

# HOUSE BILL 686

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9lr2443  
CF 9lr3059

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By: **Delegate Wilson**

Introduced and read first time: February 7, 2019

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Healthy Working Families Act – Adverse Actions – Absence Control**  
3 **Policy**

4 FOR the purpose of prohibiting a certain provision of the Maryland Healthy Working  
5 Families Act from being construed to prohibit an employer from applying a certain  
6 absence control policy under certain circumstances; and generally relating to diverse  
7 actions prohibited under the Maryland Healthy Working Families Act.

8 BY repealing and reenacting, with amendments,  
9 Article – Labor and Employment  
10 Section 3–1309  
11 Annotated Code of Maryland  
12 (2016 Replacement Volume and 2018 Supplement)

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

15 **Article – Labor and Employment**

16 3–1309.

17 (a) In this section, “adverse action” includes:

18 (1) discharge;

19 (2) demotion;

20 (3) threatening the employee with discharge or demotion; and

21 (4) any other retaliatory action that results in a change to the terms or  
22 conditions of employment that would dissuade a reasonable employee from exercising a

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 right under this subtitle.

2 (b) A person may not interfere with the exercise of or the attempt to exercise any  
3 right given under this subtitle.

4 (c) An employer may not:

5 (1) take adverse action or discriminate against an employee because the  
6 employee exercises in good faith the rights protected under this subtitle;

7 (2) interfere with, restrain, or deny the exercise by an employee of any right  
8 provided for under this subtitle; or

9 (3) **EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION**, apply  
10 an absence control policy that includes earned sick and safe leave absences as an absence  
11 that may lead to or result in an adverse action being taken against an employee.

12 (d) The protections afforded under this subtitle shall apply to an employee who  
13 mistakenly, but in good faith, alleges a violation of this subtitle.

14 **(E) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT AN EMPLOYER**  
15 **FROM APPLYING AN ABSENCE CONTROL POLICY IF:**

16 **(1) THE EMPLOYER PROVIDES AT LEAST 40 HOURS OF PAID LEAVE IN**  
17 **A YEAR, EXCLUDING EARNED SICK AND SAFE LEAVE; AND**

18 **(2) THE ABSENCE CONTROL POLICY:**

19 **(I) IS UNIFORMLY APPLIED TO ALL TYPES OF LEAVE OFFERED**  
20 **BY THE EMPLOYER;**

21 **(II) IS PROVIDED TO AN EMPLOYEE IN WRITING;**

22 **(III) HAS A PROGRESSIVE ACCOUNTABILITY STRUCTURE; AND**

23 **(IV) PROVIDES A WARNING TO AN EMPLOYEE BEFORE ANY**  
24 **POSSIBLE ACTION AGAINST AN EMPLOYEE.**

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 October 1, 2019.