

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**  
**2017 Legislative Session**

Bill No. CB-87-2017

Chapter No. 97

Proposed and Presented by Council Member Toles

Introduced by Council Members Toles, Davis, Glaros, Franklin, Harrison, Lehman,  
Patterson, Taveras and Turner

Date of Introduction October 17, 2017

**BILL**

1 AN ACT concerning

2 Earned Sick and Safe Leave

3 For the purpose of requiring certain employers in the County to provide earned sick and safe  
4 leave to certain employees working in the County due to domestic violence, sexual assault, or  
5 stalking; provide enforcement by the Human Relations Commission; and generally regulating the  
6 sick and safe leave benefits provided to an employee working in the County for certain  
7 employers.

8 BY adding:

9 SUBTITLE 13A. LABOR CODE.

10 Sections 13A-119, 13A-120, 13A-121, 13A-122, 13A-  
11 123, 13A-124, 13A-125 and 13A-126,

12 The Prince George's County Code  
13 (2015 Edition; 2016 Supplement).

14 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,  
15 Maryland, that Sections 13A-119, 13A-120, 13A-121, 13A-122, 13A-123, 13A-124, 13A-125  
16 and 13A-126 of the Prince George's County Code be and the same are hereby added:

17 **SUBTITLE 13A. LABOR CODE.**

18 **DIVISION 3. EARNED SICK AND SAFE LEAVE.**

19 **Sec. 13A-119. Legislative findings and declaration of purpose.**

20 The County Council for Prince George's County, Maryland, hereby finds that many persons  
21 employed in the County do not receive earned sick and safe leave. Minimum standards for

1 earned sick and safe leave in the County are necessary to promote the health and welfare of  
 2 County residents; safeguard employers and employees against unfair competition; increase the  
 3 stability of industry in the County; decrease the need for the County to spend public money for  
 4 the relief of employees who also live in the County; and that in order to effectively respond, the  
 5 County Council for Prince George’s County, Maryland hereby declares that it is the public  
 6 policy of Prince George’s County to reduce the number of employees who are forced to come to  
 7 work when they or a family member are in need of medical attention, victim services, legal  
 8 services, or for relocation purposes due to domestic violence, sexual assault, or stalking because  
 9 they have no paid sick leave.

10 **Sec. 13A-120. Definitions.**

11 (a) For purposes of this Division, the following words and phrases shall have the following  
 12 meanings indicated:

13 (1) Abuse shall have the meaning defined in the Annotated Code of Maryland,  
 14 Family Law Article, Section 4-501.

15 (2) Director shall mean the Executive Director of the Human Relations Commission.

16 (3) Domestic violence shall mean abuse against a person eligible for relief.

17 (4) Earned sick and safe leave shall mean paid leave away from work that is  
 18 provided by an employer under Section 13A-121 and may be used for the purposes described in  
 19 Section 13A-123.

20 (5) Employ shall mean to engage a person to work for compensation.

21 (6) Employee shall mean any person permitted or instructed to work or be present by  
 22 an employer in the County. Employee does not include an individual who:

23 (A) does not have a regular work schedule with the employer;

24 (B) contacts the employer for work assignments and is scheduled to work the  
 25 assignments within forty-eight (48) hours after contacting the employer;

26 (C) has no obligation to work for the employer if the individual does not contact  
 27 the employer for work assignments;

28 (D) is not employed by a temporary placement agency;

29 (E) performs work under a contract of hire that that is determined not to be  
 30 covered employment under Section 8-205 of the Labor and Employment Article, Annotated  
 31 Code of Maryland;

1           (F) is not a covered employee under Section 9-222 of the Labor and Employment  
 2 Article, Annotated Code of Maryland;

3           (G) is under the age of 18 years before the beginning of the year;

4           (H) is employed in the agricultural sector on an agricultural operation under Section  
 5 5-403(a) of the Courts Article, Annotated Code of Maryland;

6           (I) is employed by a temporary services agency to provide temporary staffing  
 7 services to another person if the temporary services agency does not have day-to-day control  
 8 over the work assignments and supervision of the individual while the individual is providing the  
 9 temporary staffing services; or

10          (J) is directly employed by an employment agency to provide part-time or temporary  
 11 services to another person.

12          (7) **Employer** shall mean any person, individual, proprietorship, partnership, joint  
 13 venture, corporation, limited liability company, trust, association, or other entity operating and  
 14 doing business in the County that employs fifteen (15) or more persons in the County in addition  
 15 to the owners. Employer includes the County government, but does not include the United  
 16 States, any State, or any other local government. If the County government’s sick leave accrual  
 17 and use requirements meet or exceed the sick and safe leave provided for under this Division,  
 18 employees of the County government who are part of the County government’s personnel system  
 19 are subject to the County government’s laws, regulations, policies, and procedures providing for:

20           (A) accrual and use of sick leave;

21           (B) grievances; and

22           (C) disciplinary actions.

23          (8) **Family member** shall mean:

24           (A) a biological child, adopted child, foster child, or stepchild of the employee;

25           (B) a child for whom the employee has legal or physical custody or  
 26 guardianship;

27           (C) a child for whom the employee is the primary caregiver;

28           (D) a biological parent, adoptive parent, foster parent, or stepparent of the  
 29 employee or the employee’s spouse;

30           (E) the legal guardian of the employee;

31           (F) an individual who served as the primary caregiver of the employee when the

1 employee was a minor;

2 (G) the spouse of the employee;

3 (H) a grandparent of the employee;

4 (I) the spouse of a grandparent of the employee;

5 (J) a grandchild of the employee;

6 (K) a biological, adopted, or foster sibling of the employee; or

7 (L) the spouse of a biological, adopted, or foster sibling of the employee.

8 (9) **Health care provider** shall mean an individual licensed under State law to  
9 provide medical services.

10 (10) **Person eligible for relief** shall have the meaning defined in the Annotated Code  
11 of Maryland, Family Law Article, Section 4-501.

12 (11) **Sexual assault** shall mean:

13 (A) rape, sexual offense, or any other act that is a sexual crime pursuant to the  
14 Annotated Code of Maryland, Criminal Law Article, Title 3, Subtitle 3;

15 (B) child sexual abuse pursuant to the Annotated Code of Maryland, Criminal  
16 Law Article, Section 3-602; or

17 (C) sexual abuse of a vulnerable adult pursuant to the Annotated Code of  
18 Maryland, Criminal Law Article, Section 3-604.

19 (12) **Stalking** shall have the meaning defined in the Annotated Code of Maryland,  
20 Criminal Law Article, Section 3-802.

21 (13) **Tipped employee** shall mean an employee who:

22 (A) is engaged in an occupation in which the employee customarily and  
23 regularly receives more than Thirty Dollars (\$30) each month in tips;

24 (B) has been informed by the employer about the provisions of this Section; and

25 (C) has kept all of the tips that the employee received.

26 **Sec. 13A-121. Earned sick and safe leave required.**

27 (a) Earned sick and safe leave. An employer shall provide each employee earned sick and  
28 safe leave for work performed in the County paid at the same rate and with the same benefits as  
29 the employee normally earns. A tipped employee shall be paid at least the County minimum  
30 wage required under Section 13A-117 for each hour the employee uses earned sick and safe  
31 leave.

1        (b) Rate of accrual. The earned sick and safe leave provided under Subsection (a) shall  
 2 accrue at a rate of at least one (1) hour for every thirty (30) hours an employee works in the  
 3 County, except an employer shall not be required to allow an employee to:

4            (1) earn more than forty (40) hours of earned sick and safe leave in a calendar year;

5 or

6            (2) use more than sixty-four (64) hours of earned sick and safe leave in a calendar  
 7 year.

8        (c) Retaliation prohibited. A person shall not:

9            (1) retaliate against any person for:

10            (A) lawfully opposing any violation of this Division; or

11            (B) filing a complaint, testifying, assisting, or participating in any manner in an  
 12 investigation, proceeding, or hearing under this Division; or

13            (2) obstruct or prevent enforcement or compliance with this Division.

14 **Sec. 13A-122. Minimum earned sick and safe leave standards.**

15        (a) An employer may award earned sick and safe leave as the leave accrues during the  
 16 calendar year or may award the full amount that an employee would earn over the entire calendar  
 17 year at the beginning of a calendar year.

18        (b) To calculate the rate of accrual of earned sick and safe leave for an employee who is  
 19 exempt from the overtime provisions of the Federal Fair Labor Standards Act, the employer shall  
 20 assume the employee worked the number of hours worked in a normal workweek up to forty (40)  
 21 hours each workweek.

22        (c) An employer shall permit an employee to carry the balance of any unused earned sick  
 23 and safe leave over to the next calendar year, but an employer shall not be required to permit an  
 24 employee to carry over more than forty (40) hours of unused earned sick and safe leave.

25        (d) If an employee begins working outside the County for the same employer, the  
 26 employer shall permit the employee to use the earned sick and safe leave that accrued while  
 27 working for the employer in the County.

28        (e) If an employee is rehired by an employer to work in the County within twelve (12)  
 29 months after leaving the employment, the employer shall reinstate any unused earned sick and  
 30 safe leave that the employee had when the employee left the employment.

31        (f) An employer may permit an employee to use earned sick and safe leave before the

1 amount needed by the employee accrues.

2 **Sec. 13A-123. Use of earned sick and safe leave.**

3 (a) An employee may use earned sick and safe leave if the absence from work is due to  
 4 domestic violence, sexual assault, or stalking committed against the employee or the employee's  
 5 family member and the leave is used:

6 (1) by the employee to obtain for the employee or the employee's family:

7 (A) medical attention needed to recover from a physical or psychological injury  
 8 due to domestic violence, sexual assault, or stalking;

9 (B) services from a victim services organization related to the domestic violence,  
 10 sexual assault, or stalking; or

11 (C) legal services, including preparing for or participating in a civil or criminal  
 12 proceeding related to the domestic violence, sexual assault, or stalking; or

13 (2) during the time that the employee has temporarily relocated due to the domestic  
 14 violence, sexual assault, or stalking.

15 (b) To use earned sick and safe leave, an employee shall:

16 (1) request leave from the employer as soon as practicable after the employee  
 17 determines that the employee needs to take leave;

18 (2) notify the employer of the anticipated duration of the leave; and

19 (3) comply with any reasonable procedures established by the employer when  
 20 requesting and taking leave.

21 (c) An employer may deny a request to take earned sick and safe leave if:

22 (1) an employee fails to provide the notice required under Subsection (b); and

23 (2) the employee's absence will cause a disruption to the employer.

24 (d) An employer shall not require an employee who requests earned sick and safe leave to  
 25 search for or find an individual to take the employee's place while the employee takes leave.

26 (e) An employer shall not require an employee to:

27 (1) disclose details of the mental or physical illness, injury, or condition of the  
 28 employee or the employee's family member; or

29 (2) provide as certification any information that would violate the Federal Social  
 30 Security Act or the Federal Health Insurance Portability and Accountability Act.

31 (f) By mutual consent of the employee and the employer, the employee may work

1 additional hours or trade shifts with another employee during a pay period to make up the  
2 amount of work hours that the employee missed for which the employee could have used earned  
3 sick and safe leave.

4 (g) An employee may take earned sick and safe leave in the smallest increment that the  
5 employer's payroll system uses to account for absences or work time, except that an employee  
6 shall not be required to take earned sick and safe leave in an increment of more than one (1)  
7 hour.

8 (h) An employer shall provide an employee with a written statement of available earned  
9 sick and safe leave each time the employer pays wages to the employee.

10 (i) An employer may require an employee who uses more than three (3) consecutive days  
11 of earned sick and safe leave to provide reasonable documentation to verify that the leave was  
12 used appropriately.

13 **Sec. 13A-124. Notice.**

14 (a) An employer shall notify the employees that they are entitled to earned sick and safe  
15 leave under this Division.

16 (b) The notice shall include:

17 (1) a statement of how earned sick and safe leave is accrued;

18 (2) the permitted uses of earned sick and safe leave;

19 (3) a statement that the employer shall not retaliate against an employee for  
20 exercising the rights granted by this Division; and

21 (4) information about the employee's right to file a complaint with the Director for a  
22 violation of any rights granted by this Division.

23 (c) The Director shall create and publish a model notice in English, Spanish, and any other  
24 language that the Director finds is necessary that may be used by an employer to comply with  
25 Subsection (b).

26 (d) An employer may provide notice by:

27 (1) displaying the model notice or another notice containing the same information in  
28 a conspicuous and accessible area at each of the employer's work locations in the County;

29 (2) including the model notice or another notice containing the same information in  
30 an employee handbook or other written guidance distributed to all employees; or

31 (3) distributing the model notice or another notice containing the same information to

1 each employee when the employee is hired.

2 **Sec. 13A-125. Records.**

3 (a) An employer shall keep, for at least three (3) years, a record of:

4 (1) earned sick and safe leave accrued by each employee; and

5 (2) earned sick and safe leave used by each employee.

6 (b) After giving the employer notice and determining a mutually agreeable time for the  
7 inspection, the Director may inspect a record kept under Subsection (a) for the purposes of  
8 determining whether the employer is complying with this Division.

9 **Sec. 13A-126. Enforcement.**

10 (a) The Director shall administer and enforce this Division.

11 (b) A covered employee who did not receive earned sick and safe leave in violation of this  
12 Division may file a complaint with the Director pursuant to Title 2, Division 12 of the County  
13 Code.

14 SECTION 2. BE IT FURTHER ENACTED that the provisions of this Act are hereby  
15 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,  
16 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of  
17 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining  
18 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this  
19 Act, since the same would have been enacted without the incorporation in this Act of any such  
20 invalid or unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection,  
21 or section.

22 SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)  
23 calendar days after the adjournment of the 2018 General Assembly of Maryland.



Adopted this 14th day of November, 2017.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND

BY: \_\_\_\_\_  
Derrick Leon Davis  
Chairman

ATTEST:

\_\_\_\_\_  
Redis C. Floyd  
Clerk of the Council

APPROVED:

DATE: \_\_\_\_\_ BY: \_\_\_\_\_  
Rushern L. Baker, III  
County Executive

KEY:  
Underscoring indicates language added to existing law.  
[Brackets] indicate language deleted from existing law.  
Asterisks \*\*\* indicate intervening existing Code provisions that remain unchanged.