



## SUMMARY OF SIGNIFICANT CHANGES TO THE EARNED SICK TIME ACT December 2018

PETITION LANGUAGE ADOPTED IN SEPTEMBER 2018	BILL AS PASSED IN DECEMBER 2018
<b>Definitions</b>	
<p>Employee defined as “an individual engaged in service to an employer in the business of the employer, except that employee does not include an individual employed by the United States government.”</p>	<p>Eligible Employee is an employee from whom the employer is required to withhold for federal income tax purposes, excluding:</p> <ul style="list-style-type: none"> <li>- Exempt individuals under FLSA.</li> <li>- An individual not employed by a public agency and who is covered by a collective bargaining agreement.</li> <li>- Individuals employed by the United States government or another state’s government.</li> <li>- An individual whose primary work location is outside of Michigan.</li> <li>- Employees who are paid the training wage under the Improved Workforce Opportunity Act.</li> <li>- An individual who works at a temporary staffing agency.</li> <li>- An individual employed by an employer for 25 weeks or fewer in a calendar year for a job scheduled for 25 weeks or fewer.</li> <li>- An individual who worked, on average, fewer than 25 hours per week during the preceding year.</li> <li>- Variable hour employees.</li> </ul>
<p>Employer defined as “any person, firm, business, educational institution, nonprofit agency, corporation, limited liability company, government entity, or other entity that employs one or more individuals, except that employer does not include the United States government.”</p>	<p>Employer defined as any person engaged in commerce that employs more than 50 employees, excluding the United States government, another state, or a political subdivision of another state.</p>
<p>Family member definition:</p> <ol style="list-style-type: none"> <li>1. Biological, adopted or foster child, stepchild or legal ward, child of domestic partner, child in loco parentis.</li> <li>2. Biological parent, foster parent, stepparent, or adoptive parent or legal guardian of employee or spouse.</li> <li>3. A individual to whom the employee is legally married per the laws of any state.</li> <li>4. A grandparent or grandchild.</li> <li>5. Biological, foster or adopted sibling.</li> <li>6. “Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.”</li> </ol>	<p>Family member definition now excludes:</p> <ol style="list-style-type: none"> <li>1. Children of an employee’s domestic partner.</li> <li>2. Parents of an employee’s domestic partner.</li> <li>3. An employee’s domestic partner.</li> <li>4. “Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.”</li> </ol>

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<b>Amount of Leave to be Provided</b>	
1 hour for every 30 hours worked for large employers (10 or more employees), and 1 hour for every 40 hours worked for small employers (< 10 employees), but no more the 72 hours per year, with the ability to use up to 72 hours per year.	Eligible employees may accrue 1 hour for every 35 hours worked, and an employer can limit accruals to one hour per calendar week. An employer can also limit an employee's accrual to 40 hours per benefit year.
Employee can use up to 72 hours a year.	Employee can use up to 40 hours per benefit year.
Earned sick time shall carry over from one year to the next.	40 hours of unused leave carries over from one year to the next—unless the employer offers 40 hours of paid leave at the beginning of the year (instead of following the accrual rate). In that case, none of the time is required to carry over.
<b>Procedures for Leave</b>	
An employer shall not require an employee to search for or secure a replacement worker as a condition of using earned sick time.	Provision deleted.
<p>Reasons to take leave:</p> <ol style="list-style-type: none"> <li>1. Employee's mental or physical illness.</li> <li>2. The employee's family member's mental or physical illness.</li> <li>3. Medical care, counseling, relocation, or participating in criminal or civil proceedings related to the employee or employee's family member being the victim of domestic violence or sexual assault.</li> <li>4. Meetings at a child's school or place of care related to the child's health or disability, or the effects of domestic violence or sexual assault on the child.</li> <li>5. Closure of the employees place of work due to a public health emergency, to care for a child whose school or place of care has been closed due to public health emergency, or if it has been determined by the health authorities that the employee or their family member needs to stay out of public due to exposure to a communicable disease.</li> </ol>	Excluded from reasons to take leave are meetings at a child's school or place of care related to the child's health or disability, or the effects of domestic violence or sexual assault on the child.
<p>If the need to use earned sick time is foreseeable, the employer may require up to seven days' notice.</p> <p>If the need to use earned sick time is not foreseeable, the employer may require notice as soon as practicable.</p>	An employee seeking to use paid medical leave shall comply with all of their employer's usual policies for requesting leave. The Act does not prohibit an employer from disciplining an employee for failing to comply with such policies.

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If any employee separates from employment and is rehired by the same employer within six months, the employer shall reinstate previously accrued unused earned sick time.	If an employee separates from employment and is rehired by the same employer, the employer is not required to allow the eligible employee to retain any accrued unused paid medical leave.
If a different employer succeeds or takes the place of an existing employer, the employees retain their accrued unused sick time.	Provision deleted.
	The Act does not require an employer to pay out unused time at the end of the benefit year.
<b>Retaliation and Discrimination</b>	
<p>An employer shall not interfere with, restrain, or deny the exercise of any right protected under the Act.</p> <p>An employer shall not take retaliatory personnel action or discriminate against an employee for exercising a right under the Act.</p> <p>An employer's absence policy cannot treat earned sick time as an absence that can lead to discipline.</p> <p>There is a rebuttable presumption of a violation if an employer takes adverse action against an employee with 90 days of the employee exercising rights under the Act.</p>	Provision deleted.
<b>Remedies</b>	
Three-year statute of limitations for employee to bring a civil action or file a claim with the Director.	<p>Six-month statute of limitations for an employee to file a claim with the Director.</p> <p>There is no civil action available.</p>
The Department may grant an employee payment of their earned sick time improperly withheld, any damages incurred as a result of the violation, and any other appropriate relief.	The Department may grant an employee only payment of their paid medical leave improperly withheld.
If the Department cannot secure voluntary compliance, it shall bring a civil action on behalf of the harmed employees.	Provision deleted.

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<b>Employer Duties</b>	
An employer shall provide written notice of the Act's requirements to all employees at the time of hire and display a poster.	An employer shall display a poster, provided by the Department, with the following: <ol style="list-style-type: none"> <li>1. The amount of earned sick time required to be provided under the Act.</li> <li>2. The terms under which earned sick time can be used.</li> <li>3. An employee's right to file a complaint with the department.</li> </ol>
Employer shall retain records documenting hours worked and earned sick time taken for three years.	Employer shall retain records documenting hours worked and paid medical leave taken for one year.

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