROVIDE THAT THE PAID PARENTAL LEAVE
11 MUST BE TAKEN WITHIN 12 WEEKS OF THE BIRTH OR ADOPTION OF THE
12 CHILD; TO PROVIDE THAT PAID PARENTAL LEAVE MAY BE TAKEN ONLY ONCE
13 IN A PERIOD OF TWELVE MONTHS; TO PROVIDE THAT THE PAID PARENTAL
14 LEAVE PROVIDED UNDER THIS ACT SHALL BE IN ADDITION TO OTHER LEAVE
15 BENEFITS AVAILABLE TO STATE EMPLOYEES BY STATE OR FEDERAL LAW AND
16 SHALL NOT BE COUNTED AGAINST ACCRUED PERSONAL LEAVE OR MAJOR
17 MEDICAL LEAVE; TO PROVIDE THAT THE PAID PARENTAL LEAVE SHALL RUN
18 CONCURRENTLY WITH ANY LEAVE PROVIDED TO AN ELIGIBLE EMPLOYEE UNDER
19 THE FEDERAL FAMILY AND MEDICAL LEAVE ACT (FMLA) WHERE APPLICABLE;
20 TO PROVIDE THAT THE PAID PARENTAL LEAVE SHALL NOT BE ACCRUED OR
21 CARRIED OVER OR USED FOR RETIREMENT PURPOSES AND IS NOT PAYABLE
22 UPON SEPARATION FROM STATE SERVICE; TO REQUIRE AN ELIGIBLE
23 EMPLOYEE REQUESTING THE PAID PARENTAL LEAVE TO GIVE NOTICE AT
24 LEAST 30 CALENDAR DAYS BEFORE THE ANTICIPATED LEAVE START DATE
25 WHERE FORESEEABLE; TO PROVIDE THAT IF ADVANCE NOTICE OF 30 DAYS IS
26 NOT POSSIBLE DUE TO EXIGENT CIRCUMSTANCES, THE EMPLOYEE SHALL
27 PROVIDE NOTICE AT THE EARLIEST AVAILABLE OPPORTUNITY; TO AMEND
28 SECTION 25-3-93, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
29 PRECEDING PROVISIONS; TO AMEND SECTION 25-3-95, MISSISSIPPI CODE
30 OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS; TO PROVIDE THAT
31 AFTER USING THE PAID PARENTAL LEAVE AUTHORIZED UNDER THIS ACT, AN
32 EMPLOYEE MAY USE UP TO SIX WEEKS OF EARNED MAJOR MEDICAL LEAVE FOR
33 THE BIRTH OF THE EMPLOYEE'S CHILD; AND FOR RELATED PURPOSES.



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

SECTION 1. (1) This section shall be known and may be cited as the "Mississippi State Employees Paid Parental Leave Act."

(2) As used in this section, the following terms shall be defined as provided in this subsection:

(a) "Eligible employee" means a person, except those listed below, who has been employed by the State of Mississippi or any agency, department or institution of the state for a minimum of twelve (12) consecutive months in a position for which he or she is compensated on a full-time permanent basis and who is either the primary or the secondary caregiver of a child. An eligible employee may not be classified as both the primary caregiver and the secondary caregiver in a period of twelve (12) months. "Eligible employee" does not include the following state employees:

- (i) K-12 employees;
- (ii) Employees of public institutions of higher learning; or
- (iii) Employees of community or junior colleges.

(b) "Paid parental leave" means the compensated absence from work provided to an eligible employee for any of the following qualifying events:

- (i) The birth of the employee's biological child;
- or



(ii) Legal adoption of a child under eighteen (18) years of age.

(c) "Primary caregiver" means the parent who has the primary responsibility for the care of a child following the birth or adoption of a child.

(d) "Secondary caregiver" means the parent who has secondary responsibility for the care of a child following the birth or adoption of a child.

(3) An eligible employee who is the primary caregiver of a child shall be entitled to receive six (6) weeks (two hundred forty (240) hours) of paid parental leave compensated at one hundred percent (100%) of the employee's regular salary, to be used to care for the child after the birth or adoption of the child.

(4) An eligible employee who is the secondary caregiver of a child shall be entitled to receive two (2) weeks (eighty (80) hours) of paid parental leave compensated at one hundred percent (100%) of the employee's regular salary, to be used to care for the child after the birth or adoption of the child.

(5) If both parents are state employees, each parent is entitled to receive paid parental leave under this section. However, only one (1) parent may be the primary caregiver entitled to six (6) weeks of paid parental leave, and the other parent may be designated as the secondary caregiver entitled to two (2) weeks of paid parental leave. Each parent's leave may be taken



83 concurrently, consecutively or at different times as agreed upon
84 by their respective employers, but one (1) caregiver may not
85 donate their leave to the other caregiver.

86 (6) The paid parental leave provided under this section must
87 be taken within twelve (12) weeks of the birth or adoption of the
88 child. Paid parental leave may be taken only once in a period of
89 twelve (12) months.

90 (7) The paid parental leave provided under this section
91 shall be in addition to other leave benefits available to state
92 employees by state or federal law and shall not be counted against
93 accrued personal leave or major medical leave under Sections
94 25-3-93 and 25-3-95. The paid parental leave shall run
95 concurrently with any leave provided to an eligible employee under
96 the federal Family and Medical Leave Act (FMLA) where applicable.
97 Legal state and federal holidays shall not be counted against the
98 paid parental leave. The paid parental leave shall not be accrued
99 or carried over or used for retirement purposes and is not payable
100 upon separation from state service.

101 (8) An eligible employee requesting the paid parental leave
102 under this section shall give notice at least thirty (30) calendar
103 days before the anticipated leave start date, where foreseeable,
104 to the employee's supervisor and human resources manager and shall
105 follow the employer's usual procedures for notification and
106 documentation. If advance notice of thirty (30) days is not
107 possible due to exigent circumstances, the employee shall notify



the employee's supervisor and human resources manager at the earliest available opportunity and shall follow the employer's usual procedures in doing so. The use of paid parental leave may be restricted due to public safety concerns, at the discretion of the employee's agency head.

(9) On July 1, 2026, and every July after, each state agency, department or institution shall submit to the State Personnel Board a report on the use of paid parental leave provided under this section by the eligible employees of the agency, department or institution for the preceding fiscal year.

(10) The State Personnel Board shall develop and implement policies and procedures necessary to administer the provisions of this section, including, but not limited to:

(a) Establishing processes for leave requests for and approvals of taking paid parental leave;

(b) Defining documentation requirements to substantiate eligibility for paid parental leave; and

(c) Ensuring compliance with applicable state and federal laws.

SECTION 2. Section 25-3-93, Mississippi Code of 1972, is amended as follows:

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



133	Continuous	Accrual Rate	Accrual Rate
134	Service	(Monthly)	(Annually)
135	1 month to 3 years	12 hours per month	18 days per year
136	37 months to 8 years	14 hours per month	21 days per year
137	97 months to 15 years	16 hours per month	24 days per year
138	Over 15 years	18 hours per month	27 days per year

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

143 (b) Temporary employees who work less than a full
144 workweek and part-time employees shall be allowed credit for
145 personal leave computed on a pro rata basis. Faculty members
146 employed by the eight (8) public universities on a nine-month
147 contract, and employees of the public universities who do not
148 contribute to the Mississippi Public Employees' Retirement System
149 or the State Institutions of Higher Learning Optional Retirement
150 Program, shall not be eligible for personal leave.

151 (2) For the purpose of computing credit for personal leave,
152 each appointed officer or employee shall be considered to work not
153 more than five (5) days each week. Leaves of absence granted by
154 the appointing authority for one (1) year or less shall be
155 permitted without forfeiting previously accumulated continuous
156 service. The provisions of this section shall not apply to
157 military leaves of absence. The time for taking personal leave,



except when such leave is taken due to an illness, shall be determined by the appointing authority of which such employees are employed.

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

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



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

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

(7) The provisions of this section shall be subject to the provisions of Section 1 of this act. If there is any conflict between any of the provisions of this section and any of the provisions of Section 1 of this act, the provisions of Section 1 of this act shall control.

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

25-3-95. (1) All employees and appointed officers of the State of Mississippi, except employees of the public universities who do not contribute to the Mississippi Public Employees' Retirement System or the State Institutions of Higher Learning



208 Optional Retirement Program, shall accrue credits for major
209 medical leave as follows:

210	Continuous	Accrual Rate	Accrual Rate
211	Service	(Monthly)	(Annually)
212	1 month to 3 years	8 hours per month	12 days per year
213	37 months to 8 years	7 hours per month	10.5 days per year
214	97 months to 15 years	6 hours per month	9 days per year
215	Over 15 years	5 hours per month	7.5 days per year

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

219	Continuous	Accrual Rate	Accrual Rate
220	Service	(Per Month)	(Per Academic Year)
221	1 month to 3 years	13-1/3 hours per month	15 days per
222			academic year
223	37 months to 8 years	14-1/5 hours per month	16 days per
224			academic year
225	97 months to 15 years	15-2/5 hours per month	17 days per
226			academic year
227	Over 15 years	16 hours per month	18 days per
228			academic year

229 Part-time employees shall accrue major medical leave on a pro
230 rata basis. There shall be no maximum limit to major medical
231 leave accumulation. All unused major medical leave shall be



counted as creditable service for the purposes of the retirement system as provided in Sections 25-11-103 and 25-13-5.

(2) (a) Major medical leave may be used for the illness or injury of an employee or member of the employee's immediate family as defined in subsection (3) of this section, only after the employee has used one (1) day of accrued personal or compensatory leave for each absence due to illness, or leave without pay if the employee has no accrued personal or compensatory leave; provided that faculty members employed by the eight (8) public universities on a nine-month basis may use major medical leave for the first day of absence due to illness. However, major medical leave may be used, without prior use of personal leave, to cover regularly scheduled visits to a doctor's office or a hospital for the continuing treatment of a chronic disease, as certified in advance by a physician. For the purposes of this section, "physician" means a doctor of medicine, osteopathy, dental medicine, podiatry or chiropractic. For each absence due to illness of thirty-two (32) consecutive working hours (combined personal leave and major medical leave), major medical leave shall be authorized only when certified by their attending physician.

(b) When an employee's absence is due to a work-related injury for which the employee is receiving temporary disability benefits under Section 71-3-17(b) or 71-3-21, the injured employee shall not use accrued personal and/or medical leave and receive workers' compensation benefits simultaneously if the combined



257 receipt of both benefits results in the employee being paid, while
258 absent due to the work-related injury, a total amount that exceeds
259 one hundred percent (100%) of his wages earned in state employment
260 at the time of injury. In such cases, the injured employee may
261 use only as much of his accrued personal and/or medical leave as
262 necessary, which may be fewer than eight (8) hours of accrued
263 personal and/or major medical leave in a day, to constitute the
264 difference between the amount of temporary disability workers'
265 compensation benefits received and one hundred percent (100%) of
266 his wages earned at the time of injury in state employment. It is
267 the intent of the Legislature that no state employee who is absent
268 and disabled from work due to a work-related injury shall receive
269 more than one hundred percent (100%) of his wages earned in state
270 employment at the time of injury through the use of accrued
271 personal and/or medical leave combined with temporary disability
272 benefits under the Workers' Compensation Law. The procedure for
273 implementing this paragraph (b) shall be as directed by the
274 applicable appointing authority. The receipt or payment of
275 benefits in compliance with this paragraph (b) shall be considered
276 the employee's exclusive remedy against the employer in accordance
277 with Section 71-3-9.

278 (3) An employee may use up to three (3) days of earned major
279 medical leave for each occurrence of death in the immediate family
280 requiring the employee's absence from work. No qualifying time or
281 use of personal leave will be required prior to use of major



medical leave for this purpose. For the purpose of this subsection (3), the immediate family is defined as spouse, parent, stepparent, sibling, child, stepchild, grandchild, grandparent, son- or daughter-in-law, mother- or father-in-law or brother- or sister-in-law. Child means a biological, adopted or foster child, or a child for whom the individual stands or stood in loco parentis.

(4) Employees and appointed officers of the State of Mississippi having unused, accumulated sick leave or annual leave earned prior to July 1, 1984, shall be credited with major medical leave and personal leave as follows: All unused annual leave shall be credited as personal leave.

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

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

(5) Upon retirement from active employment, each faculty member of the state-supported public universities who is employed



on a nine-month basis shall receive credit and be paid for not more than thirty (30) days of unused major medical leave for service as a state employee. Unused major medical leave in excess of thirty (30) days shall be counted as creditable service for the purposes of the retirement system as provided in Sections 25-11-103 and 25-13-5.

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

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

(8) Any employee may donate a portion of his or her earned personal leave or major medical leave to another employee who is suffering from a catastrophic injury or illness, as defined in



Section 25-3-91, or to another employee who has a member of his or her immediate family who is suffering from a catastrophic injury or illness, in accordance with the following:

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

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

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

(d) Before an employee may receive donated leave, he or she must provide his or her appointing authority or supervisor



357 with a physician's statement that states the beginning date of the
358 catastrophic injury or illness, a description of the injury or
359 illness, and a prognosis for recovery and the anticipated date
360 that the recipient employee will be able to return to work.

361 (e) If an employee is aggrieved by the decision of his
362 or her appointing authority that the employee is not eligible to
363 receive donated leave because the injury or illness of the
364 employee or member of the employee's immediate family is not, in
365 the appointing authority's determination, a catastrophic injury or
366 illness, the employee may appeal the decision to the employee
367 appeals board.

368 (f) Beginning on March 25, 2003, the maximum period of
369 time that an employee may use donated leave without resuming work
370 at his or her place of employment is ninety (90) days, which
371 commences on the first day that the recipient employee uses
372 donated leave. Donated leave that is not used because a recipient
373 employee has used the maximum amount of donated leave authorized
374 under this paragraph shall be returned to the donor employees in
375 the manner provided under paragraph (g) of this subsection.

376 (g) If the total amount of leave that is donated to any
377 employee is not used by the recipient employee, the donated leave
378 shall be returned to the donor employees on a pro rata basis,
379 based on the ratio of the number of days of leave donated by each
380 donor employee to the total number of days of leave donated by all
381 donor employees.



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

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

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

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

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



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

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

414 (m) Donated leave shall not be used in lieu of
415 disability retirement.

416 (n) For the purposes of this subsection, "immediate
417 family" means spouse, parent, stepparent, sibling, child or
418 stepchild.

419 (9) An eligible employee may use up to six (6) weeks of
420 earned major medical leave for the birth of the employee's
421 biological child or for the placement with the employee of a child
422 for adoption or foster care and to care for the newly placed child
423 within one (1) year of placement, after using the paid parental
424 leave authorized under Section 1 of this act for the birth or
425 adoption of the child.

426 (10) The provisions of this section shall be subject to the
427 provisions of Section 1 of this act. If there is any conflict
428 between any of the provisions of this section and any of the
429 provisions of Section 1 of this act, the provisions of Section 1
430 of this act shall control.



431 **SECTION 4.** This act shall take effect and be in force from
432 and after January 1, 2026.

