

BILL ANALYSIS

C.S.H.B. 26
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Economic & Small Business Development
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The effects of sexual assault on a victim and a victim's family can be widespread. A sexual assault victim's environment may become dangerous and uncomfortable, and the victim may even be forced to relocate and leave a job as protection from further violence. Interested parties note that there are a number of conditions under which certain individuals who leave a job, including victims of family violence or stalking, are not disqualified from unemployment benefits and under which chargebacks associated with those benefits may not be made to employers. C.S.H.B. 26 seeks to extend those applicable protections to circumstances in which an employee leaves an employee's workplace to protect the employee or a member of the employee's immediate family from violence related to a sexual assault.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 26 amends the Labor Code to expand the conditions under which benefits computed on benefit wage credits of an employee or former employee are prohibited from being charged to an employer's account based on the circumstances of the employee's last separation from the employer's employment before the employee's benefit year. The bill includes among those conditions such a separation that resulted from the employee leaving the employee's workplace to protect the employee or a member of the employee's immediate family from violence related to a sexual assault as evidenced by an active or recently issued protective order, a police record, a physician's statement or other medical documentation or written documentation from a family violence center. The bill expands the conditions under which an individual is not disqualified for benefits under provisions of the Texas Unemployment Compensation Act relating to exceptions to and disqualification for benefits to include the individual leaving the workplace to protect the individual or a member of the individual's immediate family from violence related to a sexual assault as evidenced by that same specified documentation.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 26 may differ from the original in minor or nonsubstantive ways to conform to certain bill drafting conventions, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

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

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

- (1) was required by a federal statute;
- (2) was required by a statute of this state or an ordinance of a municipality of this state;
- (3) would have disqualified the employee under Section 207.044, 207.045, 207.051, or 207.053 if the employment had been the employee's last work;
- (4) imposes a disqualification under Section 207.044, 207.045, 207.051, or 207.053;
- (5) was caused by a medically verifiable illness of the employee or the employee's minor child;
- (6) was based on a natural disaster that results in a disaster declaration by the president of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.), if the employee would have been entitled to unemployment assistance benefits under Section 410 of that act (42 U.S.C. Section 5177) had the employee not received state unemployment compensation benefits;
- (7) was caused by a natural disaster, fire, flood, or explosion that causes employees to be separated from one employer's employment;
- (8) was based on a disaster that results in a disaster declaration by the governor under Section 418.014, Government Code;
- (9) resulted from the employee's resigning from partial employment to accept other employment that the employee reasonably believed would increase the employee's weekly wage;
- (10) was caused by the employer being called to active military service in any branch of the United States armed forces on or after January 1, 2003;
- (11) resulted from the employee leaving the employee's workplace to protect the employee from family violence or stalking or the employee or a member of the employee's immediate family from violence

HOUSE COMMITTEE SUBSTITUTE

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

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

- (1) was required by a federal statute;
- (2) was required by a statute of this state or an ordinance of a municipality of this state;
- (3) would have disqualified the employee under Section 207.044, 207.045, 207.051, or 207.053 if the employment had been the employee's last work;
- (4) imposes a disqualification under Section 207.044, 207.045, 207.051, or 207.053;
- (5) was caused by a medically verifiable illness of the employee or the employee's minor child;
- (6) was based on a natural disaster that results in a disaster declaration by the president of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.), if the employee would have been entitled to unemployment assistance benefits under Section 410 of that act (42 U.S.C. Section 5177) had the employee not received state unemployment compensation benefits;
- (7) was caused by a natural disaster, fire, flood, or explosion that causes employees to be separated from one employer's employment;
- (8) was based on a disaster that results in a disaster declaration by the governor under Section 418.014, Government Code;
- (9) resulted from the employee's resigning from partial employment to accept other employment that the employee reasonably believed would increase the employee's weekly wage;
- (10) was caused by the employer being called to active military service in any branch of the United States armed forces on or after January 1, 2003;
- (11) resulted from the employee leaving the employee's workplace to protect the employee from family violence or stalking or the employee or a member of the employee's immediate family from violence

related to a sexual assault as evidenced by:

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

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

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

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

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

(D) written documentation from an employee of a family violence center that describes the sexual assault of the employee or a member of the employee's immediate family or family violence against the employee;

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

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

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

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

(14) resulted from the employee leaving the employee's workplace to care for the employee's terminally ill spouse as evidenced by a physician's statement or other medical documentation, but only if no reasonable, alternative care was available.

related to a sexual assault as evidenced by:

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

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

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

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

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

(D) written documentation from a family violence center that describes the sexual assault of the employee or a member of the employee's immediate family or family violence against the employee;

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

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

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

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

(14) resulted from the employee leaving the employee's workplace to care for the employee's terminally ill spouse as evidenced by a physician's statement or other medical documentation, but only if no reasonable, alternative care was available; or

(15) was caused by the employer's reinstatement of a qualified uniformed service member with reemployment rights and benefits and other employment benefits in accordance with the Uniformed Services Employment and Reemployment Rights Act

of 1994 (38 U.S.C. Section 4301 et seq.).

SECTION 2. Section 204.022(d), Labor Code, is amended.

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

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

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

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

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

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

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

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

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

(D) written documentation from an employee of a family violence center that describes the sexual assault of the employee or a member of the employee's immediate family or family violence against the employee; or

(3) the individual leaves the workplace to care for the individual's terminally ill spouse as evidenced by a physician's statement or other medical documentation, but only if no

SECTION 2. Same as introduced version.

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

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

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

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

(A) an active or recently issued protective order documenting sexual assault of the individual or a member of the individual's immediate family or family violence against, or the stalking of, the individual [employee] or the potential for family violence against, or the stalking of, the individual [employee];

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

(C) a physician's statement or other medical documentation that describes the sexual assault of the individual or a member of the individual's immediate family or family violence against the individual [employee] that:

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

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

(D) written documentation from a family violence center that describes the sexual assault of the individual or a member of the individual's immediate family or family violence against the individual; or

(3) the individual leaves the workplace to care for the individual's terminally ill spouse as evidenced by a physician's statement or other medical documentation, but only if no

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reasonable, alternative care was available.

SECTION 4. Section 207.046(c), Labor Code, is amended.

SECTION 4. Same as introduced version.

SECTION 5. The changes in law made by this Act apply only to eligibility for unemployment compensation benefits based on an unemployment compensation claim that is filed with the Texas Workforce Commission on or after the effective date of this Act. A claim filed before the effective date of this Act is governed by the law in effect on the date the claim was filed, and the former law is continued in effect for that purpose.

SECTION 5. Same as introduced version.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

SECTION 6. Same as introduced version.