

EARNED SICK TIME ACT (EXCERPT)
Act 338 of 2018

408.964 Earned sick time; permissible uses; advance notice; incremental use; documentation; disclosure of details relating to domestic violence or sexual assault or family member's medical condition; other purposes.

Sec. 4.

(1) An employer shall allow an employee to use the earned sick time accrued or provided under section 3 for any of the following purposes:

(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 for physical or psychological injury or disability, to obtain services from a victim services organization, to relocate due 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 domestic violence or sexual assault on the child.

(e) For closure of the employee'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 authorities having jurisdiction or by a health care provider that the employee's or employee's family member's presence in the community 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.

(2) If the employee's need to use earned sick time is foreseeable, an employer may require advance notice, not to exceed 7 days before the date the earned sick time is to begin, of the intention to use the earned sick time.

(3) If the employee's need for the earned sick time is not foreseeable, an employer, may require the employee to give notice of the intention in either of the following manners:

(a) As soon as practicable.

(b) In accordance with the employer's policy related to requesting or using sick time or leave if both of the following are met:

(i) On the date of the employee's hire, on the effective date of the 2025 amendatory act that added this subparagraph, or on the date that the employer's policy takes effect, whichever is latest, the employer provides the employee with a written copy of the policy that includes procedures for how the employee must provide notice.

(ii) The employer's notice requirement allows the employee to provide notice after the employee is aware of the need for the earned sick time.

(4) An employer that requires notice for sick time that is not foreseeable under subsection (3)(b) shall not deny an employee's use of earned sick time that is not foreseeable if either of the following conditions applies:

(a) The employer did not provide a written policy to the employee as required under subsection (3)(b)(i).

(b) The employer made a change to the written policy and did not provide notice of the change to the employee within 5 days after the change.

(5) Earned sick time may be used in 1-hour increments or the smallest increment that the employer uses to account for absences of use of other time.

(6) 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 not more than 15 days after the employer's request. 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, any of the following types of documentation selected by the employee are considered reasonable documentation:

(a) A police report indicating that the employee or the employee's family member was a victim of domestic violence or sexual assault.

(b) A signed statement from a victim and witness advocate affirming that the employee or employee's family member is receiving services from a victim services organization.

(c) A court document indicating that the employee or employee's family member is involved in legal action related to domestic violence or sexual assault.

(7) An employer shall not require that the documentation explain the nature of the illness or the details of the violence. If an employer chooses to require documentation for 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.

(8) An employer shall not require disclosure of details relating to domestic violence or sexual assault or 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 except to the affected employee or with the permission of the affected employee.

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

History: 2018, Act 338, Eff. Mar. 29, 2019 ;-- Am. 2018, Act 369, Eff. Mar. 29, 2019 ;-- 2018, Act 338, Eff. Feb. 21, 2025 ;-- Am. 2025, Act 2, Imd. Eff. Feb. 21, 2025

Compiler's Notes: Public Act 338 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018. For the transfer of powers and duties of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998. See *Mothering Justice v Attorney General*, case no. 165325, July 31, 2024. The Michigan Supreme Court held that 2018 PA 369 was unconstitutional and, therefore void and revived the original initiative as enacted by the Legislature on September 5, 2018, effective February 21, 2025. In subsection (5), the phrase "for absences of use of other time" evidently should read "for absences or use of other time".