

By: Deshotel, Burnam, Farrar, et al.

H.B. No. 2623

Substitute the following for H.B. No. 2623:

By: Giddings

C.S.H.B. No. 2623

A BILL TO BE ENTITLED

AN ACT

relating to unemployment compensation modernization.

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

SECTION 1. Subchapter B, Chapter 201, Labor Code, is amended by adding Section 201.013 to read as follows:

Sec. 201.013. DEFINITION OF BASE PERIOD; ALTERNATE BASE PERIODS. (a) For purposes of this subtitle and subject to this section, an individual's base period is the four consecutive completed calendar quarters, prescribed by the commission, in the five consecutive completed calendar quarters preceding the first day of an individual's benefit year.

(b) For an individual precluded because of a medically verifiable illness or injury from working during a major part of a calendar quarter of the period that would otherwise be the individual's base period under Subsection (a), the base period is the first four calendar quarters of the five consecutive calendar quarters preceding the calendar quarter in which the illness began or the injury occurred if the individual files an initial claim for benefits not later than 24 months after the date on which the individual's illness or injury began or occurred.

(c) For an individual who does not have sufficient benefit wage credits to qualify for benefits under the computation of the base period as provided by Subsection (a) or (b), the base period is the four most recently completed calendar quarters preceding the

1 first day of the individual's benefit year.

2 SECTION 2. Sections 204.022(a), (c), and (d), Labor Code,  
3 are amended to read as follows:

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

8 (1) was required by a federal statute;

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

11 (3) would have disqualified the employee under Section  
12 207.044, 207.045, 207.051, or 207.053 if the employment had been  
13 the employee's last work;

14 (4) imposes a disqualification under Section 207.044,  
15 207.045, 207.051, or 207.053;

16 (5) was caused by a medically verifiable illness of  
17 the employee [~~or the employee's minor child~~];

18 (6) was based on a natural disaster that results in a  
19 disaster declaration by the president of the United States under  
20 the Robert T. Stafford Disaster Relief and Emergency Assistance Act  
21 (42 U.S.C. Section 5121 et seq.), if the employee would have been  
22 entitled to unemployment assistance benefits under Section 410 of  
23 that act (42 U.S.C. Section 5177) had the employee not received  
24 state unemployment compensation benefits;

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

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

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

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

9 (11) resulted from the employee leaving the employee's  
10 workplace to protect the employee from ~~[family violence or]~~  
11 stalking as evidenced by:

12 (A) an active or recently issued protective order  
13 documenting ~~[family violence against, or]~~ the stalking of ~~[~~ the  
14 employee or the potential for ~~[family violence against, or]~~ the  
15 stalking of ~~[~~ the employee; or

16 (B) a police record documenting ~~[family violence~~  
17 ~~against, or]~~ the stalking of ~~[~~ the employee; ~~[or~~

18 ~~[(C) a physician's statement or other medical~~  
19 ~~documentation that describes the family violence against the~~  
20 ~~employee that:~~

21 ~~[(i) is recorded in any form or medium that~~  
22 ~~identifies the employee as the patient, and~~

23 ~~[(ii) relates to the history, diagnosis,~~  
24 ~~treatment, or prognosis of the patient];~~

25 (12) resulted from the employee leaving the employee's  
26 workplace to protect the employee from family violence, as  
27 evidenced by reasonable and confidential documentation, that

1 causes the employee reasonably to believe that the employee's  
2 continued employment would jeopardize the safety of the employee or  
3 of any member of the employee's immediate family;

4 (13) resulted from a move from the area of the  
5 employee's employment that:

6 (A) was made with the employee's spouse [~~who is a~~  
7 ~~member of the armed forces of the United States~~];

8 (B) is to a location from which it is impractical  
9 for the individual to commute; and

10 (C) is due to a change in the location of the  
11 spouse's employment [~~(B) resulted from the spouse's permanent~~  
12 ~~change of station of longer than 120 days or a tour of duty of longer~~  
13 ~~than one year~~];

14 (14) [~~(13)~~] was caused by the employee being unable to  
15 perform the work as a result of a disability for which the employee  
16 is receiving disability insurance benefits under 42 U.S.C. Section  
17 423; or

18 (15) [~~(14)~~] resulted from the employee leaving the  
19 employee's workplace because of the illness or disability of a  
20 member of the employee's immediate family [~~to care for the~~  
21 ~~employee's terminally ill spouse as evidenced by a physician's~~  
22 ~~statement or other medical documentation, but only if no~~  
23 ~~reasonable, alternative care was available~~].

24 (c) Except as provided by law, evidence regarding an  
25 employee described by Subsection (a)(11) or (12) may not be  
26 disclosed to any person without the consent of the employee.

27 (d) For purposes of Subsections [~~Subsection~~] (a)(11), (12),

1 and (15):

2           (1) "Disability" means a verified disability that  
3 necessitates the care of an ill person by an employee for a period  
4 longer than the employer is willing to grant leave to the employee.  
5 The term includes a mental or physical disability, a permanent or  
6 temporary disability, and a partial or total disability.

7           (2) "Family violence" has the meaning assigned by  
8 Section 71.004, Family Code.

9           (3) "Illness" means a verified illness that  
10 necessitates the care of an ill person by the employee for a period  
11 longer than the employer is willing to grant leave to the employee.

12           (4) "Member of the employee's immediate family" means  
13 a spouse, a parent, or a minor child under the age of 18.

14           (5) "Reasonable documentation" includes:

15                   (A) a statement supporting recent family  
16 violence from a qualified professional from whom the employee has  
17 sought assistance, including a counselor, shelter worker, member of  
18 the clergy, attorney, or health care worker;

19                   (B) an active or recently issued protective order  
20 documenting:

21                           (i) family violence against the employee or  
22 any member of the employee's immediate family; or

23                           (ii) the potential for family violence  
24 against the employee or any member of the employee's immediate  
25 family; or

26                   (C) a police record documenting family violence  
27 against the employee or any member of the employee's immediate

1 family.

2 (6) [(2)] "Stalking" means conduct described by  
3 Section 42.072, Penal Code.

4 SECTION 3. Section 207.021, Labor Code, is amended by  
5 adding Subsection (d) to read as follows:

6 (d) An individual is available for work for purposes of  
7 Subsection (a)(4) even if the individual is seeking and available  
8 only for part-time work. For purposes of this subsection,  
9 "part-time work" means employment of at least 20 hours per week.

10 SECTION 4. Sections 207.045(c) and (d), Labor Code, are  
11 amended to read as follows:

12 (c) Notwithstanding any other provision of  
13 [Disqualification for benefits under] this section, [for] an  
14 individual who left work to accompany [move with] the individual's  
15 spouse is not disqualified for benefits if the move is:

16 (1) to a location from which it is impractical for the  
17 individual to commute; and

18 (2) due to a change in the location of the spouse's  
19 employment [from the area where the individual worked continues for  
20 not less than six benefit periods and not more than 25 benefit  
21 periods following the filing of a valid claim as determined by the  
22 commission according to the circumstances of the case].

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

26 (1) a medically verified illness of the individual [or  
27 the individual's minor child];

- 1 (2) injury;
- 2 (3) disability;
- 3 (4) pregnancy; or
- 4 (5) an involuntary separation as described by Section
- 5 207.046 [~~;~~ ~~or~~
- 6 [~~(6) a move from the area of the individual's~~
- 7 ~~employment that:~~
- 8 [~~(A) was made with the individual's spouse who is~~
- 9 ~~a member of the armed forces of the United States; and~~
- 10 [~~(B) resulted from the spouse's permanent change~~
- 11 ~~of station of longer than 120 days or a tour of duty of longer than~~
- 12 ~~one year].~~

13 SECTION 5. Section 207.046, Labor Code, is amended to read  
14 as follows:

15 Sec. 207.046. INVOLUNTARY SEPARATION. (a) An individual  
16 is not disqualified for benefits under this subchapter if:

17 (1) the work-related reason for the individual's  
18 separation from employment was urgent, compelling, and necessary so  
19 as to make the separation involuntary;

20 (2) the individual leaves the workplace to protect the  
21 individual from [~~family violence or~~] stalking as evidenced by:

22 (A) an active or recently issued protective order  
23 documenting [~~family violence against, or~~] the stalking of[~~7~~] the  
24 employee or the potential for [~~family violence against, or~~] the  
25 stalking of[~~7~~] the employee; or

26 (B) a police record documenting [~~family violence~~  
27 ~~against, or~~] the stalking of[~~7~~] the employee; [~~or~~

1           ~~[(C) a physician's statement or other medical~~  
2 ~~documentation that describes the family violence against the~~  
3 ~~employee that:~~

4                   ~~[(i) is recorded in any form or medium that~~  
5 ~~identifies the employee as the patient, and~~

6                   ~~[(ii) relates to the history, diagnosis,~~  
7 ~~treatment, or prognosis of the patient, or]~~

8           (3) the individual's separation from employment was  
9 due to the illness or disability of a member of the individual's  
10 immediate family; or

11           (4) the individual's separation from employment was  
12 due to family violence, verified by reasonable and confidential  
13 documentation, that causes the individual reasonably to believe  
14 that the individual's continued employment would jeopardize the  
15 safety of the individual or of any member of the individual's  
16 immediate family ~~[individual leaves the workplace to care for the~~  
17 ~~individual's terminally ill spouse as evidenced by a physician's~~  
18 ~~statement or other medical documentation, but only if no~~  
19 ~~reasonable, alternative care was available].~~

20           (b) Except as provided by law, evidence regarding an  
21 employee described by Subsection (a)(2) or (4) may not be disclosed  
22 to any person without the consent of the employee.

23           (c) In this section, "disability," "family violence,"  
24 "illness," "member of the employee's immediate family,"  
25 "reasonable documentation," and "stalking" have the meanings  
26 assigned those terms by Section 204.022(d) [+

27           ~~[(1) "Family violence" has the meaning assigned by~~



1 ~~Section 71.004, Family Code.~~

2 ~~[(2) "Stalking" means conduct described by Section~~  
3 ~~42.072, Penal Code].~~

4 SECTION 6. Section 207.047, Labor Code, is amended by  
5 adding Subsection (a-1) to read as follows:

6 (a-1) An individual is not disqualified for benefits under  
7 this section if the individual is seeking and available only for  
8 part-time work. For purposes of this subsection, "part-time work"  
9 means employment of at least 20 hours per week.

10 SECTION 7. The following laws are repealed:

11 (1) Section 201.011(1), Labor Code; and

12 (2) Section 207.045(e), Labor Code.

13 SECTION 8. This Act applies only to eligibility for  
14 unemployment compensation benefits based on a claim that is filed  
15 with the Texas Workforce Commission on or after the effective date  
16 of this Act. A claim filed before the effective date of this Act is  
17 governed by the law in effect on the date the claim was filed, and  
18 the former law is continued in effect for that purpose.

19 SECTION 9. This Act takes effect immediately if it receives  
20 a vote of two-thirds of all the members elected to each house, as  
21 provided by Section 39, Article III, Texas Constitution. If this  
22 Act does not receive the vote necessary for immediate effect, this  
23 Act takes effect September 1, 2009.