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Act No. 238

Public Acts of 2020

Approved by the Governor

October 22, 2020

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STATE OF MICHIGAN

100TH LEGISLATURE

REGULAR SESSION OF 2020

Introduced by Reps. Filler, Albert, Brann, Allor, Webber, Bellino, Steven Johnson, Paquette, Alexander, Meerman, Slagh, Calley, Lower, Marino, LaFave, Wozniak, Rendon, Markkanen, Maddock, VanSingel, Bollin, Miller, Vaupel, Farrington and Frederick

ENROLLED HOUSE BILL NO. 6032

AN ACT to prohibit an employer from taking certain actions against an employee who does not report to work under certain circumstances related to COVID-19; to prohibit an employee from reporting to work under certain circumstances related to COVID-19; to prohibit discrimination and retaliation for engaging in certain activities; and to provide remedies.

The People of the State of Michigan enact:

Sec. 1. As used in this act:

(a) “Close contact” means being within approximately 6 feet of an individual for 15 minutes or longer.

(b) “COVID-19” means the novel coronavirus identified as SARS-CoV-2 or a virus mutating from SARS-CoV-2.

(c) “Employee” means an individual employed by an employer and whose primary workplace is not the individual’s residence.

(d) “Employer” means a person or a state or local governmental entity that employs 1 or more individuals.

(e) “First responder” means any of the following:

(*i*) A law enforcement officer.

(*ii*) A firefighter.

(*iii*) A paramedic.

(f) “Health care facility” means any of the following facilities, including those that may operate under shared or joint ownership, and a facility used as surge capacity by any of the following facilities:

(*i*) An entity listed in section 20106(1) of the public health code, 1978 PA 368, MCL 333.20106.

(*ii*) A state-owned hospital or surgical center.

(*iii*) A state-operated outpatient facility.

(*iv*) A state-operated veterans' facility.

(g) "Person" means an individual, partnership, corporation, association, or other legal entity.

(h) "Principal symptoms of COVID-19" has the definition provided by order of the director or chief medical executive of the Michigan department of health and human services. In the event that the term is not defined by the director or chief medical executive of the Michigan department of health and human services at the time of an action taken under section 5, principal symptoms of COVID-19 means either or both of the following:

(*i*) One or more of the following not explained by a known medical or physical condition:

(A) Fever.

(B) Shortness of breath.

(C) Uncontrolled cough.

(*ii*) Two or more of the following not explained by a known medical or physical condition:

(A) Abdominal pain.

(B) Diarrhea.

(C) Loss of taste or smell.

(D) Muscle aches.

(E) Severe headache.

(F) Sore throat.

(G) Vomiting.

Sec. 3. (1) Except as provided in subsection (2), an employer shall not discharge, discipline, or otherwise retaliate against an employee who does any of the following:

(a) Complies with section 5, including where an employee who displays the principal symptoms of COVID-19 does not report to work and later tests negative for COVID-19.

(b) Opposes a violation of this act.

(c) Reports health violations related to COVID-19.

(2) Subsection (1) does not apply to an employee described in section 5 who, after displaying the principal symptoms of COVID-19, fails to make reasonable efforts to schedule a COVID-19 test within 3 days after receiving a request from their employer to get tested for COVID-19.

Sec. 5. (1) An employee who tests positive for COVID-19 or displays the principal symptoms of COVID-19 shall not report to work until all of the following conditions are met:

(a) If the employee has a fever, 24 hours have passed since the fever has stopped without the use of fever-reducing medications.

(b) Ten days have passed since either of the following, whichever is later:

(*i*) The date the employee's symptoms first appeared.

(*ii*) The date the employee received the test that yielded a positive result for COVID-19.

(c) The employee's principal symptoms of COVID-19 have improved.

(2) Except as provided in subsection (3), an employee who has close contact with an individual who tests positive for COVID-19 or with an individual who displays the principal symptoms of COVID-19 shall not report to work until 1 of the following conditions is met:

(a) Fourteen days have passed since the employee last had close contact with the individual.

(b) The individual with whom the employee had close contact receives a medical determination that they did not have COVID-19 at the time of the close contact with the employee.

(3) Subsection (2) does not apply to an employee who is any of the following:

(a) A health care professional.

(b) A worker at a health care facility.

(c) A first responder.

(d) A child protective service employee.

(e) A worker at a child caring institution, as that term is defined in section 1 of 1973 PA 116, MCL 722.111.

(f) A worker at an adult foster care facility, as that term is defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703.

(g) A worker at a correctional facility.

Sec. 7. (1) An employee aggrieved by a violation of this act may bring a civil action for appropriate injunctive relief or damages, or both, in the circuit court for the county where the alleged violation occurred or for the county where the employer against whom the action is filed is located or has its principal place of business.

(2) A court shall award to a plaintiff who prevails in an action brought under this act damages of not less than $5,000.00.

Sec. 9. This act applies to public employers and public employees, except to the extent that it is inconsistent with section 5 of article XI of the state constitution of 1963.

Sec. 10. This act is effective retroactive to March 1, 2020.

Sec. 12. This act does not affect rights, remedies, or protections under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, including the exclusive application of that act.

Enacting section 1. This act does not take effect unless all of the following bills of the 100th Legislature are enacted into law:

(a) House Bill No. 6030.

(b) House Bill No. 6031.

(c) House Bill No. 6101.

This act is ordered to take immediate effect.

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