INITIATION OF LEGISLATION

An initiation of legislation to provide workers with the right to earn sick time for personal or family health needs, as well as purposes related to domestic violence and sexual assault and school meetings needed as the result of a child's disability, health, or issues due to domestic violence and sexual assault; to specify the conditions for accruing and using earned sick time; to prohibit retaliation against an employee for requesting, exercising, or enforcing rights granted in this act; to prescribe powers and duties of certain state departments, agencies, and officers; to provide for promulgation of rules; and to provide remedies and sanctions.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. This act shall be known and may be cited as the "earned sick time act." 

Sec. 2. As used in this act:
(a) "Department" means the department of licensing and regulatory affairs.
(b) "Director" means the director of the department of licensing and regulatory affairs or his or her designee.
(c) "Domestic partner" means an adult in a committed relationship with another adult, including both same-sex and different-sex relationships. "Committed relationship" means a personal relationship in which the employees share a significant aspect of each other's common welfare, such as any relationship between individuals or of the same or different sex that is granted legal recognition by a state, political subdivision, or the District of Columbia as a marriage or analogous relationship, including, but not limited to, a civil union.
(d) "Employee" means a person provided in section 1 of 1978 PA 389, MCL 400.1501.
(e) "Earned sick time" means time off from work that is provided by an employer to an employee, whether paid or unpaid, that can be used for the purposes described in subsection (1) of section 4 of this act.
(f) "Employer" means an individual engaged in business to an employer in the business of the employer, except that employee does not include an individual employed by the United States government.
(g) "Employer" means any person, firm, business, educational institution, nonprofit agency, corporation, limited liability company, government entity, or any other entity that employs 1 or more individuals, except that employer does not include the United States government.
(h) "Family member" includes all of the following:
(i) A biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner or a child to whom the employee lends in loco parentis.
(ii) The employee's parent, foster parent, stepparent, or adoptive parent or legal guardian of an employee or an employee's spouse or domestic partner or a person standing in loco parentis when the employee was a minor child.
(iii) A person to whom the employee is legally married under the laws of any state or domestic partner.
(iv) A grandparent.
(v) A grandchild.
(vi) A biological, foster, or adopted sibling.
(vii) Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.
(iii) "Health care professional" means any of the following:
(i) Any person licensed under federal law or the law of this state to provide health care services, including, but not limited to, nurses, doctors, and emergency room personnel.
(ii) A certified midwife.
(iii) A 
(iv) "Retaliatory personnel action" means any of the following:
(i) Denial of any right guaranteed under this act.
(ii) A breach, discharge, suspension, demotion, reduction of hours, or other adverse action against an employees or former employee for exercising a right guaranteed under this act.
(iii) Encouragement of, or participation in, an individual's participation in any manner in an investigation, proceeding, or hearing under this act.
(iv) "Sexual assault" means an act that constitutes a violation of section 520, 520a, 520b, 520c, 520d, 520e, 520f, 520g of the Michigan penal code, 1931 PA 389, MCL 750.520, 750.520c, 750.520d, 750.520e, 750.520f, and 750.520g.
(v) "Small business" means an employer for which fewer than 10 individuals are paid compensation during a given week. In determining the number of the individuals performing for compensation during a given week, all individuals, full-time, part-time, or temporary basis shall be counted, including individuals made available to work through services of a temporary services or staffing agency or similar entity. An employer is not a small business if it meets the following criteria: employees on illness paid during any 20 or more calendar weeks in each year in the preceding calendar year and using earning sick time.

Sec. 3. Each employer shall provide earned sick time to each of the employee's employees in this state.
(a) Employees of a small business shall accrue a minimum of 1 hour of earned sick time for every 30 hours worked but shall not be entitled to use more than 40 hours of paid earned sick time in a year. Employees of a small business shall be entitled to use an additional 12 hours of unpaid earned sick time in that year, unless the employer selects a higher level.
(b) Employees of a business shall be entitled to use earned sick time before using unpaid earned sick time.
(c) Employees shall accrue a minimum of 0.25 hour of earned sick time for every 30 hours worked but shall not be entitled to more than 72 hours of paid earned sick time in a year, the employer selects a higher level.
(d) Earned sick time shall carry over from year to year, but a small business is not required to permit an employee to use more than 40 hours of paid earned sick time and 32 hours of unpaid earned sick time in a single year; and other employers are not required to permit an employee to use more than 72 hours of paid earned sick time in a single year.
(e) Earned sick time as provided in this section shall begin to accrue on April 1, 2017, or upon commencement of the employee's employment, whichever is later. An employee may use accrued earned sick time as it is accrued, except that an employer may require an employee hired after April 1, 2017, to wait until the ninetieth calendar day after the employee's hiring date to use accrued earned sick time.

Sec. 4. (1) An employer shall permit an employee to use the earned sick time accrued under section 3 for any of the following:
(a) The employee's mental or physical illness, injury or health condition; medical diagnosis, care, or treatment of the employee's mental or physical illness, injury, or health condition; or preventative medical care for the employee.
(b) For the employee's family member's mental or physical illness, injury or health condition; medical diagnosis, care, or treatment of the employee's family member's mental or physical illness, injury, or health condition; or preventative medical care for a family member of the employee.
(c) If the employee or the employee's family member is a victim of domestic violence or sexual assault, for medical care or psychological or other counseling services; for victim services or legal services related to domestic violence or sexual assault; to obtain legal services; or to participate in any civil or criminal proceedings related to or resulting from the domestic violence or sexual assault.
(d) For meetings at a child's school or place of care related to the child's health or disability, or the effects of the child on domestic violence or sexual assault; or
(e) For the closure of the employer's place of business by order of a public official due to a public health emergency; for an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency; or when it has been determined by the health care professional or by the employer that the employee or family member is a victim of domestic violence or sexual assault that would jeopardize the health of others because of the employee's or family member's exposure to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease.
(f) If the employee's need to use earned sick time is foreseeable, an employer may require notice advance notice, not to exceed 7 days prior to the date the earned sick time is to begin, or the intention to use the earned sick time. If the employee's need for the earned sick time is not foreseeable, an employer may require the employee to give notice to the intention as soon as practical.
(g) Earned sick time may be used in the greater of hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time.
(4) For earned sick time of more than 3 consecutive days, an employer may require reasonable documentation that the earned sick time has been used for a purpose described in subsection (1). Upon the employer's request, the employee must provide the documentation to the employer in a timely manner. The employer shall not delay the commencement of earned sick time on the basis that the employer has not yet received documentation. Documentation signed by a health care professional indicating that earned sick time is necessary is reasonable documentation for purposes of this subsection. In cases of domestic violence or sexual assault, one of the following types of documentation selected by the employee shall be considered reasonable documentation: (a) a police report indicating that the employee or the employee’s family member is involved in criminal action related to domestic violence or sexual assault. An employer shall not require that the documentation explain the nature of the illness or the terms and conditions related to the diagnosis of earned sick time, the employer is responsible for paying all out-of-pocket expenses the employee incurs in obtaining the documentation. If the employee does have health insurance, the employer is responsible for paying any costs charged to the employee by the health care provider for providing the specific documentation required by the employer.

(2) An employer may not require documentation relating to domestic violence or sexual assault of the details of an employee’s or an employee’s family member’s medical condition as a condition of providing earned sick time under this act. If an employer possesses health information or information pertaining to domestic violence or sexual assault about an employee or employee’s family member, the employer shall treat that information as confidential and shall not disclose that information to any person without the employee’s or the employee’s family member’s authorization. If the employer does not authorize the disclosure, the employer shall not require any employee to provide that person with the permission of the affected employee.

(6) This act does not require an employer to provide earned sick time for any purposes other than as described in this section.

Sec. 5. (1) If an employee is transferred to a separate division, entity, or location, but remains employed by the same employer, the employee shall retain all earned sick time that was accrued at the accrued drill division, entity, or location and may use all accrued earned sick time as provided in section 4. If an employee separates from employment with an employer of fewer than 6 employees within 3 years of the separation, the employer shall not be required to provide earned sick time under this act. Rights protected by this act include, but are not limited to, the right to use earned sick time pursuant to this act, the right to file a complaint or inform any person about any employee’s alleged violation of this act, the right to cooperate with the department in its investigations of alleged violations of this act, and the right to inform any person of his or her rights under this act.

(3) An employer’s absence control policy shall not treat earned sick time taken under this act as an absence that may lead to or result in retaliatory personnel action.

(4) The protections in this section apply to any person who mistakenly but in good faith alleges a violation of this section.

(5) There is a rebuttable presumption of a violation of this section if an employer takes adverse personnel action against a person within 90 days after that person does any of the following: (a) Files a complaint with the department or a court alleging a violation of this act. (b) Furnishes any information about an employer’s alleged violation of this act. (c) Cooperates with the department or another person in the investigation or prosecution of any alleged violation of this act. (d) Opposes any policy, practice, or act that is prohibited under this act. (e) Informs any person of his or her rights under this act.

Sec. 7. (1) The employer violates this act, the employee affected by the violation, at any time within 3 years after the expiration or date when the employee knew of the violation, whichever is later, may do any of the following: (a) Bring a civil action for appropriate relief, including, but not limited to, payment of all earned sick time or reinstatement to the employee’s previous job position, employment, benefits, wages, or any other right the employee may have had if the employee had not been subjected to retaliatory personnel action or discrimination. The relief may include liquidated damages based on costs and reasonable attorney fees as the court deems just.

(2) The employer may not require that the employee terminate such personnel action or discriminate against any employee because the employee has exercised a right protected under this section.

Sec. 8. (1) An employer that fails to provide written notice to each employee at the time of hiring or by April 1, 2017, whichever is later, including, but not limited to, all of the following: (a) The amount of earned sick time that may be provided to an employee under this act. (b) The employee's right of choice of how to use the earned sick time. (c) The terms under which the earned sick time may be used. (d) That retaliatory personnel action against an employee by requesting or using earned sick time for which the employee is eligible is prohibited.

(2) An employee who wishes to bring a civil action under subsection (1) of this section or subsection (3) of this section may do any of the following: (a) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act. (b) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act. (c) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act. (d) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act. (e) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act. (f) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act. (g) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act. (h) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act. (i) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act. (j) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act. (k) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act. (l) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act. (m) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act. (n) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act. (o) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act. (p) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act. (q) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act. (r) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act. (s) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act. (t) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act. (u) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act. (v) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act. (w) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act. (x) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act. (y) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act. (z) File a complaint with the department within 3 years after the expiration or date when the employee knew of the violation of this act.

Sec. 9. (1) An employer who violates this act provides written notice to each employee at the time of hiring or by April 1, 2017, whichever is later, including, but not limited to, all of the following: (a) The amount of earned sick time that may be provided to an employee under this act. (b) The employee's right of choice of how to use the earned sick time. (c) The terms under which the earned sick time may be used. (d) That retaliatory personnel action against an employee by requesting or using earned sick time for which the employee is eligible is prohibited.

(2) An employer that fails to provide written notice to each employee at the time of hiring or by April 1, 2017, whichever is later, including, but not limited to, all of the following: (a) The amount of earned sick time that may be provided to an employee under this act. (b) The employee's right of choice of how to use the earned sick time. (c) The terms under which the earned sick time may be used. (d) That retaliatory personnel action against an employee by requesting or using earned sick time for which the employee is eligible is prohibited.

(3) An employer who violates this act provides written notice to each employee at the time of hiring or by April 1, 2017, whichever is later, including, but not limited to, all of the following: (a) The amount of earned sick time that may be provided to an employee under this act. (b) The employee's right of choice of how to use the earned sick time. (c) The terms under which the earned sick time may be used. (d) That retaliatory personnel action against an employee by requesting or using earned sick time for which the employee is eligible is prohibited.