

By: Thompson

H.B. No. 611

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility for unemployment compensation benefits of certain employees who provide at-home infant care after the birth or adoption of a child.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 207, Labor Code, is amended by adding Section 207.026 to read as follows:

Sec. 207.026. BIRTH OR ADOPTION OF CHILD. (a) In this section, "parent" means a child's birth parent, stepparent, adoptive parent, or foster parent and includes a child's legal guardian.

(b) An individual who is the parent of a newborn child may not be denied benefits solely because the individual is on leave from or left the individual's last employment to care for the newborn child if the individual satisfies the requirements of Subsection (d).

(c) An individual who is on leave or who has left employment in accordance with Subsection (d):

(1) is eligible for benefits under this section; and
(2) is not required to comply with the provisions of this chapter relating to the individual's:

(A) availability for work;

(B) active search for work; or

(C) refusal to apply for or refusal to accept

1 suitable work.

2 (d) Except as provided by Subsection (e), a parent is
3 eligible to receive benefits under this section only if:

4 (1) the parent is providing care for the parent's
5 newborn child in the home in which the parent or newborn child
6 lives;

7 (2) the combined income of the parent or parents
8 living at the same residence as the newborn child is not more than
9 300 percent of the federal poverty guidelines for the year in which
10 the child is born;

11 (3) the parent or parents living at the same residence
12 as the newborn child, during each of the four calendar months
13 preceding the birth of the child, worked:

14 (A) a combined total of at least 100 hours, if two
15 parents live at the same residence as the newborn child;

16 (B) a total of at least 50 hours, if only one
17 parent lives at the same residence as the newborn child; or

18 (C) a total of at least 30 hours, if only one
19 parent lives at the same residence as the newborn child and that
20 parent is enrolled in and regularly attends high school, a high
21 school equivalency program, or an institution of postsecondary
22 education at the time the child is born; and

23 (4) the parent receiving benefits under this section
24 is 18 years of age or older or, if the parent is younger than 18
25 years of age, the parent is enrolled in and regularly attends high
26 school, a high school equivalency program, or an institution of
27 postsecondary education or has attained a high school equivalency

1 certificate or a high school diploma.

2 (e) A newborn child's parent who is younger than 18 years of
3 age and who attends high school or a high school equivalency program
4 may receive benefits under this section during a calendar month or
5 any portion of a calendar month that is not included in the school
6 year adopted by the school district in which the parent lives.

7 (f) A parent receiving benefits under this section may not
8 be employed outside of the parent's home at the same time the parent
9 receives benefits under this section.

10 (g) A parent who is eligible to receive benefits under this
11 section is entitled to receive benefits for not more than 12 weeks
12 immediately following the latest of:

13 (1) the date on which the child is born;

14 (2) the first date on which the child is released from
15 the hospital in which the child is born; or

16 (3) if the woman who gave birth to the child is the
17 parent receiving benefits under this section, the first date on
18 which that parent is released from the hospital in which the child
19 is born.

20 (h) Notwithstanding any other provision of this subtitle,
21 the amount of benefits under this section is an amount equal to the
22 number of weeks a parent receives benefits multiplied by 60 percent
23 of that parent's average earned weekly wage for the last four
24 calendar weeks the parent worked preceding the birth of the child,
25 reduced by:

26 (1) any amount paid to the individual by an employer
27 because of the birth or adoption of the child; and

1 (2) any amount paid to the individual under a
2 disability insurance plan contributed to by an employer, in
3 proportion to the employer's contribution to the plan.

4 (i) An individual may not receive benefits under this
5 section for more than 12 months during the individual's lifetime.

6 (j) An employer shall provide notice as prescribed by the
7 commission by rule regarding the availability of benefits under
8 this section to each employee before the employee's first day of
9 employment.

10 (k) This section shall be applied in accordance with any
11 applicable regulations of the United States Department of Labor.

12 SECTION 2. Section 207.045(d), Labor Code, is amended to
13 read as follows:

14 (d) Notwithstanding any other provision of this section, an
15 individual who is available to work may not be disqualified for
16 benefits because the individual left work because of:

17 (1) a medically verified illness of the individual or
18 the individual's minor child;

19 (2) injury;

20 (3) disability;

21 (4) pregnancy;

22 (5) an involuntary separation as described by Section
23 207.046; ~~or~~

24 (6) a move from the area of the individual's employment
25 that:

26 (A) was made with the individual's spouse who is
27 a member of the armed forces of the United States; and

1 (B) resulted from the spouse's permanent change
2 of station of longer than 120 days or a tour of duty of longer than
3 one year; or

4 (7) the birth of the individual's child or the adoption
5 of a child by the individual, if the individual is eligible for
6 benefits under Section 207.026.

7 SECTION 3. Section 204.022(a), Labor Code, as amended by
8 Chapters 39, 493, and 728, Acts of the 79th Legislature, Regular
9 Session, 2005, is reenacted and amended to read as follows:

10 (a) Benefits computed on benefit wage credits of an employee
11 or former employee may not be charged to the account of an employer
12 if the employee's last separation from the employer's employment
13 before the employee's benefit year:

14 (1) was required by a federal statute;

15 (2) was required by a statute of this state or an
16 ordinance of a municipality of this state;

17 (3) would have disqualified the employee under Section
18 207.044, 207.045, 207.051, or 207.053 if the employment had been
19 the employee's last work;

20 (4) imposes a disqualification under Section 207.044,
21 207.045, 207.051, or 207.053;

22 (5) was caused by a medically verifiable illness of
23 the employee or the employee's minor child;

24 (6) was based on a natural disaster that results in a
25 disaster declaration by the president of the United States under
26 the Robert T. Stafford Disaster Relief and Emergency Assistance Act
27 (42 U.S.C. Section 5121 et seq.), if the employee would have been

1 entitled to unemployment assistance benefits under Section 410 of
2 that act (42 U.S.C. Section 5177) had the employee not received
3 state unemployment compensation benefits;

4 (7) was caused by a natural disaster, fire, flood, or
5 explosion that causes employees to be separated from one employer's
6 employment;

7 (8) was based on a disaster that results in a disaster
8 declaration by the governor under Section 418.014, Government Code;

9 (9) resulted from the employee's resigning from
10 partial employment to accept other employment that the employee
11 reasonably believed would increase the employee's weekly wage;

12 (10) was caused by the employer being called to active
13 military service in any branch of the United States armed forces on
14 or after January 1, 2003;

15 (11) resulted from the employee leaving the employee's
16 workplace to protect the employee from family violence or stalking
17 as evidenced by:

18 (A) an active or recently issued protective order
19 documenting family violence against, or the stalking of, the
20 employee or the potential for family violence against, or the
21 stalking of, the employee;

22 (B) a police record documenting family violence
23 against, or the stalking of, the employee; and

24 (C) a physician's statement or other medical
25 documentation of family violence against the employee; ~~[or]~~

26 (12) resulted from a move from the area of the
27 employee's employment that:

1 (A) was made with the employee's spouse who is a
2 member of the armed forces of the United States; and

3 (B) resulted from the spouse's permanent change
4 of station of longer than 120 days or a tour of duty of longer than
5 one year; ~~[or]~~

6 (13) [~~(12)~~] was caused by the employee being unable to
7 perform the work as a result of a disability for which the employee
8 is receiving disability insurance benefits under 42 U.S.C. Section
9 423; or

10 (14) resulted from the employee's taking leave or
11 leaving employment to care for a newborn child, if the individual is
12 eligible to receive benefits under Section 207.026.

13 SECTION 4. (a) The changes in law made by this Act apply
14 only to eligibility for unemployment compensation benefits under a
15 claim that is filed with the Texas Workforce Commission on or after
16 December 1, 2007. Eligibility for unemployment compensation
17 benefits under a claim that is filed before December 1, 2007, is
18 governed by the law in effect on the date the claim was filed, and
19 the former law is continued in effect for that purpose.

20 (b) To the extent of any conflict, this Act prevails over
21 another Act of the 80th Legislature, Regular Session, 2007,
22 relating to nonsubstantive additions to and corrections in enacted
23 codes.

24 (c) The Texas Workforce Commission shall adopt rules as
25 necessary to implement Section 207.026, Labor Code, as added by
26 this Act, not later than November 1, 2007.

27 SECTION 5. This Act takes effect September 1, 2007.