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## BILL ANALYSIS



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Senate Bill 1175 (as introduced 11-8-18)  
Sponsor: Senator Mike Shirkey  
Committee: Government Operations

Date Completed: 11-27-18

**CONTENT**

**The bill would amend the Earned Sick Time Act to do the following:**

- **Delete a provision specifying that there is a rebuttable presumption of a violation of the Act if an employer takes adverse personnel action against a person within 90 days after that person takes certain actions alleging a violation of the Act; opposes any policy, practice, or act that is prohibited under the Act; or informs any person of his or her rights under the Act.**
- **Delete a provision specifying that there is a presumption that an employer has violated the Act if the employer fails to maintain or retain adequate records determining the hours worked and earned sick time taken by the employee, or does not allow the Department of Licensing and Regulatory Affairs (LARA) reasonable access to those records.**

The Earned Sick Time Act is effective 91 days after the 2018 Regular Session adjourns sine die.

**Rebuttable Presumption of Violation; Eliminate**

The Act requires each employee in the State to provide earned sick time to each of its employees. "Earned sick time" means time off from work that is provided by an employer to an employee, whether paid or unpaid, that can be used for the any of the purposes specified in the Act

The Act prohibits an employer or any other person from interfering, restraining, or denying the exercise of, or the attempt to exercise, any right protected under the Act. An employer may not take retaliatory personnel action or discriminate against an employee because the employee has exercised a right protected under the Act.

There is a rebuttable presumption of a violation of the Act if an employer takes adverse personnel action against a person within 90 days after that person does any of the following:

- Files a complaint with LARA or a court alleging a violation of the Act.
- Informs any person about an employer's alleged violation of the Act.
- Cooperates with the Department or another person in the investigation or prosecution of any alleged violation of the Act.
- Opposes any policy, practice, or act that is prohibited under the Act.
- Informs any person of his or her rights under the Act.

The bill would delete the provision pertaining to the rebuttable presumption of a violation of the Act.

#### Document Retention

The Act requires an employer to retain for at least three years records documenting the hours worked and earned sick time taken by employees. The bill instead would require an employer to retain the records for *six months*.

Additionally, the Act specifies that if a question arises as to whether an employer has violated an employee's right to earned sick time, and the employer does not maintain or retain adequate records determining the hours worked and earned sick time taken by the employee or does not allow LARA reasonable access to those records, there is a presumption that the employer has violated the Act, which can be rebutted only by clear and convincing evidence. The bill would delete this provision.

MCL 408.966 & 406.970

Legislative Analyst: Stephen Jackson

#### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Elizabeth Raczkowski

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