

By: Eltife

S.B. No. 1569

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. Section 201.011(1), Labor Code, is repealed.

SECTION 2. 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 injury or illness 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 injury or illness 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

1 the four most recently completed calendar quarters preceding the
2 first day of the individual's benefit year.

3 SECTION 3. Section 204.022(a), Labor Code, is amended to
4 read as follows:

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

9 (1) was required by a federal statute;

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

12 (3) would have disqualified the employee under Section
13 207.044, 207.045, 027.051, or 207.053;

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 reasonable 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 (11-a) was due to family violence, verified by
26 reasonable and confidential documentation, which causes the
27 employee reasonably to believe that the employee's continued

1 employment would jeopardize the safety of the employee or of any
2 member of the employee's immediate family;

3 ~~(12) [resulted from a move from the area of the~~
4 ~~employee's employment that.~~

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

7 ~~(B) resulted from the spouse's permanent change~~
8 ~~of station of longer than 120 days or a tour of duty of longer than~~
9 ~~one year;]~~

10 (13) was caused by the employee being unable to
11 perform the work as a result of a disability for which the employee
12 is receiving disability insurance benefits under 42 U.S.C. Section
13 423; or

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

20 (b) For the purpose of this section, if an employee's last
21 separation from the employment of an employer is a separation for
22 which the employee was determined to have been disqualified under
23 Section 207.048, the employee's last separation from the employment
24 of that employer is considered to be the next later separation from
25 the employment of that employer.

26 (c) Except as provided by law, evidence regarding an
27 employee described by Subsections (a)(11) and (11-a) may not be

1 disclosed to any person without the consent of the employee.

2 (d) For purposes of Subsections (a)(11), (11-a) and (14):

3 (1) "Family violence" has the meaning assigned by
4 Section 71.004, Family Code.

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

7 (3) "Reasonable documentation" includes:

8 (A) a statement supporting recent family
9 violence from a qualified professional from whom the employee has
10 sought assistance such as a counselor, shelter worker, member of
11 the clergy, attorney, or health worker;

12 (B) an active or recently issued protective order
13 documenting family violence against the employee or any member of
14 the employee's immediate family or the potential for family
15 violence against the employee or any member of the employee's
16 immediate family; or

17 (C) a police record documenting family violence
18 against the employee or any member of the employee's immediate
19 family.

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

22 (5) "Illness" means a verified illness which
23 necessitates the care of the ill person for a period of time longer
24 than the employer is willing to grant leave.

25 (6) "Disability" means a verified disability which
26 necessitates the care of the ill person for a period of time longer
27 than the employer is willing to grant leave. A disability may be

1 mental or physical; permanent or temporary; or partial or total.

2 (e) Benefits may not be charged to the account of an
3 employer, regardless of whether the liability for the chargeback
4 arises in the employee's current benefit year or in a subsequent
5 benefit year, if the employee's last separation from the employer's
6 employment before the employee's benefit year was or would have
7 been excepted from disqualification under Section 207.052(b).

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

10 (d) An individual is available for work for purposes of
11 Subsection (a)(4) even if the individual is available only for
12 part-time work. For purposes of this Subsection part-time work is
13 at least 20 hours per week.

14 SECTION 5. Section 207.045(c), Labor Code, is amended to
15 read as follows:

16 (c) Notwithstanding any other provision of
17 [Disqualification for benefits under] this section, [for] an
18 individual who left work to accompany [move with] the individual's
19 spouse shall not be disqualified for benefits if the move: [from the
20 area where the individual worked continues for not less than six
21 benefit periods and not more than 25 benefit periods following the
22 filing of a valid claim as determined by the commission according to
23 the circumstances of the case.]

24 (1) was to a place from which it is impractical for
25 such individual to commute; and

26 (2) was due to a change in location of the spouse's
27 employment.

1 SECTION 6. Section 207.045(d), Labor Code, is amended to
2 read as follows:

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

6 (1) a medically verified illness of the individual;
7 ~~[or the individual's minor child;]~~

8 (2) injury;

9 (3) disability;

10 (4) pregnancy; or

11 (5) an involuntary separation as described by Section
12 207.046. ~~[or]~~

13 ~~[(6) a move from the area of the individual's~~
14 ~~employment that:~~

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

17 ~~(B) resulted from the spouse's permanent change~~
18 ~~of station of longer than 120 days or a tour of duty of longer than~~
19 ~~one year.]~~

20 SECTION 7. Section 207.045(e), Labor Code, is repealed.

21 SECTION 8. Section 207.046, Labor Code, is amended to read
22 as follows:

23 (a) An individual is not disqualified for benefits under
24 this subchapter if:

25 (1) the work-related reason for the individual's
26 separation from employment was urgent, compelling, and necessary so
27 as to make the separation involuntary.

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

3 (A) an active or recently issued protective order
4 documenting [~~family violence against, or~~] the stalking of[~~7~~] the
5 employee or the potential for [~~family violence against, or~~] the
6 stalking of[~~7~~] the employee;

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

9 [~~(C) a physician's statement or other medical~~
10 ~~documentation that describes the family violence against the~~
11 ~~employee that:~~

12 ~~(i) is recorded in any form or medium that~~
13 ~~identifies the employee as the patient; and~~

14 ~~(ii) relates to the history, diagnosis,~~
15 ~~treatment, or prognosis of the patient; or]~~

16 (2-a) the individual's separation from employment was
17 due to family violence, verified by reasonable and confidential
18 documentation, which causes the individual reasonably to believe
19 that the individual's continued employment would jeopardize the
20 safety of the individual or of any member of the individual's
21 immediate family;

22 (3) the individual's separation from employment was
23 due to the illness or disability of a member of the individual's
24 immediate family [~~leaves the workplace to care for the individual's~~
25 ~~terminally ill spouse as evidenced by a physician's statement or~~
26 ~~other medical documentation, but only if no reasonable, alternative~~
27 ~~care was available].~~

1 (b) Except as provided by law, evidence regarding an
2 employee described by Subsections (a) (2) and (2-a) may not be
3 disclosed to any person without the consent of the employee.

4 (c) In this section:

5 (1) "Family violence" has the meaning assigned by
6 Section 71.004, Family Code.

7 (2) "Stalking" means conduct described by Section
8 42.072, Penal Code.

9 (3) "Reasonable documentation" includes:

10 (A) a statement supporting recent family
11 violence from a qualified professional from whom the individual has
12 sought assistance such as a counselor, shelter worker, member of
13 the clergy, attorney, or health worker;

14 (B) an active or recently issued protective order
15 documenting family violence against the individual or any member of
16 the individual's immediate family or the potential for family
17 violence against the individual or any member of the individual's
18 immediate family; or

19 (C) a police record documenting family violence
20 against the individual or any member of the individual's immediate
21 family.

22 (4) "Member of the individual's immediate family"
23 means a spouse, a parent, or a minor child under the age of 18.

24 (5) "Illness" means a verified illness which
25 necessitates the care of the ill person for a period of time longer
26 than the employer is willing to grant leave.

27 (6) "Disability" means a verified disability which

1 necessitates the care of the ill person for a period of time longer
2 than the employer is willing to grant leave. A disability may be
3 mental or physical; permanent or temporary; or partial or total.

4 SECTION 9. This Act is not subject to discontinuation
5 throughout the period federal funding is provided to the commission
6 to carry out the implementation and administration of the
7 provisions of this Act. Notwithstanding any conflicting
8 interpretations made by the courts or by the United States
9 Department of Labor of what constitutes permanent law, this Act
10 will not extend beyond the period of time that federal funding under
11 the Assistance for Unemployed Workers and Struggling Families Act,
12 Title II of Division B of Public law No. 111-5, enacted February 17,
13 2009, has been exhausted for implementing and administering the
14 provisions of this Act. Once federal funding has been exhausted for
15 implementing and administering the provisions of this Act, the
16 commission shall inform the governor and legislature. Immediately
17 thereafter, the provisions relating to unemployment insurance
18 coverage revert back to the pre-existing statutes.

19 SECTION 10. This Act applies only to eligibility for
20 unemployment compensation benefits based on a claim that is filed
21 with the Texas Workforce Commission on or after the effective date
22 of this Act. A claim filed before the effective date of this Act is
23 governed by the law in effect on the date the claim was filed, and
24 the former law is continued in effect for that purpose.

25 SECTION 11. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2009.