

Issue: MI-Employment

## Paid Sick Leave—A Public Health Priority

Under normal economic circumstances, measures like paid sick leave and minimum wage standards help protect vulnerable low-income workers. With the advent of the COVID-19 pandemic, these protections are even more vital. Since Mid-March, more than 2 million people —around 40% of Michigan’s eligible workforce—have filed for unemployment benefits.<sup>1,2</sup> Laid-off workers have lost not only their jobs, but also the health insurance benefits that went with them. Many will be forced to seek minimum wage or part-time jobs that rarely offer sick leave or medical benefits at all.

Unfortunately for Michigan, the Republican-led Legislature has repeatedly taken decisions about worker protections out of the hands of the voters and local governments. In the past few years, the GOP majority has passed legislation that prevented local governments from improving on state standards for employee protections like paid sick leave and minimum wage (HB4052, SB353). They also added nine days to the deadline by which employers must pay regular monthly employees (HB5235), essentially allowing employers to float paychecks and earn over a week of interest that rightfully belongs to the employees. At the same time, Democrats in Michigan introduced legislation to increase unemployment benefits (SB453, HB4894), create a commission on pay equity (SB328, HB4629), and require employers to provide “wage information for similarly situated employees” (SB330, HB4631). These pro-worker measures have each been stalled by Republican leadership.

### Benefits of Paid Sick Leave

A growing body of research shows the economic and public health benefits of offering paid sick leave, which include:

- Easing pressure on emergency rooms. Those without paid sick leave visit emergency rooms for their own care at twice the rate as others and 2.5 times more often for their children.<sup>3</sup> This drives up employers’ insurance costs. Conversely, paid sick leave decreases these costs. These preventable visits to emergency rooms by those lacking sick leave benefits are estimated to cost the U.S. \$1.1 billion annually.<sup>4</sup>
- Improving preventive care. Those with paid sick leave are more likely to use preventive care for themselves and their children, including flu shots, vaccines, cholesterol checks, and cancer screenings. The result: fewer prolonged illnesses and fewer days off.<sup>5</sup>
- Improved morale. Paid sick leave benefits lead to more productive workers and reduce turnover.<sup>6</sup> Lower turnover drives down the costs associated with hiring and training.<sup>7</sup>
- Aggregate economic benefits have been noted in cities after paid sick leave laws took effect. In the year after passage of a paid-sick-leave requirement in Seattle, growth in the number of employers exceeded that in surrounding Bellevue, Tacoma and Everett.<sup>8</sup> San Francisco experienced much the same in the sectors most affected by the new laws.<sup>9</sup>

### Answers to Arguments Against Paid Sick Leave

Many businesses are concerned about paid sick leave driving costs up which could force them to raise prices or cut jobs and work hours. A large survey of companies in Connecticut, the first state to

require paid sick leave, showed that employers experienced minimal to no increase in costs and minor administrative burdens as a result. While there was strong opposition to the laws ahead of enactment, that changed to support from a vast majority of companies after implementation.<sup>10</sup>

Some opponents fear that employees would take advantage of new benefits. Research in San Francisco showed the opposite. Employees were given nine days of paid sick leave; on average they took three.<sup>11</sup> A study in New York City had much the same result.<sup>12</sup> Few employers reported abuses after passage of Connecticut's law. Indeed, many commented on improved morale.<sup>13</sup>

The best argument to counter objections to paid sick leave: the benefits to profitable companies that provide it.<sup>14</sup> When sick employees stay home, fewer employees get sick.<sup>15</sup> In-N-Out Burger, where paid sick leave is standard, stands out in the fast-food industry, where many employers insist it is unaffordable. Stop & Shop, Aldi, and Fred Meyer show that even in the traditionally low-margin grocery industry, business can thrive while offering paid sick leave.<sup>16</sup>

## Federal Coronavirus Stimulus Package

In the midst of the COVID-19 pandemic, the federal government has temporarily instituted national paid sick leave benefits. However, the bill has, in the words of the New York Times' Editorial Board, "a giant hole" that affects many of those most in need. A rare bipartisan acknowledgement of the benefits of keeping sick employees from the workplace, where they could raise the level of COVID-19 contagion, precipitated the rush to enact the law. Yet, after spirited debate pitting perceived business interests against public health, and over economists' objections, lawmakers carved out sizeable exclusions.<sup>17</sup> (*See Appendix B for summary terms of the law.*)

## Exclusions in the Stimulus Package

Prior to the stimulus package, the U.S. Bureau of Labor Statistics reported, 70 percent of the lowest compensated workers (defined as the bottom 10 percent of U.S. workers) did not have a single paid sick day off, and a full 27 percent of all workers were without other paid leave benefits, such as family or medical leave.<sup>18</sup> Since passage of the stimulus package, the number of those left out has been difficult to measure given the turmoil of business closures and reduced workforces. Here's what we do know about the exclusions:

- Companies with fewer than 50 workers may file an exemption from providing paid sick leave, or extended family and medical leave, due to school or daycare closures if it threatens the business' viability. Nationally, roughly 12M civilians work for small companies.<sup>19</sup>
- Companies with more than 500 employees are excluded under this law. Of the 59M employees of large companies, roughly 6.5M had no paid sick leave benefits in 2019. Companies employing professionals usually have paid sick leave, although their plans vary considerably; some may not cover the needs presented by this pandemic. Industries most likely to lack paid sick leave include food service, big box retailers, the grocery industry and businesses that classify many of their workers as contractors, such as ride services.<sup>20</sup>
- Health care providers and emergency responders can be excluded from the package at the Labor Secretary's discretion.

## A Closer Look at Michigan’s Paid Sick Leave

The foregoing paid sick leave provisions passed by the U.S. Congress are a temporary response to the COVID-19 pandemic. At present, these measures will expire on December 31, 2020. It remains to be seen whether Congress will extend these measures, or perhaps take additional steps to ensure they are enacted longer-term to protect the health of our workers and the economy. In the meantime, it is up to the states to ensure that their workforce will be adequately protected in the long run, something that Michiganders have attempted to do with inconclusive results.

In 2018, MI Time to Care led a campaign to put the Earned Sick Time Initiative on the November 2018 ballot.<sup>21,22</sup> This citizen-led initiative required companies to provide paid sick leave for their employees. In companies with fewer than 10 employees, employees would be able to accrue and use up to 40 hours of sick time per year. In companies with 10 or more employees, they would be able to accrue and use up to 72 hours of sick time per year.

MI Time to Care collected 377,560 signatures and the Earned Sick Time Initiative was sent to the Legislature, which could either place it on the November ballot or adopt the initiative (See Appendix A, “Adopt and Amend Process” and Local Majority’s paper – *Adopt and Amend* ).<sup>23,24</sup> The Legislature decided to adopt the initiative, and renamed it the Earned Sick Time Act (ESTA), thereby allowing them to amend it subsequently with a simple majority instead of the three-fourths majority required to amend citizen-led, voter-enacted initiatives.<sup>25</sup> And amend it they did—removing sick leave requirements for businesses with fewer than 50 employees and capping all sick leave at 40 hours (SB1175), as well as renaming it the Paid Medical Leave Act.<sup>26</sup> Governor Rick Snyder then signed the bill into law on December 13, 2018. Not only did they substantially change the legislation (See Table 1), but they denied Michigan voters the chance to make their voices heard.

Number of Employees	Earned Sick Time Act (ESTA, as adopted from the Citizen-led Ballot Initiative <sup>27</sup>	Paid Medical Leave Act, as amended from ESTA <sup>28</sup>
Fewer than 10	Up to 40 hours per year	No guaranteed sick leave
10 to 49	Up to 72 hours per year	No guaranteed sick leave
50 or more	Up to 72 hour per year	Up to 40 hours per year

**Table 1** - Changes in paid leave benefits adopted Sept. 5, 2018, and as amended Dec. 14, 2018.

## Why it Matters Even More Now

By exempting businesses with fewer than 50 employees, the amendments left the 1.46 M people who work for those smaller businesses without mandated sick leave.<sup>29</sup> This includes many people who work in retail sales, supermarkets, restaurants, and nursing homes—often employees currently on the frontline of the coronavirus pandemic.

A 2016 ‘Workplace and Health Poll’ conducted for NPR, the Robert Wood Johnson Foundation, and the Harvard T.H. Chan School of Public Health found that more than half of employees in low and average wage jobs go to work “always or most of the time” when sick with the flu.<sup>30</sup> COVID-19 is deadlier and spreads more easily than the flu, making access to paid sick leave even more critical now. Employees should not have to make a choice between protecting themselves, their families, and their co-workers versus losing their jobs.

## Conclusion

Michigan voters deserve a Legislature that respects and protects their ability to vote on citizen-led ballot initiatives. While the Republican-led Legislature has been adopting and amending initiatives to weaken protections for employees, Democratic legislators have been fighting to get the original paid leave language reinstated. In March 2020, State Rep. Padma Kuppa (HD-41, Troy) introduced legislation (HB5628) that would reverse the cuts made by Republicans in 2018 and provide meaningful sick leave for those working for small companies.<sup>31</sup> Once the federal measures passed during this COVID-19 pandemic expire, we need to make sure that workers—especially those who are on the front lines now and in the future—can stay home when they are sick and by doing so, help keep everyone safer.

## Appendix A - Adopt & Amend Process

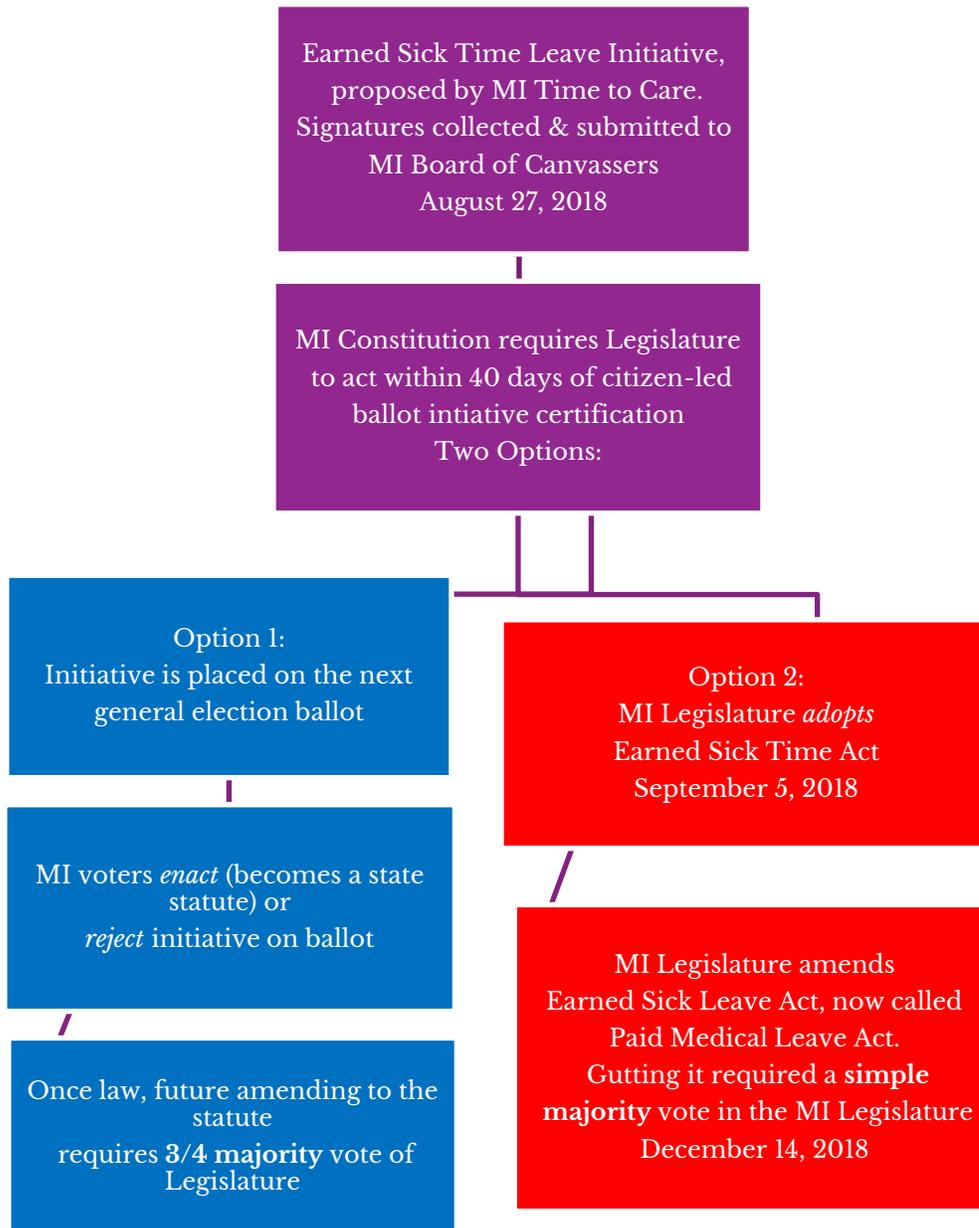


Figure 1. Process Chart for Citizen-led Ballot Initiatives as defined in the 1963 State of Michigan Constitution<sup>32</sup>

## Appendix B—Summary of Federal Families First Coronavirus Response Act (in effect through December 31, 2020)<sup>33</sup>

All employers must provide paid sick leave as follows:

- Employees receive up to two weeks full pay if they are experiencing COVID-19 symptoms or are officially quarantined. Pay is calculated at the higher of their regular pay rate or minimum wage up to \$511 per day.
- Employees receive up to two weeks at two-thirds of full pay if they are caring for someone officially quarantined or caring for a child whose school is closed. Pay is calculated at two-thirds of the higher of their regular pay rate or minimum wage up to \$200 per day.
- Employees may receive an extension of 10 weeks for family and medical leave at two-thirds pay if they are caring for a child under 18 years of age whose school or child-care provider is closed due to COVID-19.
- Part-time employees are covered based on their average number of weekly hours worked.

Exclusions from the law:

- Large companies with more than 500 employees.
- Small companies with fewer than 50 employees that file for a business viability exemption (which only exempts them from providing paid sick leave or extended family and medical leave due to school or daycare closures.)
- State and federal employees (covered under respective laws).
- Seasonal workers.
- Independent contractors receiving 1099s.

Eligibility requirements include:

- Employees must have worked more than 30 days at a company.

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<sup>1</sup> <https://www.bridgemi.com/business-watch/depression-level-michigan-unemployment-tops-1-million-coronavirus>

<sup>2</sup> <https://www.detroitnews.com/story/news/local/michigan/2020/06/19/michigan-unpaid-unemployment-claims-grow-137-000-many-flagged-fraud/3221916001/>

<sup>3</sup> <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-sick-days/paid-sick-days-attitudes-and-experiences.pdf>

<sup>4</sup> <https://iwpr.org/wp-content/uploads/wpallimport/files/iwpr-export/publications/B301-PSD&ED.pdf>

<sup>5</sup> <https://www.ncbi.nlm.nih.gov/pubmed/28189802>

<sup>6</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3825168/>

<sup>7</sup> <https://www.adecousa.com/employers/resources/cost-of-turnover-calculator/>

<sup>8</sup> <https://www.seattle.gov/Documents/Departments/CityAuditor/auditreports/PSSTOUWReportwAppendices.pdf>

<sup>9</sup> <https://iwpr.org/wp-content/uploads/wpallimport/files/iwpr-export/publications/C385.pdf>

<sup>10</sup> <https://cepr.net/documents/good-for-buisness-2014-02-21.pdf>

<sup>11</sup> [https://iwpr.org/wp-content/uploads/wpallimport/files/iwpr-export/publications/A138\\_edited.pdf](https://iwpr.org/wp-content/uploads/wpallimport/files/iwpr-export/publications/A138_edited.pdf)

<sup>12</sup> [https://www.huffpost.com/entry/who-really-takes-paid-sic\\_b\\_11892588?section=us\\_business&gucounter=1](https://www.huffpost.com/entry/who-really-takes-paid-sic_b_11892588?section=us_business&gucounter=1)

<sup>13</sup> <https://cepr.net/documents/good-for-buisness-2014-02-21.pdf>

<sup>14</sup> <https://www.nytimes.com/2020/03/14/opinion/sunday/coronavirus-paid-sick-leave.html>

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<sup>15</sup> [https://www.localmajority.org/wp-content/uploads/2020/05/PA.PaidSickLeave.20200508.4.LAJ\\_JXR\\_FB\\_RF\\_.pdf](https://www.localmajority.org/wp-content/uploads/2020/05/PA.PaidSickLeave.20200508.4.LAJ_JXR_FB_RF_.pdf)

<sup>16</sup> <https://shift.berkeley.edu/paid-sick-leave-brief/>

<sup>17</sup> <https://www.nytimes.com/2020/03/14/opinion/coronavirus-pelosi-sick-leave.html>

<sup>18</sup> <https://www.bls.gov/ncs/ebs/benefits/2019/employee-benefits-in-the-united-states-march-2019.pdf>, page 299, Table 31.

<sup>19</sup> <https://time.com/5803671/paid-leave-imminent-coronavirus/>

<sup>20</sup> <https://time.com/5803671/paid-leave-imminent-coronavirus/>

<sup>21</sup> [https://www.house.mi.gov/hfa/PDF/Alpha/Legislative\\_Analysis\\_SickTime\\_Initiative\\_Sep18.pdf](https://www.house.mi.gov/hfa/PDF/Alpha/Legislative_Analysis_SickTime_Initiative_Sep18.pdf)

<sup>22</sup> [https://ballotpedia.org/Michigan\\_Paid\\_Sick\\_Leave\\_Initiative\\_\(2018\)](https://ballotpedia.org/Michigan_Paid_Sick_Leave_Initiative_(2018))

<sup>23</sup> Ibid

<sup>24</sup> [https://www.localmajority.org/wp-content/uploads/2020/05/MI.AdoptAmend.2020523.HY\\_jr\\_rf\\_.pdf](https://www.localmajority.org/wp-content/uploads/2020/05/MI.AdoptAmend.2020523.HY_jr_rf_.pdf)

<sup>25</sup> <https://www.legislature.mi.gov/documents/2017-2018/billanalysis/House/pdf/2017-HLA-1175-7A3AF60B.pdf>

<sup>26</sup> <http://www.legislature.mi.gov/documents/2017-2018/publicact/htm/2018-PA-0369.htm>

<sup>27</sup> [https://www.house.mi.gov/hfa/PDF/Alpha/Legislative\\_Analysis\\_SickTime\\_Initiative\\_Sep18.pdf](https://www.house.mi.gov/hfa/PDF/Alpha/Legislative_Analysis_SickTime_Initiative_Sep18.pdf)

<sup>28</sup> <https://www.legislature.mi.gov/documents/2017-2018/billanalysis/House/pdf/2017-HLA-1175-7A3AF60B.pdf>

<sup>29</sup> <https://milmi.org/datasearch/firmsize - 3rd quarter 2019 total of firms with less than 50 employees>

<sup>30</sup> <https://www.npr.org/documents/2016/jul/HarvardWorkplaceandHealthPollReport.pdf>

<sup>31</sup> <https://housedems.com/article/kuppa-bill-fully-restore-earned-paid-sick-leave-17-million-workers>

<sup>32</sup> <http://legislature.mi.gov/doc.aspx?mcl-Article-II-9>

<sup>33</sup> <https://www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave>