

HOUSE BILL 580

K3, P4

6lr1719
CF SB 472

By: **Delegates Clippinger, Anderson, Angel, Atterbeary, Barkley, B. Barnes, D. Barnes, Barron, Barve, Branch, Brooks, Carr, Carter, Chang, Conaway, Cullison, Davis, Dumais, Ebersole, Fennell, Fraser-Hidalgo, Frick, Frush, Gaines, Gilchrist, Glenn, Gutierrez, Hammen, Hayes, Haynes, Healey, Hettleman, Hill, Hixson, Holmes, C. Howard, Jackson, Jalisi, Jones, Kaiser, Kelly, Knotts, Korman, Krimm, Lafferty, Lam, Lierman, Luedtke, McCray, McIntosh, A. Miller, Moon, Morales, Morhaim, Oaks, Patterson, Pena-Melnyk, Pendergrass, Platt, Proctor, Reznik, B. Robinson, S. Robinson, Rosenberg, Sample-Hughes, Sanchez, Smith, Sophocleus, Stein, Sydnor, Tarlau, Turner, Valderrama, Vallario, Vaughn, Waldstreicher, A. Washington, M. Washington, K. Young, P. Young, ~~and Zucker~~ Zucker, and Queen**

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Read second time: March 28, 2016

CHAPTER _____

1 AN ACT concerning

2 **Labor and Employment – Maryland Healthy Working Families Act**

3 FOR the purpose of requiring certain employers to provide employees with certain earned
4 sick and safe leave; providing for the method of determining whether an employer is
5 required to provide paid or unpaid earned sick and safe leave; providing for the
6 manner in which earned sick and safe leave is accrued by the employee and treated
7 by the employer; authorizing an employer, under certain circumstances, to deduct
8 the amount paid for earned sick and safe leave from the wages paid to an employee
9 on the termination of employment under a certain provision of law; prohibiting an
10 employer from being required to pay out on the termination of employment certain
11 earned sick and safe leave; requiring an employer to allow an employee to use earned

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 sick and safe leave for certain purposes; authorizing an employer to require an
 2 employee to provide certain notice under certain circumstances; requiring an
 3 employee, under certain circumstances, to provide certain notice to the employer;
 4 authorizing an employer to deny a request for leave under certain circumstances;
 5 prohibiting an employer from requiring that a certain employee search for or find an
 6 individual to work in the employee's stead during a certain period of time;
 7 authorizing an employee to work additional hours or trade shifts with another
 8 employee instead of taking earned sick and safe leave, under certain circumstances;
 9 providing that an employee is not required to accept a certain offer; prohibiting an
 10 employer, under certain circumstances, from being required to pay more than a
 11 certain rate or allowing an employee to work certain hours or shifts; prohibiting an
 12 employer, under certain circumstances, from deducting a certain absence from a
 13 certain employee's earned sick and safe leave; authorizing an employer, under
 14 certain circumstances, to require an employee to provide certain ~~documentation~~
 15 verification; requiring an employer to notify the employees that the employees are
 16 entitled to certain earned sick and safe leave; specifying the information that must
 17 be included in the notice; requiring the Commissioner of Labor and Industry to create
 18 and make available a certain poster and notice; requiring an employer to keep
 19 certain records for a certain time period; authorizing the Commissioner to inspect
 20 certain records; establishing a presumption that an employer has violated certain
 21 provisions of this Act under certain circumstances; requiring and authorizing the
 22 Commissioner to take certain acts when the Commissioner ~~determines certain~~
 23 ~~provisions of this Act have been violated;~~ receives a certain written complaint;
 24 specifying the contents that are required to be included and may be included in a
 25 certain order issued by the Commissioner; subjecting certain acts to certain hearing
 26 and notice requirements; requiring an employer to comply with a certain order
 27 within a certain time period; authorizing an employee to bring a civil action in a
 28 certain court against an employer for a violation of certain provisions of this Act
 29 within a certain time period; authorizing requiring a court to award certain damages,
 30 fees, and injunctive relief under certain circumstances; establishing certain
 31 prohibited acts; providing for certain criminal penalties; providing that certain
 32 protections apply to certain employees; authorizing the Commissioner to adopt
 33 regulations to carry out certain provisions of this Act; authorizing the Commissioner
 34 to conduct an investigation, under certain circumstances, to determine whether
 35 certain provisions of this Act have been violated; requiring the Commissioner, except
 36 under certain circumstances, to keep certain information confidential; providing for
 37 the construction of certain provisions of this Act; providing that this Act preempts
 38 the authority of a local jurisdiction to enact a law on or after a certain date that
 39 provides for certain sick and safe leave provided by certain employers; providing for
 40 the application of this Act; providing for a delayed effective date; defining certain
 41 terms; and generally relating to earned sick and safe leave.

42 BY repealing and reenacting, with amendments,
 43 Article – Labor and Employment
 44 Section 2–106(b)
 45 Annotated Code of Maryland
 46 (2008 Replacement Volume and 2015 Supplement)

1 BY adding to
 2 Article – Labor and Employment
 3 Section 3–103(k); and 3–1301 through 3–1311 to be under the new subtitle “Subtitle
 4 13. Healthy Working Families Act”
 5 Annotated Code of Maryland
 6 (2008 Replacement Volume and 2015 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 8 That the Laws of Maryland read as follows:

9 **Article – Labor and Employment**

10 2–106.

11 (b) Except as provided in subsection (c) of this section, and in addition to authority
 12 to adopt regulations that is set forth elsewhere, the Commissioner may adopt regulations
 13 that are necessary to carry out:

14 (1) Title 3, Subtitle 3 of this article;

15 (2) Title 3, Subtitle 5 of this article;

16 **(3) TITLE 3, SUBTITLE 13 OF THIS ARTICLE;**

17 **[(3)] (4)** Title 4, Subtitle 2, Parts I through III of this article;

18 **[(4)] (5)** Title 5 of this article;

19 **[(5)] (6)** Title 6 of this article; and

20 **[(6)] (7)** Title 7 of this article.

21 3–103.

22 **(K) (1) THE COMMISSIONER MAY CONDUCT AN INVESTIGATION TO**
 23 **DETERMINE WHETHER SUBTITLE 13 OF THIS TITLE HAS BEEN VIOLATED ON**
 24 **RECEIPT OF A WRITTEN COMPLAINT BY AN EMPLOYEE.**

25 **(2) TO THE EXTENT PRACTICABLE, THE COMMISSIONER SHALL KEEP**
 26 **CONFIDENTIAL THE IDENTITY OF AN EMPLOYEE WHO HAS FILED A WRITTEN**
 27 **COMPLAINT ALLEGING A VIOLATION OF SUBTITLE 13 OF THIS TITLE UNLESS THE**
 28 **EMPLOYEE WAIVES CONFIDENTIALITY.**

29 **SUBTITLE 13. HEALTHY WORKING FAMILIES ACT.**

1 **3-1301.**

2 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (B) "ABUSE" HAS THE MEANING STATED IN § 4-501 OF THE FAMILY LAW
5 ARTICLE.

6 (C) "DOMESTIC VIOLENCE" MEANS ABUSE AGAINST AN INDIVIDUAL
7 ELIGIBLE FOR RELIEF.

8 (D) "EARNED SICK AND SAFE LEAVE" MEANS PAID LEAVE AWAY FROM WORK
9 THAT IS PROVIDED BY AN EMPLOYER UNDER § 3-1304 OF THIS SUBTITLE.

10 (E) "EMPLOYEE" DOES NOT INCLUDE AN INDIVIDUAL WHO:

11 (1) PERFORMS WORK UNDER A CONTRACT OF HIRE THAT IS
12 DETERMINED NOT TO BE COVERED EMPLOYMENT UNDER § 8-205 OF THIS ARTICLE;
13 ~~OR~~

14 (2) IS NOT A COVERED EMPLOYEE UNDER § 9-222 OF THIS ARTICLE;

15 (3) IS UNDER THE AGE OF 18 YEARS BEFORE THE BEGINNING OF THE
16 YEAR; OR

17 (4) IS EMPLOYED IN THE AGRICULTURAL SECTOR ON AN
18 AGRICULTURAL OPERATION UNDER § 5-403(A) OF THE COURTS ARTICLE.

19 (F) "EMPLOYER" INCLUDES:

20 (1) A UNIT OF STATE OR LOCAL GOVERNMENT; AND

21 (2) A PERSON THAT ACTS DIRECTLY OR INDIRECTLY IN THE INTEREST
22 OF ANOTHER EMPLOYER WITH AN EMPLOYEE.

23 (G) "FAMILY MEMBER" MEANS:

24 (1) A BIOLOGICAL CHILD, AN ADOPTED CHILD, A FOSTER CHILD, OR A
25 STEPCHILD OF THE EMPLOYEE;

26 (2) A CHILD FOR WHOM THE EMPLOYEE HAS LEGAL OR PHYSICAL
27 CUSTODY OR GUARDIANSHIP;

28 (3) A CHILD FOR WHOM THE EMPLOYEE STANDS IN LOCO PARENTIS,
29 REGARDLESS OF THE CHILD'S AGE;

1 (4) A BIOLOGICAL PARENT, AN ADOPTIVE PARENT, A FOSTER PARENT,
2 OR A STEPPARENT OF THE EMPLOYEE OR OF THE EMPLOYEE'S SPOUSE;

3 (5) THE LEGAL GUARDIAN OF THE EMPLOYEE;

4 (6) AN INDIVIDUAL WHO ACTED AS A PARENT OR STOOD IN LOCO
5 PARENTIS TO THE EMPLOYEE OR THE EMPLOYEE'S SPOUSE WHEN THE EMPLOYEE
6 OR THE EMPLOYEE'S SPOUSE WAS A MINOR;

7 (7) THE SPOUSE OF THE EMPLOYEE;

8 (8) A BIOLOGICAL GRANDPARENT, AN ADOPTED GRANDPARENT, A
9 FOSTER GRANDPARENT, OR A STEPGRANDPARENT OF THE EMPLOYEE;

10 (9) A BIOLOGICAL GRANDCHILD, AN ADOPTED GRANDCHILD, A
11 FOSTER GRANDCHILD, OR A STEPGRANDCHILD OF THE EMPLOYEE; OR

12 (10) A BIOLOGICAL SIBLING, AN ADOPTED SIBLING, A FOSTER SIBLING
13 OR A STEPSIBLING OF THE EMPLOYEE.

14 (H) "PERSON ELIGIBLE FOR RELIEF" HAS THE MEANING STATED IN §
15 4-501 OF THE FAMILY LAW ARTICLE.

16 (I) "SEXUAL ASSAULT" MEANS:

17 (1) RAPE, SEXUAL OFFENSE, OR ANY OTHER ACT THAT IS A SEXUAL
18 CRIME UNDER TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE;

19 (2) CHILD SEXUAL ABUSE UNDER § 3-602 OF THE CRIMINAL LAW
20 ARTICLE; OR

21 (3) SEXUAL ABUSE OF A VULNERABLE ADULT UNDER § 3-604 OF THE
22 CRIMINAL LAW ARTICLE.

23 (J) "STALKING" HAS THE MEANING STATED IN § 3-802 OF THE CRIMINAL
24 LAW ARTICLE.

25 (K) UNLESS THE CONTEXT REQUIRES OTHERWISE, "YEAR" MEANS A
26 REGULAR AND CONSECUTIVE 12-MONTH PERIOD AS DETERMINED BY THE
27 EMPLOYER.

28 3-1302.

29 (A) THIS SUBTITLE MAY NOT BE CONSTRUED TO:

1 (1) REQUIRE AN EMPLOYER TO COMPENSATE AN EMPLOYEE FOR
2 UNUSED EARNED SICK AND SAFE LEAVE WHEN THE EMPLOYEE LEAVES THE
3 EMPLOYER'S EMPLOYMENT;

4 (2) REQUIRE AN EMPLOYER TO MODIFY AN EXISTING PAID LEAVE
5 POLICY IF THE POLICY PERMITS AN EMPLOYEE TO ACCRUE AND USE LEAVE UNDER
6 TERMS AND CONDITIONS THAT ARE AT LEAST EQUIVALENT TO THE EARNED SICK
7 AND SAFE LEAVE PROVIDED FOR UNDER THIS SUBTITLE;

8 (3) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,
9 PREEMPT, LIMIT, OR OTHERWISE AFFECT ANY OTHER LAW THAT PROVIDES FOR
10 SICK AND SAFE LEAVE BENEFITS THAT ARE MORE GENEROUS THAN REQUIRED
11 UNDER THIS SUBTITLE; ~~OR~~

12 (4) PREEMPT, LIMIT, OR OTHERWISE AFFECT ANY WORKERS'
13 COMPENSATION BENEFITS THAT ARE AVAILABLE UNDER TITLE 9 OF THIS ARTICLE;
14 OR

15 (5) PROHIBIT AN EMPLOYER FROM ADOPTING A POLICY THAT LIMITS
16 AN EMPLOYEE TO USING EARNED SICK AND SAFE LEAVE ONLY FOR THE REASONS
17 LISTED IN § 3-1305(A) OF THIS SUBTITLE.

18 (B) FOR THE PURPOSES OF SUBSECTION (A)(2) OF THIS SECTION, THE
19 TERMS AND CONDITIONS OF A PAID LEAVE POLICY SHALL BE PRESUMED TO BE
20 EQUIVALENT IF THE TERMS AND CONDITIONS ALLOW AN EMPLOYEE TO:

21 (1) ACCESS AND ACCRUE PAID LEAVE AT THE SAME RATE OR AT A
22 GREATER RATE THAN PROVIDED FOR IN § 3-1304 OF THIS SUBTITLE; AND

23 (2) USE THE PAID LEAVE FOR THE PURPOSES LISTED IN § 3-1305 OF
24 THIS SUBTITLE.

25 (C) THIS SUBTITLE PREEMPTS THE AUTHORITY OF A LOCAL JURISDICTION
26 TO ENACT A LAW ON OR AFTER JANUARY 1, 2016, THAT REGULATES SICK AND SAFE
27 LEAVE PROVIDED BY AN EMPLOYER OTHER THAN THE LOCAL JURISDICTION.

28 **3-1303.**

29 (A) THIS SUBTITLE DOES NOT APPLY TO AN EMPLOYEE WHO:

30 (1) REGULARLY WORKS LESS THAN 8 HOURS A WEEK FOR AN
31 EMPLOYER; OR

1 (2) (I) IS EMPLOYED IN THE CONSTRUCTION INDUSTRY; AND

2 (II) IS COVERED BY A BONA FIDE COLLECTIVE BARGAINING
3 AGREEMENT IN WHICH THE REQUIREMENTS OF THIS SUBTITLE ARE EXPRESSLY
4 WAIVED IN CLEAR AND UNAMBIGUOUS TERMS.

5 (B) FOR THE PURPOSE OF SUBSECTION (A)(2)(I) OF THIS SECTION, AN
6 EMPLOYEE WHO IS EMPLOYED IN THE CONSTRUCTION INDUSTRY DOES NOT
7 INCLUDE AN EMPLOYEE EMPLOYED AS:

8 (1) A JANITOR;

9 (2) A BUILDING CLEANER;

10 (3) A BUILDING SECURITY OFFICER;

11 (4) A CONCIERGE;

12 (5) A DOORPERSON;

13 (6) A HANDYPERSON; OR

14 (7) A BUILDING SUPERINTENDENT.

15 **3-1304.**

16 (A) (1) AN EMPLOYER THAT EMPLOYS ~~MORE THAN NINE~~ 15 OR MORE
17 EMPLOYEES SHALL PROVIDE AN EMPLOYEE WITH EARNED SICK AND SAFE LEAVE
18 THAT IS PAID AT THE SAME RATE AS THE EMPLOYEE NORMALLY EARNS.

19 (2) AN EMPLOYER THAT EMPLOYS ~~NINE EMPLOYEES OR LESS~~ 14 OR
20 FEWER EMPLOYEES SHALL PROVIDE AN EMPLOYEE WITH UNPAID EARNED SICK AND
21 SAFE LEAVE.

22 (3) (I) FOR THE PURPOSE OF DETERMINING WHETHER AN
23 EMPLOYER IS REQUIRED TO PROVIDE PAID OR UNPAID EARNED SICK AND SAFE
24 LEAVE UNDER THIS SUBSECTION, THE NUMBER OF EMPLOYEES OF AN EMPLOYER
25 SHALL BE DETERMINED BY CALCULATING THE AVERAGE MONTHLY NUMBER OF
26 EMPLOYEES EMPLOYED BY THE EMPLOYER DURING THE IMMEDIATELY PRECEDING
27 YEAR.

28 (II) EACH EMPLOYEE OF AN EMPLOYER SHALL BE INCLUDED IN
29 THE CALCULATION MADE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH WITHOUT
30 REGARD TO WHETHER THE EMPLOYEE IS A FULL-TIME, PART-TIME, TEMPORARY,

1 OR SEASONAL EMPLOYEE OR WOULD BE ELIGIBLE FOR EARNED SICK AND SAFE
2 LEAVE BENEFITS UNDER THIS SUBSECTION.

3 (B) THE EARNED SICK AND SAFE LEAVE PROVIDED UNDER SUBSECTION (A)
4 OF THIS SECTION SHALL ACCRUE AT A RATE OF AT LEAST 1 HOUR FOR EVERY 30
5 HOURS AN EMPLOYEE WORKS.

6 (C) AN EMPLOYER MAY NOT BE REQUIRED TO ALLOW AN EMPLOYEE TO:

7 (1) EARN MORE THAN 56 HOURS OF EARNED SICK AND SAFE LEAVE IN
8 A YEAR;

9 (2) USE MORE THAN 80 HOURS OF EARNED SICK AND SAFE LEAVE IN
10 A YEAR;

11 (3) ACCRUE A TOTAL OF MORE THAN 80 HOURS AT ANY TIME; OR

12 (4) USE EARNED SICK AND SAFE LEAVE DURING THE FIRST 90
13 CALENDAR DAYS THE EMPLOYEE WORKS FOR THE EMPLOYER ~~THE EMPLOYEE IS~~
14 ~~EMPLOYED~~ OR THE FIRST 480 HOURS WORKED, WHICHEVER IS SHORTER.

15 (D) AT THE BEGINNING OF EACH YEAR, AN EMPLOYER MAY AWARD TO AN
16 EMPLOYEE THE FULL AMOUNT OF EARNED SICK AND SAFE LEAVE THAT AN
17 EMPLOYEE WOULD EARN OVER THE COURSE OF THE YEAR RATHER THAN AWARDED
18 THE LEAVE AS THE LEAVE ACCRUES DURING THE YEAR.

19 (E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
20 FOR THE PURPOSES OF CALCULATING THE ACCRUAL OF EARNED SICK AND SAFE
21 LEAVE, AN EMPLOYEE WHO IS EXEMPT FROM OVERTIME WAGE REQUIREMENTS
22 UNDER THE FEDERAL FAIR LABOR STANDARDS ACT IS ASSUMED TO WORK 40
23 HOURS EACH WORKWEEK.

24 (2) IF THE EMPLOYEE'S NORMAL WORKWEEK IS LESS THAN 40
25 HOURS, THE NUMBER OF HOURS IN THE NORMAL WORKWEEK SHALL BE USED.

26 (F) EARNED SICK AND SAFE LEAVE SHALL BEGIN TO ACCRUE:

27 (1) ~~OCTOBER 1, 2016~~ JANUARY 1, 2017; OR

28 (2) IF THE EMPLOYEE IS HIRED AFTER ~~OCTOBER 1, 2016~~ JANUARY 1,
29 2017, THE DATE ON WHICH THE EMPLOYEE BEGINS EMPLOYMENT WITH THE
30 EMPLOYER.

1 (G) (1) SUBJECT TO ~~PARAGRAPH (2)~~ PARAGRAPHS (2) AND (3) OF THIS
2 SUBSECTION, IF AN EMPLOYEE HAS UNUSED EARNED SICK AND SAFE LEAVE AT THE
3 END OF EACH YEAR, THE EMPLOYEE MAY CARRY OVER THE BALANCE OF THE
4 EARNED SICK AND SAFE LEAVE TO THE FOLLOWING YEAR.

5 (2) AN EMPLOYER MAY NOT BE REQUIRED TO ALLOW AN EMPLOYEE
6 TO CARRY OVER MORE THAN 56 HOURS OF EARNED SICK AND SAFE LEAVE UNDER
7 PARAGRAPH (1) OF THIS SUBSECTION.

8 (3) AN EMPLOYER MAY NOT BE REQUIRED TO ALLOW AN EMPLOYEE
9 TO CARRY OVER UNUSED SICK AND SAFE LEAVE UNDER PARAGRAPH (1) OF THIS
10 SUBSECTION IF:

11 (I) THE EMPLOYER AWARDS THE EMPLOYEE THE FULL
12 AMOUNT OF EARNED SICK AND SAFE LEAVE AT THE BEGINNING OF EACH YEAR
13 UNDER SUBSECTION (D) OF THIS SECTION; OR

14 (II) THE EMPLOYMENT OF THE EMPLOYEE IS CONTINGENT ON
15 THE EMPLOYER RECEIVING A GRANT.

16 (H) IF AN EMPLOYEE IS REHIRED BY THE EMPLOYER WITHIN ~~12~~ 9 MONTHS
17 AFTER LEAVING THE EMPLOYMENT OF THE EMPLOYER, THE EMPLOYER SHALL
18 REINSTATE ANY UNUSED EARNED SICK AND SAFE LEAVE THAT THE EMPLOYEE HAD
19 WHEN THE EMPLOYEE LEFT THE EMPLOYMENT OF THE EMPLOYER UNLESS THE
20 EMPLOYER VOLUNTARILY PAID OUT THE UNUSED EARNED SICK AND SAFE LEAVE ON
21 THE TERMINATION OF EMPLOYMENT.

22 (I) (1) AN EMPLOYER MAY ALLOW AN EMPLOYEE TO USE EARNED SICK
23 AND SAFE LEAVE BEFORE THE EMPLOYEE ACCRUES THE AMOUNT NEEDED.

24 (2) IF AN EMPLOYEE IS ALLOWED UNDER PARAGRAPH (1) OF THIS
25 SUBSECTION TO USE EARNED SICK AND SAFE LEAVE BEFORE IT HAS ACCRUED, THE
26 EMPLOYER MAY DEDUCT THE AMOUNT PAID FOR THE EARNED SICK AND SAFE LEAVE
27 FROM THE WAGES PAID TO THE EMPLOYEE ON THE TERMINATION OF EMPLOYMENT
28 UNDER § 3-505 OF THIS TITLE IF:

29 (I) THE EMPLOYER AND EMPLOYEE MUTUALLY CONSENTED TO
30 THE DEDUCTION AS EVIDENCED BY A DOCUMENT SIGNED BY THE EMPLOYEE; AND

31 (II) THE EMPLOYEE LEAVES THE EMPLOYMENT OF THE
32 EMPLOYER BEFORE THE EMPLOYEE HAS ACCRUED THE AMOUNT OF EARNED SICK
33 AND SAFE LEAVE THAT WAS USED.

1 **(J) AN EMPLOYER MAY NOT BE REQUIRED TO PAY OUT ON THE**
2 **TERMINATION OF EMPLOYMENT UNUSED EARNED SICK AND SAFE LEAVE ACCRUED**
3 **BY AN EMPLOYEE.**

4 **(K) AN EMPLOYER WHO ACQUIRES, BY SALE OR OTHERWISE, ANOTHER**
5 **EMPLOYER SHALL ~~PROVIDE AND~~ ALLOW ALL EMPLOYEES OF THE ORIGINAL**
6 **EMPLOYER WHO REMAIN EMPLOYED BY THE SUCCESSOR EMPLOYER TO ~~USE~~ RETAIN**
7 **ALL UNUSED EARNED SICK AND SAFE LEAVE ACCRUED DURING EMPLOYMENT WITH**
8 **THE ORIGINAL EMPLOYER.**

9 **3-1305.**

10 **(A) AN EMPLOYER SHALL ALLOW AN EMPLOYEE TO USE EARNED SICK AND**
11 **SAFE LEAVE:**

12 **(1) TO CARE FOR OR TREAT THE EMPLOYEE'S MENTAL OR PHYSICAL**
13 **ILLNESS, INJURY, OR CONDITION;**

14 **(2) TO OBTAIN PREVENTIVE MEDICAL CARE FOR THE EMPLOYEE OR**
15 **EMPLOYEE'S FAMILY MEMBER;**

16 **(3) TO CARE FOR A FAMILY MEMBER WITH A MENTAL OR PHYSICAL**
17 **ILLNESS, INJURY, OR CONDITION; OR**

18 **(4) IF:**

19 **(I) THE ABSENCE FROM WORK IS NECESSARY DUE TO**
20 **DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING COMMITTED AGAINST THE**
21 **EMPLOYEE OR THE EMPLOYEE'S FAMILY MEMBER; AND**

22 **(II) THE LEAVE IS BEING USED:**

23 **1. BY THE EMPLOYEE TO OBTAIN FOR THE EMPLOYEE OR**
24 **THE EMPLOYEE'S FAMILY MEMBER:**

25 **A. MEDICAL OR MENTAL HEALTH ATTENTION THAT IS**
26 **~~NEEDED TO RECOVER FROM PHYSICAL OR PSYCHOLOGICAL INJURY OR DISABILITY~~**
27 **~~THAT IS CAUSED BY~~ RELATED TO THE DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR**
28 **STALKING;**

29 **B. SERVICES FROM A VICTIM SERVICES ORGANIZATION**
30 **RELATED TO THE DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING; OR**

1 C. LEGAL SERVICES OR PROCEEDINGS RELATED TO OR
2 RESULTING FROM THE DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING; OR

3 2. DURING THE TIME THAT THE EMPLOYEE HAS
4 TEMPORARILY RELOCATED DUE TO THE DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR
5 STALKING.

6 (B) (1) IF THE NEED TO USE EARNED SICK AND SAFE LEAVE IS
7 FORESEEABLE, ~~AN EMPLOYEE SHALL MAKE A GOOD FAITH EFFORT TO PROVIDE THE~~
8 ~~AN EMPLOYER WITH ADVANCE NOTICE OF THE NEED TO USE EARNED SICK AND SAFE~~
9 ~~LEAVE IN ORDER TO MINIMIZE DISRUPTION TO THE EMPLOYER~~ MAY REQUIRE AN
10 EMPLOYEE TO PROVIDE REASONABLE ADVANCE NOTICE OF NOT MORE THAN 7 DAYS
11 BEFORE THE DATE THE EARNED SICK AND SAFE LEAVE WOULD BEGIN.

12 (2) IF THE NEED TO USE EARNED SICK AND SAFE LEAVE IS NOT
13 FORESEEABLE, AN EMPLOYEE SHALL:

14 (I) PROVIDE NOTICE TO AN EMPLOYER AS SOON AS
15 PRACTICABLE; AND

16 (II) GENERALLY COMPLY WITH THE EMPLOYER'S NOTICE OR
17 PROCEDURAL REQUIREMENTS FOR REQUESTING OR REPORTING OTHER LEAVE, IF
18 THOSE REQUIREMENTS DO NOT INTERFERE WITH THE EMPLOYEE'S ABILITY TO USE
19 EARNED SICK AND SAFE LEAVE.

20 (3) AN EMPLOYER MAY DENY A REQUEST TO TAKE EARNED SICK AND
21 SAFE LEAVE IF:

22 (I) AN EMPLOYEE FAILS TO PROVIDE THE NOTICE REQUIRED
23 UNDER PARAGRAPHS (1) OR (2) OF THIS SUBSECTION; AND

24 (II) THE EMPLOYEE'S ABSENCE WILL CAUSE A DISRUPTION TO
25 THE EMPLOYER.

26 (C) AN EMPLOYER MAY NOT REQUIRE THAT AN EMPLOYEE WHO IS
27 REQUESTING EARNED SICK AND SAFE LEAVE SEARCH FOR OR FIND AN INDIVIDUAL
28 TO WORK IN THE EMPLOYEE'S STEAD DURING THE TIME THE EMPLOYEE IS TAKING
29 THE LEAVE.

30 (D) (1) INSTEAD OF TAKING EARNED SICK AND SAFE LEAVE UNDER THIS
31 SECTION, BY MUTUAL CONSENT OF THE EMPLOYER AND EMPLOYEE, AN EMPLOYEE
32 MAY WORK ADDITIONAL HOURS OR TRADE SHIFTS WITH ANOTHER EMPLOYEE
33 DURING A PAY PERIOD TO MAKE UP WORK HOURS THAT THE EMPLOYEE TOOK OFF
34 FOR WHICH THE EMPLOYEE COULD HAVE TAKEN EARNED SICK AND SAFE LEAVE.

1 (2) AN EMPLOYEE IS NOT REQUIRED TO OFFER OR TO ACCEPT AN
2 OFFER OF ADDITIONAL WORK HOURS OR A TRADE IN SHIFTS.

3 (3) IF AN EMPLOYEE WORKS ADDITIONAL HOURS OR TRADES SHIFTS
4 UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE EMPLOYER MAY NOT:

5 (I) BE REQUIRED TO PAY THE EMPLOYEE MORE THAN THE
6 EMPLOYEE'S BASE RATE OF PAY FOR THE EMPLOYEE'S ABSENCE; ~~OR~~

7 (II) BE REQUIRED TO ALLOW AN EMPLOYEE TO WORK
8 ADDITIONAL HOURS OR SHIFTS THAT WOULD RESULT IN THE EMPLOYER BEING
9 REQUIRED TO PAY OVERTIME TO THE EMPLOYEE; OR

10 (III) DEDUCT THE ABSENCE FROM THE EMPLOYEE'S ACCRUED
11 EARNED SICK AND SAFE LEAVE.

12 (E) (1) AN EMPLOYEE MAY TAKE EARNED SICK AND SAFE LEAVE IN THE
13 SMALLEST INCREMENT THAT THE EMPLOYER'S PAYROLL SYSTEM USES TO ACCOUNT
14 FOR ABSENCES OR USE OF THE EMPLOYEE'S WORK TIME.

15 (2) AN EMPLOYEE MAY NOT BE REQUIRED TO TAKE EARNED SICK AND
16 SAFE LEAVE IN AN INCREMENT OF MORE THAN 4 HOURS.

17 (F) (1) WHEN WAGES ARE PAID TO AN EMPLOYEE, THE EMPLOYER SHALL
18 PROVIDE IN WRITING BY ANY REASONABLE METHOD A STATEMENT REGARDING THE
19 AMOUNT OF EARNED SICK AND SAFE LEAVE THAT IS AVAILABLE FOR USE BY THE
20 EMPLOYEE.

21 (2) AN EMPLOYER MAY SATISFY THE REQUIREMENT UNDER
22 PARAGRAPH (1) OF THIS SUBSECTION BY PROVIDING AN ONLINE SYSTEM THROUGH
23 WHICH AN EMPLOYEE MAY ASCERTAIN THE BALANCE OF THE EMPLOYEE'S
24 AVAILABLE EARNED SICK AND SAFE LEAVE.

25 (G) (1) AN EMPLOYER MAY REQUIRE AN EMPLOYEE WHO USES EARNED
26 SICK AND SAFE LEAVE FOR MORE THAN TWO CONSECUTIVE SCHEDULED SHIFTS TO
27 PROVIDE ~~REASONABLE DOCUMENTATION TO VERIFY~~ VERIFICATION THAT THE
28 LEAVE WAS USED APPROPRIATELY UNDER SUBSECTION (A) OF THIS SECTION.

29 (2) IF AN EMPLOYEE FAILS OR REFUSES TO PROVIDE VERIFICATION
30 AS REQUIRED BY AN EMPLOYER UNDER ~~SUBSECTION (A) OF THIS SECTION~~
31 PARAGRAPH (1) OF THIS SUBSECTION, THE EMPLOYER MAY DENY A SUBSEQUENT
32 REQUEST TO TAKE EARNED SICK AND SAFE LEAVE FOR THE SAME REASON.

1 **3-1306.**

2 (A) AN EMPLOYER SHALL NOTIFY THE EMPLOYER'S EMPLOYEES THAT THE
3 EMPLOYEES ARE ENTITLED TO EARNED SICK AND SAFE LEAVE UNDER THIS
4 SUBTITLE.

5 (B) THE NOTICE PROVIDED UNDER SUBSECTION (A) OF THIS SECTION
6 SHALL INCLUDE:

7 (1) A STATEMENT OF HOW EARNED SICK AND SAFE LEAVE IS ACCRUED
8 UNDER **§ 3-1304** OF THIS SUBTITLE;

9 (2) THE PURPOSES FOR WHICH THE EMPLOYER IS REQUIRED TO
10 ALLOW AN EMPLOYEE TO USE EARNED SICK AND SAFE LEAVE UNDER **§ 3-1305** OF
11 THIS SUBTITLE;

12 (3) A STATEMENT REGARDING THE PROHIBITION IN **§ 3-1309** OF THIS
13 SUBTITLE OF THE EMPLOYER TAKING ADVERSE ACTION AGAINST AN EMPLOYEE
14 WHO EXERCISES A RIGHT UNDER THIS SUBTITLE; AND

15 (4) INFORMATION REGARDING THE RIGHT OF AN EMPLOYEE TO
16 REPORT AN ALLEGED VIOLATION OF THIS SUBTITLE BY THE EMPLOYER TO THE
17 COMMISSIONER OR TO BRING A CIVIL ACTION UNDER ~~§ 3-1308(B)~~ **§ 3-1308(C)** OF
18 THIS SUBTITLE.

19 (C) THE COMMISSIONER SHALL CREATE AND MAKE AVAILABLE A POSTER
20 AND A MODEL NOTICE THAT MAY BE USED BY AN EMPLOYER TO COMPLY WITH
21 SUBSECTION (A) OF THIS SECTION.

22 **3-1307.**

23 (A) AN EMPLOYER SHALL KEEP FOR AT LEAST 3 YEARS A RECORD OF:

24 (1) EARNED SICK AND SAFE LEAVE ACCRUED BY EACH EMPLOYEE;
25 AND

26 (2) EARNED SICK AND SAFE LEAVE USED BY EACH EMPLOYEE.

27 (B) THE COMMISSIONER MAY INSPECT A RECORD KEPT UNDER
28 SUBSECTION (A) OF THIS SECTION FOR THE PURPOSE OF DETERMINING WHETHER
29 THE EMPLOYER IS COMPLYING WITH THE PROVISIONS OF THIS SUBTITLE.

30 (C) AN EMPLOYER THAT FAILS TO KEEP ACCURATE RECORDS OR REFUSES
31 TO ALLOW THE COMMISSIONER TO INSPECT A RECORD KEPT UNDER SUBSECTION

1 (A) OF THIS SECTION SHALL BE PRESUMED TO HAVE VIOLATED THIS SECTION
2 SUBTITLE.

3 **3-1308.**

4 (A) IF AN EMPLOYEE BELIEVES THAT AN EMPLOYER HAS VIOLATED THIS
5 SUBTITLE, THE EMPLOYEE MAY FILE A WRITTEN COMPLAINT WITH THE
6 COMMISSIONER.

7 (B) (1) WITHIN 90 DAYS AFTER THE RECEIPT OF A WRITTEN COMPLAINT,
8 THE COMMISSIONER SHALL CONDUCT AN INVESTIGATION AND ATTEMPT TO
9 RESOLVE THE ISSUE INFORMALLY THROUGH MEDIATION.

10 (2) (I) IF THE COMMISSIONER IS UNABLE TO RESOLVE AN ISSUE
11 THROUGH MEDIATION DURING THE PERIOD STATED IN PARAGRAPH (1) OF THIS
12 SUBSECTION AND THE COMMISSIONER DETERMINES THAT AN EMPLOYER HAS
13 VIOLATED THIS SUBTITLE, THE COMMISSIONER SHALL ISSUE AN ORDER.

14 (II) AN ORDER ISSUED UNDER SUBPARAGRAPH (I) OF THIS
15 PARAGRAPH:

16 1. SHALL DESCRIBE THE VIOLATION;

17 2. SHALL DIRECT THE PAYMENT OF THE FULL
18 MONETARY VALUE OF ANY UNPAID EARNED SICK AND SAFE LEAVE AND ANY ACTUAL
19 ECONOMIC DAMAGES;

20 3. MAY, IN THE COMMISSIONER'S DISCRETION, DIRECT
21 THE PAYMENT OF AN ADDITIONAL AMOUNT UP TO THREE TIMES THE VALUE OF THE
22 EMPLOYEE'S HOURLY WAGE FOR EACH VIOLATION; AND

23 4. MAY, IN THE COMMISSIONER'S DISCRETION, ASSESS A
24 CIVIL PENALTY OF UP TO \$1,000 FOR EACH EMPLOYEE FOR WHOM THE EMPLOYER
25 IS NOT IN COMPLIANCE WITH THIS SUBTITLE.

26 (3) THE ACTIONS TAKEN UNDER PARAGRAPHS (1) AND (2) OF THIS
27 SUBSECTION ARE SUBJECT TO THE HEARING AND NOTICE REQUIREMENTS OF TITLE
28 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

29 (C) (1) WITHIN 30 DAYS AFTER THE COMMISSIONER ISSUES AN ORDER,
30 AN EMPLOYER SHALL COMPLY WITH THE ORDER.

31 (2) IF AN EMPLOYER DOES NOT COMPLY WITH AN ORDER WITHIN THE
32 TIME PERIOD STATED IN PARAGRAPH (1) OF THIS SUBSECTION:

(I) THE COMMISSIONER MAY:

1. WITH THE WRITTEN CONSENT OF THE EMPLOYEE, ASK THE ATTORNEY GENERAL TO BRING AN ACTION ON BEHALF OF THE EMPLOYEE IN THE COUNTY WHERE THE EMPLOYER IS LOCATED; OR

2. BRING AN ACTION TO ENFORCE THE ORDER FOR CIVIL PENALTY IN THE COUNTY WHERE THE EMPLOYER IS LOCATED; AND

(II) WITHIN 3 YEARS AFTER THE DATE OF THE ORDER, AN EMPLOYEE MAY BRING AN ACTION TO ENFORCE THE ORDER IN THE COUNTY WHERE THE EMPLOYER IS LOCATED.

(3) IF AN EMPLOYEE PREVAILS IN AN ACTION BROUGHT UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION TO ENFORCE AN ORDER, THE COURT SHALL AWARD:

(I) THREE TIMES THE VALUE OF THE EMPLOYEE’S UNPAID EARNED SICK AND SAFE LEAVE;

(II) PUNITIVE DAMAGES IN AN AMOUNT TO BE DETERMINED BY THE COURT;

(III) REASONABLE COUNSEL FEES AND OTHER COSTS;

(IV) INJUNCTIVE RELIEF, IF APPROPRIATE; AND

(V) ANY OTHER RELIEF THAT THE COURT DEEMS APPROPRIATE.

~~(A) WHENEVER THE COMMISSIONER DETERMINES THAT THIS SUBTITLE HAS BEEN VIOLATED, THE COMMISSIONER:~~

~~(1) MAY TRY TO RESOLVE INFORMALLY BY MEDIATION ANY ISSUE INVOLVED IN THE VIOLATION;~~

~~(2) WITH THE WRITTEN CONSENT OF THE EMPLOYEE, MAY ASK THE ATTORNEY GENERAL TO BRING AN ACTION IN ACCORDANCE WITH THIS SECTION ON BEHALF OF THE EMPLOYEE; AND~~

~~(3) MAY BRING AN ACTION ON BEHALF OF AN EMPLOYEE IN THE COUNTY WHERE THE VIOLATION ALLEGEDLY OCCURRED.~~

~~(B) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, AN EMPLOYEE MAY BRING A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION AGAINST THE EMPLOYER FOR A VIOLATION OF THIS SUBTITLE.~~

~~(C) (1) IF, IN AN ACTION UNDER SUBSECTION (A) OR (B) OF THIS SECTION, A COURT FINDS THAT AN EMPLOYER VIOLATED THIS SUBTITLE, THE COURT MAY AWARD THE EMPLOYEE:~~

~~(I) THE FULL MONETARY VALUE OF ANY UNPAID EARNED SICK AND SAFE LEAVE;~~

~~(II) ACTUAL ECONOMIC DAMAGES SUFFERED BY THE EMPLOYEE AS THE RESULT OF THE EMPLOYER'S VIOLATION OF THIS SUBTITLE;~~

~~(III) AN ADDITIONAL AMOUNT NOT EXCEEDING THREE TIMES THE DAMAGES AWARDED UNDER ITEM (II) OF THIS PARAGRAPH;~~

~~(IV) REASONABLE COUNSEL FEES AND OTHER COSTS; AND~~

~~(V) INJUNCTIVE RELIEF.~~

~~(2) IF THE ACTION UNDER SUBSECTION (A)(2) OF THIS SECTION WAS BROUGHT BY THE ATTORNEY GENERAL, THE COURT MAY AWARD A FINE OF \$1,000 PER VIOLATION TO THE STATE.~~

3-1309.

(A) IN THIS SECTION, "ADVERSE ACTION" INCLUDES:

(1) DISCHARGE;

(2) DEMOTION;

(3) THREATENING THE EMPLOYEE WITH DISCHARGE OR DEMOTION;

AND

(4) ANY OTHER RETALIATORY ACTION THAT RESULTS IN A CHANGE TO THE TERMS OR CONDITIONS OF EMPLOYMENT THAT WOULD DISSUADE A REASONABLE EMPLOYEE FROM EXERCISING A RIGHT UNDER THIS SUBTITLE.

(B) A PERSON MAY NOT INTERFERE WITH THE EXERCISE OF OR THE ATTEMPT TO EXERCISE ANY RIGHT GIVEN UNDER THIS SUBTITLE.

(C) AN EMPLOYER MAY NOT:

1 **(1) TAKE ADVERSE ACTION OR DISCRIMINATE AGAINST AN EMPLOYEE**
2 **BECAUSE THE EMPLOYEE EXERCISES IN GOOD FAITH THE RIGHTS PROTECTED**
3 **UNDER THIS SUBTITLE;**

4 **(2) INTERFERE WITH, RESTRAIN, OR DENY THE EXERCISE BY AN**
5 **EMPLOYEE OF ANY RIGHT PROVIDED FOR UNDER THIS SUBTITLE; OR**

6 **(3) APPLY AN ABSENCE CONTROL POLICY THAT INCLUDES EARNED**
7 **SICK AND SAFE LEAVE ABSENCES AS AN ABSENCE THAT MAY LEAD TO OR RESULT IN**
8 **AN ADVERSE ACTION BEING TAKEN AGAINST AN EMPLOYEE.**

9 **(D) THE PROTECTIONS AFFORDED UNDER THIS SUBTITLE SHALL APPLY TO**
10 **AN EMPLOYEE WHO MISTAKENLY, BUT IN GOOD FAITH, ALLEGES A VIOLATION OF**
11 **THIS SUBTITLE.**

12 **3-1310.**

13 **(A) AN EMPLOYEE MAY NOT IN BAD FAITH:**

14 **(1) FILE A COMPLAINT WITH THE COMMISSIONER ALLEGING A**
15 **VIOLATION OF THIS SUBTITLE;**

16 **(2) BRING AN ACTION UNDER § 3-1308 OF THIS SUBTITLE; OR**

17 **(3) TESTIFY IN AN ACTION UNDER § 3-1308 OF THIS SUBTITLE.**

18 **(B) AN EMPLOYEE WHO VIOLATES THIS SECTION IS GUILTY OF A**
19 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000.**

20 **3-1311.**

21 **THIS SUBTITLE MAY BE CITED AS THE MARYLAND HEALTHY WORKING**
22 **FAMILIES ACT.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
24 apply only prospectively and may not be applied or interpreted to have any effect on or
25 application to any bona fide collective bargaining agreement entered into before June 1,
26 2016, for the duration of the contract term, excluding any extensions, options to extend, or
27 renewals of the term of the original agreement.

28 SECTION 2. 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2016 January 1, 2017.