

By: Martinez Fischer

H.B. No. 2755

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to unemployment compensation eligibility and chargebacks  
3 regarding certain persons who are victims or whose immediate family  
4 members are victims of sexual assault or family violence.

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

6 SECTION 1. Section 204.022(a), Labor Code, is amended to  
7 read as follows:

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

12 (1) was required by a federal statute;

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

15 (3) would have disqualified the employee under Section  
16 207.044, 207.045, 207.051, or 207.053 if the employment had been  
17 the employee's last work;

18 (4) imposes a disqualification under Section 207.044,  
19 207.045, 207.051, or 207.053;

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

22 (6) was based on a natural disaster that results in a  
23 disaster declaration by the president of the United States under  
24 the Robert T. Stafford Disaster Relief and Emergency Assistance Act

1 (42 U.S.C. Section 5121 et seq.), if the employee would have been  
2 entitled to unemployment assistance benefits under Section 410 of  
3 that act (42 U.S.C. Section 5177) had the employee not received  
4 state unemployment compensation benefits;

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

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

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

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

16 (11) resulted from the employee leaving the employee's  
17 workplace to protect the employee from family violence or stalking  
18 or the employee or a member of the employee's immediate family from  
19 violence related to a sexual assault as evidenced by:

20 (A) an active or recently issued protective order  
21 documenting sexual assault of the employee or a member of the  
22 employee's immediate family or family violence against, or the  
23 stalking of, the employee or the potential for family violence  
24 against, or the stalking of, the employee;

25 (B) a police record documenting sexual assault of  
26 the employee or a member of the employee's immediate family or  
27 family violence against, or the stalking of, the employee; [~~or~~]

1 (C) a physician's statement or other medical  
2 documentation that describes the sexual assault of the employee or  
3 a member of the employee's immediate family or family violence  
4 against the employee that:

5 (i) is recorded in any form or medium that  
6 identifies the employee or member of the employee's immediate  
7 family, as applicable, as the patient; and

8 (ii) relates to the history, diagnosis,  
9 treatment, or prognosis of the patient; or

10 (D) written documentation from a social worker,  
11 an employee of a shelter center, or a member of the clergy that  
12 describes the sexual assault of the employee or a member of the  
13 employee's immediate family or family violence against the  
14 employee;

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

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

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

22 (13) was caused by the employee being unable to  
23 perform the work as a result of a disability for which the employee  
24 is receiving disability insurance benefits under 42 U.S.C. Section  
25 423; or

26 (14) resulted from the employee leaving the employee's  
27 workplace to care for the employee's terminally ill spouse as

1 evidenced by a physician's statement or other medical  
2 documentation, but only if no reasonable, alternative care was  
3 available.

4 SECTION 2. Section 204.022(d), Labor Code, is amended by  
5 adding Subdivisions (3) and (4) to read as follows:

6 (3) "Immediate family" means an individual's parent,  
7 spouse, or child under the age of 18.

8 (4) "Sexual assault" means conduct described by  
9 Section 22.011 or 22.021, Penal Code.

10 SECTION 3. Section 207.046(a), Labor Code, is amended to  
11 read as follows:

12 (a) An individual is not disqualified for benefits under  
13 this subchapter if:

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

17 (2) the individual leaves the workplace to protect the  
18 individual from family violence or stalking or the employee or a  
19 member of the employee's immediate family from violence related to  
20 a sexual assault as evidenced by:

21 (A) an active or recently issued protective order  
22 documenting sexual assault of the employee or a member of the  
23 employee's immediate family or family violence against, or the  
24 stalking of, the employee or the potential for family violence  
25 against, or the stalking of, the employee;

26 (B) a police record documenting sexual assault of  
27 the employee or a member of the employee's immediate family or

1 family violence against, or the stalking of, the employee; ~~[or]~~

2 (C) a physician's statement or other medical  
3 documentation that describes the sexual assault of the employee or  
4 a member of the employee's immediate family or family violence  
5 against the employee that:

6 (i) is recorded in any form or medium that  
7 identifies the employee or member of the employee's immediate  
8 family, as applicable, as the patient; and

9 (ii) relates to the history, diagnosis,  
10 treatment, or prognosis of the patient; or

11 (D) written documentation from a social worker,  
12 an employee of a shelter center, or a member of the clergy that  
13 describes the sexual assault of the employee or a member of the  
14 employee's immediate family or family violence against the  
15 employee; or

16 (3) the individual leaves the workplace to care for  
17 the individual's terminally ill spouse as evidenced by a  
18 physician's statement or other medical documentation, but only if  
19 no reasonable, alternative care was available.

20 SECTION 4. Section 207.046(c), Labor Code, is amended by  
21 adding Subdivisions (3) and (4) to read as follows:

22 (3) "Immediate family" means an individual's parent,  
23 spouse, or child under the age of 18.

24 (4) "Sexual assault" means conduct described by  
25 Section 22.011 or 22.021, Penal Code.

26 SECTION 5. The changes in law made by this Act apply only to  
27 eligibility for unemployment compensation benefits based on an

1 unemployment compensation claim that is filed with the Texas  
2 Workforce Commission on or after the effective date of this Act. A  
3 claim filed before the effective date of this Act is governed by the  
4 law in effect on the date the claim was filed, and the former law is  
5 continued in effect for that purpose.

6 SECTION 6. This Act takes effect immediately if it receives  
7 a vote of two-thirds of all the members elected to each house, as  
8 provided by Section 39, Article III, Texas Constitution. If this  
9 Act does not receive the vote necessary for immediate effect, this  
10 Act takes effect September 1, 2011.