

## Michigan Court of Appeals: ‘Adopt And Amend’ Strategy Is Constitutional; Current Paid Medical Leave and Minimum Wage Laws Remain For Foreseeable Future

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In a unanimous decision (***Mothering Justice, et al. v Attorney General***) issued January 26, 2023, the Michigan Court of Appeals overturned a July 2022 Court of Claims ruling that the Michigan Legislature lacked the constitutional authority to adopt and subsequently amend two 2018 ballot initiatives. Prior to the January 26 ruling, Michigan employers were faced with a February 20, 2023 deadline by which they would have to offer employees more earned sick time, as well as a higher minimum wage, as a result of the voter-initiated legislation originally adopted by the legislature in September 2018. The full procedural history of the ballot initiatives is summarized [here](#).

The Court of Appeals held that the Michigan Legislature had the constitutional authority in 2018 to adopt a pair of petition initiatives and then immediately amend those statutes with the Governor’s signature. In a 20-page published opinion, the court explained that there is no explicit language in the Michigan Constitution banning the legislature from adopting laws initiated by petition and amending those laws in the same legislative session.

The decision confirms that, unless the Michigan Supreme Court weighs in with a different answer or the current legislature were to step in legislatively, Michigan employers are no longer required to make changes to their paid time off policies and procedures and wage schedules to conform to the 2018 petition initiatives. This means that employers need only comply with the existing Paid Medical Leave Act, rather than provide the additional sick time as contemplated in the 2018 initiative (called the Earned Sick Time Act); and the state’s hourly minimum wage will remain for 2023 at \$10.10, while the tipped minimum wage will remain at \$3.84 an hour.

The Court of Appeals’ decision has immediate effect, but it is likely to be appealed to the Michigan Supreme Court. Miller Canfield will continue to monitor and report on further developments. As always, please contact your Miller Canfield attorney if you have questions.