

HOUSE BILL 735

K3, P4

3lr2227
CF SB 698

By: **Delegates Olszewski, Barkley, Barnes, Bobo, Braveboy, Clagett, Clippinger, Cullison, Dumais, Frick, Frush, Gutierrez, Guzzone, Healey, Hixson, Hubbard, Hucker, Ivey, Jameson, Kaiser, A. Kelly, Lafferty, Lee, Love, Luedtke, McIntosh, A. Miller, Mizour, Pena-Melnyk, Reznik, B. Robinson, S. Robinson, Tarrant, F. Turner, Valderrama, Vaughn, Waldstreicher, A. Washington, M. Washington, and Zucker**

Introduced and read first time: February 6, 2013

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Maryland Earned Sick and Safe Leave Act**

3 FOR the purpose of requiring certain employers to provide employees with certain
4 earned sick and safe leave; providing for the manner in which earned sick and
5 safe leave is accrued by the employee and treated by the employer; requiring an
6 employer to allow an employee to use earned sick and safe leave for certain
7 purposes; requiring an employee, under certain circumstances, to request leave,
8 notify the employer of certain information, and comply with certain procedures;
9 authorizing an employer to establish, subject to certain limitations, certain
10 procedures for an employee to follow when requesting and taking earned sick
11 and safe leave; authorizing an employer, under certain circumstances, to
12 require an employee to provide certain documentation subject to certain
13 limitations; requiring an employer to notify the employees that the employees
14 are entitled to certain earned sick and safe leave; specifying the information
15 that must be included in the notice; requiring the Commissioner of Labor and
16 Industry to create and make available a certain poster and notice; providing for
17 the manner in which an employer may comply with a certain notice
18 requirement; establishing certain civil penalties for the violation of certain
19 provisions of this Act; requiring an employer to keep certain records for a
20 certain time period; authorizing the Commissioner under certain circumstances
21 to inspect certain records; establishing a rebuttable presumption that an
22 employer has violated certain provisions of this Act under certain
23 circumstances; providing that a certain rebuttable presumption may be
24 overcome only with certain evidence; authorizing the Commissioner to take
25 certain acts when the Commissioner determines certain provisions of this Act
26 have been violated; authorizing an employee to bring a civil action in a certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 court against an employer for a violation of certain provisions of this Act;
 2 requiring that a certain action be brought within a certain time period;
 3 authorizing a court to award certain damages and fees under certain
 4 circumstances; establishing certain prohibited acts; providing for certain
 5 criminal penalties; providing that certain protections apply to certain
 6 employees; requiring the Commissioner to develop and implement a certain
 7 outreach program; authorizing the Commissioner to adopt regulations to carry
 8 out certain provisions of this Act; authorizing the Commissioner to conduct an
 9 investigation, under certain circumstances, to determine whether certain
 10 provisions of this Act have been violated; requiring the Commissioner, except
 11 under certain circumstances, to keep certain information confidential; providing
 12 for the construction of certain provisions of this Act; defining certain terms; and
 13 generally relating to earned sick and safe leave.

14 BY repealing and reenacting, with amendments,
 15 Article – Labor and Employment
 16 Section 2–106(b)
 17 Annotated Code of Maryland
 18 (2008 Replacement Volume and 2012 Supplement)

19 BY adding to
 20 Article – Labor and Employment
 21 Section 3–103(f); and 3–1101 through 3–1111 to be under the new subtitle
 22 “Subtitle 11. Earned Sick and Safe Leave”
 23 Annotated Code of Maryland
 24 (2008 Replacement Volume and 2012 Supplement)

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

27 **Article – Labor and Employment**

28 2–106.

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

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

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

34 **(3) TITLE 3, SUBTITLE 11 OF THIS ARTICLE;**

35 **[(3)] (4)** Title 4, Subtitle 2, Parts I through III of this article;

36 **[(4)] (5)** Title 5 of this article;

1 **[(5)] (6)** Title 6 of this article; and

2 **[(6)] (7)** Title 7 of this article.

3 3-103.

4 **(F) (1) THE COMMISSIONER MAY CONDUCT AN INVESTIGATION TO**
5 **DETERMINE WHETHER SUBTITLE 11 OF THIS TITLE HAS BEEN VIOLATED ON**
6 **RECEIPT OF A WRITTEN COMPLAINT OF AN EMPLOYEE.**

7 **(2) TO THE EXTENT PRACTICABLE, THE COMMISSIONER SHALL**
8 **KEEP THE IDENTITY OF AN EMPLOYEE WHO HAS FILED A WRITTEN COMPLAINT**
9 **ALLEGING A VIOLATION OF SUBTITLE 11 OF THIS TITLE CONFIDENTIAL UNLESS**
10 **THE EMPLOYEE WAIVES CONFIDENTIALITY.**

11 **SUBTITLE 11. EARNED SICK AND SAFE LEAVE.**

12 **3-1101.**

13 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
14 **INDICATED.**

15 **(B) “ABUSE” HAS THE MEANING STATED IN § 4-501 OF THE FAMILY**
16 **LAW ARTICLE.**

17 **(C) “EMPLOYER” INCLUDES:**

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

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

21 **(D) “EMPLOYEE” DOES NOT INCLUDE AN INDIVIDUAL WHO:**

22 **(1) DOES NOT HAVE A REGULAR WORK SCHEDULE WITH THE**
23 **EMPLOYER;**

24 **(2) CONTACTS THE EMPLOYER FOR WORK ASSIGNMENTS AND IS**
25 **SCHEDULED TO WORK THE ASSIGNMENTS WITHIN 48 HOURS OF CONTACTING**
26 **THE EMPLOYER;**

27 **(3) HAS NO OBLIGATION TO WORK FOR THE EMPLOYER IF THE**
28 **INDIVIDUAL DOES NOT CONTACT THE EMPLOYER FOR WORK ASSIGNMENTS; AND**

1 (4) IS NOT EMPLOYED BY A TEMPORARY PLACEMENT AGENCY.

2 (E) “DOMESTIC VIOLENCE” MEANS ABUSE AGAINST A PERSON ELIGIBLE
3 FOR RELIEF.

4 (F) “EARNED SICK AND SAFE LEAVE” MEANS PAID LEAVE AWAY FROM
5 WORK THAT IS PROVIDED BY AN EMPLOYER UNDER § 3-1104 OF THIS SUBTITLE.

6 (G) “FAMILY MEMBER” MEANS:

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

9 (2) A CHILD OF THE DOMESTIC PARTNER OF THE EMPLOYEE;

10 (3) A CHILD FOR WHOM THE EMPLOYEE HAS LEGAL OR PHYSICAL
11 CUSTODY OR GUARDIANSHIP;

12 (4) A CHILD FOR WHOM THE EMPLOYEE IS THE PRIMARY
13 CAREGIVER;

14 (5) A BIOLOGICAL PARENT, AN ADOPTIVE PARENT, A FOSTER
15 PARENT, OR A STEPPARENT OF THE EMPLOYEE OR THE EMPLOYEE’S SPOUSE OR
16 DOMESTIC PARTNER;

17 (6) THE LEGAL GUARDIAN OF THE EMPLOYEE;

18 (7) AN INDIVIDUAL WHO SERVED AS THE PRIMARY CAREGIVER OF
19 THE EMPLOYEE WHEN THE EMPLOYEE WAS A MINOR;

20 (8) THE SPOUSE OR DOMESTIC PARTNER OF THE EMPLOYEE;

21 (9) A GRANDPARENT OF THE EMPLOYEE;

22 (10) THE SPOUSE OR DOMESTIC PARTNER OF A GRANDPARENT OF
23 THE EMPLOYEE;

24 (11) A GRANDCHILD OF THE EMPLOYEE;

25 (12) A BIOLOGICAL SIBLING, AN ADOPTED SIBLING, OR A FOSTER
26 SIBLING OF THE EMPLOYEE; OR

1 **(13) THE SPOUSE OR DOMESTIC PARTNER OF A BIOLOGICAL**
2 **SIBLING, A FOSTER SIBLING, OR AN ADOPTED SIBLING OF THE EMPLOYEE.**

3 **(H) “HEALTH CARE PROVIDER” MEANS AN INDIVIDUAL LICENSED**
4 **UNDER STATE LAW TO PROVIDE MEDICAL SERVICES.**

5 **(I) “PERSON ELIGIBLE FOR RELIEF” HAS THE MEANING STATED IN §**
6 **4-501 OF THE FAMILY LAW ARTICLE.**

7 **(J) “SEXUAL ASSAULT” MEANS:**

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

10 **(2) CHILD SEXUAL ABUSE UNDER § 3-602 OF THE CRIMINAL LAW**
11 **ARTICLE; OR**

12 **(3) SEXUAL ABUSE OF A VULNERABLE ADULT UNDER § 3-604 OF**
13 **THE CRIMINAL LAW ARTICLE.**

14 **(K) “STALKING” HAS THE MEANING STATED IN § 3-802 OF THE**
15 **CRIMINAL LAW ARTICLE.**

16 **3-1102.**

17 **THIS SUBTITLE MAY NOT BE CONSTRUED TO:**

18 **(1) REQUIRE AN EMPLOYER TO COMPENSATE AN EMPLOYEE FOR**
19 **UNUSED EARNED SICK AND SAFE LEAVE WHEN THE EMPLOYEE LEAVES THE**
20 **EMPLOYER’S EMPLOYMENT;**

21 **(2) PROHIBIT AN EMPLOYER FROM ESTABLISHING A POLICY**
22 **UNDER WHICH EMPLOYEES MAY VOLUNTARILY EXCHANGE ASSIGNED WORK**
23 **HOURS;**

24 **(3) PROHIBIT AN EMPLOYER FROM ADOPTING OR RETAINING AN**
25 **EARNED SICK AND SAFE LEAVE POLICY THAT PROVIDES BENEFITS THAT ARE**
26 **MORE GENEROUS THAN THE BENEFITS REQUIRED UNDER THIS SUBTITLE;**

27 **(4) AFFECT A PROVISION OF A CONTRACT, A COLLECTIVE**
28 **BARGAINING AGREEMENT, AN EMPLOYEE BENEFIT PLAN, OR ANY OTHER**
29 **AGREEMENT THAT REQUIRES THE EMPLOYER TO PROVIDE EARNED SICK AND**

1 SAFE LEAVE BENEFITS THAT ARE MORE GENEROUS THAN THE BENEFITS
2 REQUIRED UNDER THIS SUBTITLE;

3 (5) PREEMPT, LIMIT, OR OTHERWISE AFFECT ANY OTHER LAW
4 THAT PROVIDES FOR SICK AND SAFE LEAVE BENEFITS THAT ARE MORE
5 GENEROUS THAN REQUIRED UNDER THIS SUBTITLE; OR

6 (6) PREEMPT, LIMIT, OR OTHERWISE AFFECT ANY WORKERS'
7 COMPENSATION BENEFITS THAT ARE AVAILABLE UNDER TITLE 9 OF THIS
8 ARTICLE.

9 3-1103.

10 (A) THE COMMISSIONER SHALL DEVELOP AND IMPLEMENT A
11 MULTILINGUAL OUTREACH PROGRAM TO INFORM EMPLOYEES AND OTHER
12 AFFECTED INDIVIDUALS ABOUT THE AVAILABILITY OF EARNED SICK AND SAFE
13 LEAVE UNDER THIS SUBTITLE.

14 (B) THE PROGRAM ESTABLISHED UNDER SUBSECTION (A) OF THIS
15 SECTION SHALL INCLUDE THE DISTRIBUTION OF NOTICES AND OTHER WRITTEN
16 MATERIAL IN ENGLISH, SPANISH, AND OTHER LANGUAGES TO:

17 (1) CHILD AND ELDER CARE PROVIDERS;

18 (2) DOMESTIC VIOLENCE SHELTERS;

19 (3) SCHOOLS;

20 (4) HOSPITALS;

21 (5) COMMUNITY HEALTH CENTERS; AND

22 (6) HEALTH CARE PROVIDERS.

23 3-1104.

24 (A) AN EMPLOYER SHALL PROVIDE AN EMPLOYEE WITH EARNED SICK
25 AND SAFE LEAVE THAT IS PAID AT THE SAME RATE AND WITH THE SAME
26 BENEFITS AS THE EMPLOYEE NORMALLY EARNS.

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

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

2 **(1) EARN MORE THAN 56 HOURS OF EARNED SICK AND SAFE**
3 **LEAVE IN A CALENDAR YEAR; OR**

4 **(2) USE MORE THAN 80 HOURS OF EARNED SICK AND SAFE LEAVE**
5 **IN A CALENDAR YEAR.**

6 **(D) AT THE BEGINNING OF A CALENDAR YEAR, AN EMPLOYER MAY**
7 **AWARD TO AN EMPLOYEE THE FULL AMOUNT OF EARNED SICK AND SAFE LEAVE**
8 **THAT AN EMPLOYEE WOULD EARN OVER THE COURSE OF THE CALENDAR YEAR**
9 **RATHER THAN AWARDING THE LEAVE AS THE LEAVE ACCRUES DURING THE**
10 **CALENDAR YEAR.**

11 **(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
12 **SUBSECTION, FOR THE PURPOSES OF CALCULATING THE ACCRUAL OF EARNED**
13 **SICK AND SAFE LEAVE, AN EMPLOYEE WHO IS EXEMPT FROM OVERTIME WAGE**
14 **REQUIREMENTS UNDER THE FEDERAL FAIR LABOR STANDARDS ACT IS**
15 **ASSUMED TO WORK 40 HOURS EACH WORK WEEK.**

16 **(2) IF THE EMPLOYEE'S NORMAL WORK WEEK IS LESS THAN 40**
17 **HOURS, THE NUMBER OF HOURS IN THE NORMAL WORK WEEK SHALL BE USED.**

18 **(F) (1) EARNED SICK AND SAFE LEAVE SHALL BEGIN TO ACCRUE:**

19 **(I) OCTOBER 1, 2013; OR**

20 **(II) IF THE EMPLOYEE IS HIRED AFTER OCTOBER 1, 2013,**
21 **THE DATE ON WHICH THE EMPLOYEE BEGINS EMPLOYMENT WITH THE**
22 **EMPLOYER.**

23 **(2) AN EMPLOYEE MAY NOT ACCRUE EARNED SICK AND SAFE**
24 **LEAVE BASED ON HOURS WORKED BEFORE OCTOBER 1, 2013.**

25 **(G) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF AN**
26 **EMPLOYEE HAS UNUSED EARNED SICK AND SAFE LEAVE AT THE END OF A**
27 **CALENDAR YEAR, THE EMPLOYEE MAY CARRY THE BALANCE OF THE EARNED**
28 **SICK AND SAFE LEAVE OVER TO THE FOLLOWING CALENDAR YEAR.**

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

1 **(H) IF AN EMPLOYEE BEGINS WORKING IN A SEPARATE DIVISION OR**
2 **LOCATION, BUT REMAINS EMPLOYED BY THE EMPLOYER, THE EMPLOYEE IS**
3 **ENTITLED TO THE EARNED SICK AND SAFE LEAVE THAT ACCRUED BEFORE THE**
4 **EMPLOYEE MOVED TO THE SEPARATE DIVISION OR LOCATION.**

5 **(I) (1) IF AN EMPLOYEE IS REHIRED BY THE EMPLOYER WITHIN 12**
6 **MONTHS AFTER LEAVING THE EMPLOYMENT OF THE EMPLOYER, THE**
7 **EMPLOYER SHALL REINSTATE ANY UNUSED EARNED SICK AND SAFE LEAVE**
8 **THAT THE EMPLOYEE HAD WHEN THE EMPLOYEE LEFT THE EMPLOYMENT OF**
9 **THE EMPLOYER.**

10 **(2) IF AN EMPLOYEE IS REHIRED BY THE EMPLOYER MORE THAN**
11 **12 MONTHS AFTER LEAVING THE EMPLOYMENT OF THE EMPLOYER, THE**
12 **EMPLOYER MAY NOT BE REQUIRED TO REINSTATE ANY UNUSED EARNED SICK**
13 **AND SAFE LEAVE THAT THE EMPLOYEE HAD WHEN THE EMPLOYEE LEFT THE**
14 **EMPLOYMENT OF THE EMPLOYER.**

15 **(J) AN EMPLOYER MAY ALLOW AN EMPLOYEE TO USE EARNED SICK AND**
16 **SAFE LEAVE BEFORE THE AMOUNT NEEDED BY THE EMPLOYEE ACCRUES.**

17 **3-1105.**

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

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

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

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

26 **(4) IF THE EMPLOYER'S PLACE OF BUSINESS HAS CLOSED BY**
27 **ORDER OF A PUBLIC OFFICIAL DUE TO A PUBLIC HEALTH EMERGENCY;**

28 **(5) IF THE SCHOOL OF OR CHILD CARE PROVIDER FOR THE**
29 **EMPLOYEE'S FAMILY MEMBER HAS CLOSED BY ORDER OF A PUBLIC OFFICIAL**
30 **DUE TO A PUBLIC HEALTH EMERGENCY;**

1 **(6) TO CARE FOR A FAMILY MEMBER IF A HEALTH OFFICIAL OR**
2 **HEALTH CARE PROVIDER HAS DETERMINED THAT THE FAMILY MEMBER'S**
3 **PRESENCE IN THE COMMUNITY WOULD JEOPARDIZE THE HEALTH OF OTHERS**
4 **BECAUSE OF THE FAMILY MEMBER'S EXPOSURE TO A COMMUNICABLE DISEASE;**
5 **OR**

6 **(7) IF:**

7 **(I) THE ABSENCE OF WORK IS NECESSARY DUE TO**
8 **DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING COMMITTED AGAINST**
9 **THE EMPLOYEE OR THE EMPLOYEE'S FAMILY MEMBER; AND**

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

11 **1. BY THE EMPLOYEE TO OBTAIN FOR THE**
12 **EMPLOYEE OR THE EMPLOYEE'S FAMILY MEMBER:**

13 **A. MEDICAL ATTENTION THAT IS NEEDED TO**
14 **RECOVER FROM PHYSICAL OR PSYCHOLOGICAL INJURY OR DISABILITY THAT IS**
15 **CAUSED BY THE DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING;**

16 **B. SERVICES FROM A VICTIM SERVICES**
17 **ORGANIZATION RELATED TO THE DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR**
18 **STALKING;**

19 **C. PSYCHOLOGICAL OR OTHER COUNSELING**
20 **RELATED TO THE DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING; OR**

21 **D. LEGAL SERVICES, INCLUDING THE PREPARING**
22 **FOR OR PARTICIPATING IN A CIVIL OR CRIMINAL PROCEEDING RELATED TO OR**
23 **RESULTING FROM THE DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING;**
24 **OR**

25 **2. DURING THE TIME THAT THE EMPLOYEE HAS**
26 **TEMPORARILY RELOCATED DUE TO THE DOMESTIC VIOLENCE, SEXUAL**
27 **ASSAULT, OR STALKING.**

28 **(B) IN ORDER TO USE EARNED SICK AND SAFE LEAVE, AN EMPLOYEE**
29 **SHALL:**

30 **(1) REQUEST THE LEAVE FROM THE EMPLOYER AS SOON AS**
31 **PRACTICABLE AFTER THE EMPLOYEE DETERMINES THAT THE EMPLOYEE NEEDS**
32 **TO TAKE THE LEAVE;**

1 **(2)** NOTIFY THE EMPLOYER OF THE ANTICIPATED DURATION OF
2 THE LEAVE; AND

3 **(3)** COMPLY WITH ANY REASONABLE PROCEDURES ESTABLISHED
4 BY THE EMPLOYER UNDER SUBSECTION (C) OF THIS SECTION.

5 **(c) (1)** SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION,
6 AN EMPLOYER MAY ESTABLISH REASONABLE PROCEDURES FOR AN EMPLOYEE
7 TO FOLLOW WHEN REQUESTING AND TAKING EARNED SICK AND SAFE LEAVE.

8 **(2)** AN EMPLOYER MAY NOT REQUIRE THAT AN EMPLOYEE WHO IS
9 REQUESTING EARNED SICK AND SAFE LEAVE SEARCH FOR OR FIND AN
10 INDIVIDUAL TO WORK IN THE EMPLOYEE'S STEAD DURING THE TIME THE
11 EMPLOYEE IS TAKING THE LEAVE.

12 **(3)** AN EMPLOYER MAY NOT REQUIRE AN EMPLOYEE TO:

13 **(i)** DISCLOSE DETAILS OF:

14 1. THE DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR
15 STALKING THAT WAS COMMITTED AGAINST THE EMPLOYEE OR THE EMPLOYEE'S
16 FAMILY MEMBER; OR

17 2. THE MENTAL OR PHYSICAL ILLNESS, INJURY, OR
18 CONDITION OF THE EMPLOYEE OR THE EMPLOYEE'S FAMILY MEMBER; OR

19 **(ii)** PROVIDE AS CERTIFICATION ANY INFORMATION THAT
20 WOULD VIOLATE THE FEDERAL SOCIAL SECURITY ACT OF 1939 OR THE
21 FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT.

22 **(d) (1)** INSTEAD OF TAKING EARNED SICK AND SAFE LEAVE UNDER
23 THIS SECTION, BY MUTUAL CONSENT OF THE EMPLOYER AND EMPLOYEE, AN
24 EMPLOYEE MAY WORK ADDITIONAL HOURS OR TRADE SHIFTS WITH ANOTHER
25 EMPLOYEE DURING A PAY PERIOD TO MAKE UP WORK HOURS THAT THE
26 EMPLOYEE TOOK OFF FOR WHICH THE EMPLOYEE COULD HAVE TAKEN EARNED
27 SICK AND SAFE LEAVE.

28 **(2)** AN EMPLOYEE IS NOT REQUIRED TO OFFER NOR IS AN
29 EMPLOYEE REQUIRED TO ACCEPT AN OFFER OF ADDITIONAL HOURS OR A
30 TRADE IN SHIFTS.

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

4 **(2) AN EMPLOYEE MAY NOT BE REQUIRED TO TAKE EARNED SICK**
5 **AND SAFE LEAVE IN AN INCREMENT OF MORE THAN 1 HOUR.**

6 **(F) WHEN WAGES ARE PAID TO AN EMPLOYEE, THE EMPLOYER SHALL**
7 **PROVIDE BY ANY REASONABLE METHOD IN WRITING A STATEMENT REGARDING**
8 **THE AMOUNT OF EARNED SICK AND SAFE LEAVE THAT IS AVAILABLE FOR USE BY**
9 **THE EMPLOYEE.**

10 **(G) (1) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, AN**
11 **EMPLOYER MAY REQUIRE AN EMPLOYEE WHO USES MORE THAN 3 CONSECUTIVE**
12 **DAYS OF EARNED SICK AND SAFE LEAVE TO PROVIDE REASONABLE**
13 **DOCUMENTATION TO VERIFY THAT THE LEAVE WAS USED APPROPRIATELY**
14 **UNDER SUBSECTION (A) OF THIS SECTION.**

15 **(2) REASONABLE DOCUMENTATION THAT MAY BE REQUIRED**
16 **UNDER PARAGRAPH (1) OF THIS SUBSECTION INCLUDES:**

17 **(I) FOR LEAVE USED UNDER SUBSECTION (A)(5) OF THIS**
18 **SECTION, THE NOTICE OF THE CLOSURE ORDER BY A PUBLIC OFFICIAL IN THE**
19 **FORM IN WHICH THE EMPLOYEE RECEIVED THE NOTICE;**

20 **(II) FOR LEAVE USED UNDER SUBSECTION (A)(1), (3), OR (6)**
21 **OF THIS SECTION, DOCUMENTATION FROM THE HEALTH OFFICER OR HEALTH**
22 **CARE PROVIDER THAT THE USE OF EARNED SICK AND SAFE LEAVE IS**
23 **NECESSARY; AND**

24 **(III) FOR LEAVE USED UNDER SUBSECTION (A)(7) OF THIS**
25 **SUBSECTION:**

26 **1. A REPORT BY A LAW ENFORCEMENT OFFICER**
27 **INDICATING THAT THE EMPLOYEE OR THE EMPLOYEE'S FAMILY MEMBER WAS A**
28 **VICTIM OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING;**

29 **2. DOCUMENTATION OF AN INDICTMENT FOR**
30 **DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING COMMITTED AGAINST**
31 **THE EMPLOYEE OR THE EMPLOYEE'S FAMILY MEMBER;**

32 **3. CERTIFICATION BY A STATE'S ATTORNEY'S**
33 **OFFICE, CHILD PROTECTIVE SERVICES, LAW ENFORCEMENT, VICTIM'S**

1 ATTORNEY, OR VICTIM'S ADVOCATE THAT THE EMPLOYEE OR THE EMPLOYEE'S
2 FAMILY MEMBER IS A PARTY TO OR WITNESS IN A LEGAL ACTION RELATED TO
3 THE DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING COMMITTED
4 AGAINST THE EMPLOYEE OR THE EMPLOYEE'S FAMILY MEMBER;

5 4. A COURT ORDER PROTECTING THE EMPLOYEE OR
6 THE EMPLOYEE'S FAMILY MEMBER FROM THE PERPETRATOR OF THE DOMESTIC
7 VIOLENCE, SEXUAL ASSAULT, OR STALKING COMMITTED AGAINST THE
8 EMPLOYEE OR THE EMPLOYEE'S FAMILY MEMBER; OR

9 5. A NOTICE FROM A COURT, VICTIM'S ATTORNEY,
10 OR STATE'S ATTORNEY'S OFFICE THAT THE EMPLOYEE OR EMPLOYEE'S FAMILY
11 MEMBER APPEARED, OR IS SCHEDULED TO APPEAR, IN COURT IN CONNECTION
12 WITH THE DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING COMMITTED
13 AGAINST THE EMPLOYEE OR THE EMPLOYEE'S FAMILY MEMBER.

14 (3) AN EMPLOYER MAY NOT REQUIRE THAT:

15 (I) THE DOCUMENTATION USED FOR VERIFYING THE USE
16 OF THE EARNED SICK AND SAFE LEAVE UNDER SUBSECTION (A)(1), (3), OR (6)
17 OF THIS SECTION EXPLAINS THE NATURE OF THE MENTAL OR PHYSICAL
18 ILLNESS, INJURY, OR CONDITION; OR

19 (II) THE DOCUMENTATION USED FOR VERIFYING THE USE
20 OF THE EARNED SICK AND SAFE LEAVE UNDER SUBSECTION (A)(7) OF THIS
21 SECTION INCLUDES DETAILS REGARDING THE DOMESTIC VIOLENCE, SEXUAL
22 ASSAULT, OR STALKING.

23 (4) (I) IF DOCUMENTATION REQUIRED UNDER PARAGRAPH (1)
24 OF THIS SECTION RELATES TO MENTAL OR PHYSICAL HEALTH OF AN EMPLOYEE,
25 OR IS DOCUMENTATION RELATING TO DOMESTIC VIOLENCE, SEXUAL ASSAULT,
26 OR STALKING COMMITTED AGAINST AN EMPLOYEE OR THE EMPLOYEE'S FAMILY
27 MEMBER, THE EMPLOYER SHALL MAINTAIN THE DOCUMENTATION IN A
28 CONFIDENTIAL FILE THAT IS SEPARATE FROM THE EMPLOYEE'S PERSONNEL
29 FILE.

30 (II) AN EMPLOYER MAY NOT DISCLOSE THE
31 DOCUMENTATION MAINTAINED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH
32 UNLESS THE DISCLOSURE IS MADE TO THE EMPLOYEE OR WITH THE
33 PERMISSION OF THE EMPLOYEE.

34 3-1106.

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

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

6 **(1) A STATEMENT OF HOW EARNED SICK AND SAFE LEAVE IS**
7 **ACCRUED UNDER § 3-1104 OF THIS SUBTITLE;**

8 **(2) THE PURPOSES FOR WHICH THE EMPLOYER IS REQUIRED TO**
9 **ALLOW AN EMPLOYEE TO USE EARNED SICK AND SAFE LEAVE UNDER § 3-1105**
10 **OF THIS SUBTITLE;**

11 **(3) A STATEMENT REGARDING THE PROHIBITION IN § 3-1109 OF**
12 **THIS SUBTITLE ON THE EMPLOYER TAKING ADVERSE ACTION AGAINST AN**
13 **EMPLOYEE WHO EXERCISES A RIGHT UNDER THIS SUBTITLE; AND**

14 **(4) INFORMATION REGARDING THE RIGHT OF AN EMPLOYEE TO**
15 **REPORT AN ALLEGED VIOLATION OF THIS SUBTITLE BY THE EMPLOYER TO THE**
16 **COMMISSIONER OR BRING A CIVIL ACTION UNDER § 3-1108(B) OF THIS**
17 **SUBTITLE.**

18 **(C) (1) THE COMMISSIONER SHALL CREATE AND MAKE AVAILABLE A**
19 **POSTER AND A MODEL NOTICE THAT MAY BE USED BY AN EMPLOYER TO COMPLY**
20 **WITH SUBSECTION (A) OF THIS SECTION.**

21 **(2) THE MODEL NOTICE CREATED UNDER PARAGRAPH (1) OF**
22 **THIS SUBSECTION SHALL BE PRINTED IN ENGLISH, SPANISH, AND ANY OTHER**
23 **LANGUAGE THAT THE COMMISSIONER DETERMINES IS NEEDED TO NOTIFY**
24 **EMPLOYEES OF THE EMPLOYEES' RIGHTS UNDER THIS SUBTITLE.**

25 **(D) AN EMPLOYER MAY COMPLY WITH SUBSECTION (A) OF THIS**
26 **SECTION BY:**

27 **(1) DISPLAYING THE POSTER CREATED BY THE COMMISSIONER**
28 **UNDER SUBSECTION (C) OF THIS SECTION IN A CONSPICUOUS AND ACCESSIBLE**
29 **AREA AT THE LOCATION IN WHICH THE EMPLOYEES WORK;**

30 **(2) INCLUDING THE NOTICE CREATED BY THE COMMISSIONER**
31 **UNDER SUBSECTION (C) OF THIS SECTION IN AN EMPLOYEE HANDBOOK OR**
32 **OTHER WRITTEN GUIDANCE TO EMPLOYEES CONCERNING EMPLOYEE BENEFITS**
33 **OR LEAVE PROVIDED BY THE EMPLOYER; OR**

1 **(3) DISTRIBUTING THE NOTICE CREATED BY THE COMMISSIONER**
2 **UNDER SUBSECTION (C) OF THIS SECTION TO EACH EMPLOYEE WHEN THE**
3 **EMPLOYEE IS HIRED.**

4 **(E) IF AN EMPLOYER DECIDES NOT TO USE THE MODEL NOTICE**
5 **CREATED BY THE COMMISSIONER UNDER SUBSECTION (C) OF THIS SECTION,**
6 **THE NOTICE PROVIDED BY THE EMPLOYER SHALL CONTAIN THE SAME**
7 **INFORMATION THAT IS INCLUDED IN THE MODEL NOTICE.**

8 **(F) THE NOTICE MAY BE DISTRIBUTED ELECTRONICALLY BY THE**
9 **EMPLOYER TO THE EMPLOYER'S EMPLOYEES.**

10 **(G) AN EMPLOYER WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL**
11 **PENALTY NOT EXCEEDING \$125 FOR THE FIRST VIOLATION AND \$250 FOR EACH**
12 **SUBSEQUENT VIOLATION.**

13 **3-1107.**

14 **(A) (1) AN EMPLOYER SHALL KEEP, FOR AT LEAST 3 YEARS, A**
15 **RECORD OF:**

16 **(I) EARNED SICK AND SAFE LEAVE ACCRUED BY EACH**
17 **EMPLOYEE; AND**

18 **(II) EARNED SICK AND SAFE LEAVE USED BY EACH**
19 **EMPLOYEE.**

20 **(2) AN EMPLOYER MAY KEEP THE RECORD IN THE SAME MANNER**
21 **THAT THE EMPLOYER KEEPS OTHER RECORDS REQUIRED TO BE KEPT UNDER**
22 **THIS TITLE.**

23 **(B) AFTER GIVING THE EMPLOYER NOTICE AND DETERMINING A**
24 **MUTUALLY AGREEABLE TIME FOR THE INSPECTION, THE COMMISSIONER MAY**
25 **INSPECT A RECORD KEPT UNDER SUBSECTION (A) OF THIS SECTION FOR THE**
26 **PURPOSES OF DETERMINING WHETHER THE EMPLOYER IS COMPLYING WITH**
27 **THE PROVISIONS OF THIS SUBTITLE.**

28 **(C) (1) THERE IS A REBUTTABLE PRESUMPTION THAT AN EMPLOYER**
29 **HAS VIOLATED THE PROVISIONS OF THIS SUBTITLE IF:**

1 **(I) THERE IS AN ALLEGATION THAT THE EMPLOYER HAS**
2 **FAILED TO ACCURATELY ACCRUE THE AMOUNT OF EARNED SICK AND SAFE**
3 **LEAVE AVAILABLE TO AN EMPLOYEE; AND**

4 **(II) THE EMPLOYER FAILS TO:**

5 **1. KEEP A RECORD AS REQUIRED UNDER**
6 **SUBSECTION (A) OF THIS SECTION; OR**

7 **2. ALLOW THE COMMISSIONER TO INSPECT A**
8 **RECORD KEPT UNDER SUBSECTION (A) OF THIS SECTION.**

9 **(2) THE REBUTTABLE PRESUMPTION IN PARAGRAPH (1) OF THIS**
10 **SUBSECTION MAY BE OVERCOME ONLY WITH CLEAR AND CONVINCING**
11 **EVIDENCE.**

12 **3-1108.**

13 **(A) WHENEVER THE COMMISSIONER DETERMINES THAT THIS SUBTITLE**
14 **HAS BEEN VIOLATED, THE COMMISSIONER:**

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

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

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

22 **(B) (1) AN EMPLOYEE MAY BRING A CIVIL ACTION IN A COURT OF**
23 **COMPETENT JURISDICTION AGAINST THE EMPLOYER FOR A VIOLATION OF THIS**
24 **SUBTITLE.**

25 **(2) AN ACTION MAY BE BROUGHT UNDER PARAGRAPH (1) OF THIS**
26 **SUBSECTION WHETHER OR NOT THE EMPLOYEE FIRST FILED A COMPLAINT**
27 **WITH THE COMMISSIONER.**

28 **(C) AN ACTION BROUGHT UNDER SUBSECTION (A) OR (B) OF THIS**
29 **SECTION SHALL BE FILED WITHIN 3 YEARS AFTER THE OCCURRENCE OF THE**
30 **ACT ON WHICH THE ACTION IS BASED.**

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

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

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

8 **(III) AN ADDITIONAL AMOUNT NOT EXCEEDING 3 TIMES THE**
9 **DAMAGES AWARDED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH;**

10 **(IV) REASONABLE COUNSEL FEES AND OTHER COSTS; AND**

11 **(V) ANY OTHER RELIEF THAT THE COURT DEEMS**
12 **APPROPRIATE, INCLUDING:**

13 **1. REINSTATEMENT TO EMPLOYMENT;**

14 **2. BACK PAY; AND**

15 **3. INJUNCTIVE RELIEF.**

16 **(2) IF BENEFITS OF AN EMPLOYEE ARE RECOVERED UNDER THIS**
17 **SECTION, THEY SHALL BE PAID TO THE EMPLOYEE WITHOUT COST TO THE**
18 **EMPLOYEE.**

19 **(3) IF THE ACTION WAS BROUGHT BY THE ATTORNEY GENERAL,**
20 **THE COURT MAY AWARD A FINE OF \$1,000 PER VIOLATION TO THE STATE.**

21 **3-1109.**

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

23 **(1) DISCHARGE;**

24 **(2) DEMOTION;**

25 **(3) THREATENING THE EMPLOYEE WITH DISCHARGE OR**
26 **DEMOTION; AND**

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

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

7 **(C) (1) AN EMPLOYER MAY NOT:**

8 **(I) TAKE ADVERSE ACTION OR DISCRIMINATE AGAINST AN**
9 **EMPLOYEE BECAUSE THE EMPLOYEE EXERCISED IN GOOD FAITH THE RIGHTS**
10 **PROTECTED UNDER THIS SUBTITLE; OR**

11 **(II) COUNT EARNED SICK AND SAFE LEAVE THAT AN**
12 **EMPLOYEE TOOK IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE AS**
13 **AN ABSENCE THAT MAY LEAD TO OR RESULT IN ANY ADVERSE ACTION TAKEN**
14 **AGAINST THE EMPLOYEE.**

15 **(2) THERE IS A REBUTTABLE PRESUMPTION THAT AN EMPLOYER**
16 **HAS VIOLATED THIS SUBSECTION IF THE EMPLOYER TOOK ADVERSE ACTION**
17 **AGAINST AN EMPLOYEE WITHIN 90 DAYS AFTER THE EMPLOYEE:**

18 **(I) FILES A COMPLAINT WITH THE COMMISSIONER**
19 **ALLEGING A VIOLATION OF THIS SUBTITLE OR BRINGS A CIVIL ACTION UNDER §**
20 **3-1108(B) OF THIS SUBTITLE;**

21 **(II) INFORMS A PERSON ABOUT AN ALLEGED VIOLATION OF**
22 **THIS SUBTITLE BY THE EMPLOYER;**

23 **(III) COOPERATES WITH THE COMMISSIONER OR ANOTHER**
24 **PERSON IN THE INVESTIGATION OR PROSECUTION OF AN ALLEGED VIOLATION**
25 **OF THIS SUBTITLE BY THE EMPLOYER; OR**

26 **(IV) OPPOSES A POLICY OR PRACTICE OF THE EMPLOYER OR**
27 **AN ACT COMMITTED BY THE EMPLOYER THAT IS UNLAWFUL UNDER THIS**
28 **SUBTITLE.**

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

32 **3-1110.**

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

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

4 **(2) BRING AN ACTION UNDER § 3-1108 OF THIS SUBTITLE; OR**

5 **(3) TESTIFY IN AN ACTION UNDER § 3-1108 OF THIS SUBTITLE.**

6 **(B) AN EMPLOYEE WHO VIOLATES THIS TITLE IS GUILTY OF A**
7 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING**
8 **\$1,000.**

9 **3-1111.**

10 **THIS SUBTITLE MAY BE CITED AS THE “MARYLAND EARNED SICK AND**
11 **SAFE LEAVE ACT”.**

12 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
13 **October 1, 2013.**