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Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Unemployment Insurance - Coverage - Victims of Domestic Violence**

3 FOR the purpose of prohibiting the Secretary of Labor, Licensing, and Regulation  
4 from charging certain unemployment insurance benefits to an employer's  
5 account; prohibiting the release of certain information unless certain  
6 requirements are met; providing that an individual may not be denied  
7 unemployment insurance benefits if the individual's ineligibility results from  
8 the individual's status as a victim of domestic violence; providing that an  
9 individual's status as a victim of domestic violence may constitute good cause for  
10 voluntarily leaving work under certain circumstances; requiring the Secretary  
11 to consider an individual's status as a victim of domestic violence when making  
12 certain determinations; requiring the Secretary to develop and implement a  
13 training program on assisting a victim of domestic violence; requiring certain  
14 employees of the Department to attend certain training at certain times; and  
15 generally relating to unemployment insurance and victims of domestic violence.

16 BY repealing and reenacting, with amendments,  
17 Article - Labor and Employment  
18 Section 8-611(e), 8-907, 8-1001, 8-1003, and 8-1005  
19 Annotated Code of Maryland  
20 (1999 Replacement Volume and 2001 Supplement)

21 BY adding to  
22 Article - Labor and Employment  
23 Section 8-806.1  
24 Annotated Code of Maryland  
25 (1999 Replacement Volume and 2001 Supplement)

26 BY repealing and reenacting, without amendments,  
27 Article - Labor and Employment  
28 Section 8-903

1 Annotated Code of Maryland  
2 (1999 Replacement Volume and 2001 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article - Labor and Employment**

6 8-611.

7 (e) The Secretary may not charge benefits paid to a claimant against the  
8 earned rating record of an employing unit if:

9 (1) the claimant left employment voluntarily without good cause  
10 attributable to the employing unit;

11 (2) the claimant was discharged by the employing unit for gross  
12 misconduct as defined in § 8-1002 of this title;

13 (3) the claimant was discharged by the employing unit for aggravated  
14 misconduct as defined in § 8-1002.1 of this title;

15 (4) the claimant left employment voluntarily to accept better  
16 employment or enter training approved by the Secretary; [or]

17 (5) the employing unit participates in a work release program that is  
18 designed to give an inmate of a correctional institution an opportunity to work while  
19 imprisoned and unemployment was the result of the claimant's release from [prison.]  
20 PRISON; OR

21 (6) THE CLAIMANT LEFT EMPLOYMENT VOLUNTARILY TO ADDRESS THE  
22 PHYSICAL, PSYCHOLOGICAL, AND LEGAL EFFECTS OF BEING A VICTIM OF DOMESTIC  
23 VIOLENCE.

24 8-806.1.

25 (A) ANY INFORMATION OBTAINED BY THE DEPARTMENT IN VERIFYING A  
26 CLAIM OF DOMESTIC VIOLENCE SHALL BE KEPT CONFIDENTIAL IN ACCORDANCE  
27 WITH FEDERAL LAW.

28 (B) THE DEPARTMENT MAY NOT RELEASE INFORMATION REGARDING A  
29 CLAIMANT'S STATUS AS A VICTIM OF DOMESTIC VIOLENCE TO AN EMPLOYER UNLESS  
30 THE EMPLOYER CAN ESTABLISH THAT:

31 (1) THE EMPLOYER HAS A LEGITIMATE NEED TO QUESTION THE  
32 VERACITY OF THE INFORMATION;

33 (2) THE EMPLOYER'S NEED TO HAVE THE INFORMATION OUTWEIGHS  
34 THE CLAIMANT'S PERSONAL PRIVACY INTEREST; AND

1 (3) THE EMPLOYER IS NOT ABLE TO OBTAIN THE INFORMATION FROM  
2 ANY OTHER SOURCE.

3 (C) DISCLOSURE OF INFORMATION UNDER SUBSECTION (B) OF THIS SECTION  
4 IS SUBJECT TO THE FOLLOWING PROVISIONS:

5 (1) THE CLAIMANT MUST BE NOTIFIED PRIOR TO ANY RELEASE OF  
6 INFORMATION;

7 (2) THE DISCLOSURE IS SUBJECT TO REDACTION OF UNNECESSARY  
8 IDENTIFYING INFORMATION;

9 (3) THE DISSEMINATION OF INFORMATION DISCLOSED TO THE  
10 EMPLOYER IS PROHIBITED; AND

11 (4) ANY OTHER REGULATIONS ADOPTED BY THE SECRETARY TO  
12 PROTECT THE PRIVACY OF THE CLAIMANT.

13 8-903.

14 (a) (1) Except as otherwise provided in this section, to be eligible for benefits  
15 an individual shall be:

16 (i) able to work;

17 (ii) available for work; and

18 (iii) actively seeking work.

19 (2) In determining whether an individual actively is seeking work, the  
20 Secretary shall consider:

21 (i) whether the individual has made an effort that is reasonable  
22 and that would be expected of an unemployed individual who honestly is looking for  
23 work; and

24 (ii) the extent of the effort in relation to the labor market conditions  
25 in the area in which the individual is seeking work.

26 (b) The Secretary may not use the disability of a qualified individual with a  
27 disability as a factor in finding that an individual is not able to work under subsection  
28 (a)(1)(i) of this section.

29 (c) Notwithstanding any other provision of this section or § 8-904 or §  
30 8-907(a) or (b) of this subtitle, an individual who otherwise is eligible to receive  
31 benefits and who is in training with the approval of the Secretary may not be denied  
32 benefits:

33 (1) for failure to meet the requirements of subsection (a)(1)(ii) and (iii) of  
34 this section to be available for work and actively seeking work; or

1 (2) for failure to apply for or refusal to accept suitable work under §  
2 8-1005 of this title.

3 8-907.

4 (a) An individual may not be denied benefits for any week of unemployment  
5 for failure to meet the requirements of § 8-903(a)(1) of this subtitle to be able to work,  
6 available for work, and actively seeking work if the failure results from illness or  
7 disability that occurs after the individual has registered for work, provided that no  
8 work that would have been considered suitable at the time of the initial registration  
9 is offered to the individual after the beginning of the illness or disability.

10 (b) An individual may not be denied benefits for any week of unemployment  
11 for failure to meet the requirements of § 8-903(a)(1) of this subtitle to be able to work,  
12 be available to work, and actively seeking work if the failure results from a summons  
13 to appear for jury duty.

14 (c) An individual may not be denied benefits for any week of unemployment  
15 for failure to meet the requirement of § 8-903(a)(1)(iii) of this subtitle to seek work  
16 actively if the individual:

17 (1) is at least 60 years old; and

18 (2) has been furloughed temporarily and is subject to recall.

19 (D) AN INDIVIDUAL MAY NOT BE DENIED BENEFITS FOR ANY WEEK OF  
20 UNEMPLOYMENT FOR FAILURE TO MEET THE REQUIREMENTS OF § 8-903(A)(1) OF  
21 THIS SUBTITLE IF THE FAILURE:

22 (1) RESULTS FROM CIRCUMSTANCES RESULTING FROM BEING A VICTIM  
23 OF DOMESTIC VIOLENCE AS DEFINED IN § 4-513 OF THE FAMILY LAW ARTICLE OR  
24 THE PARENT OR GUARDIAN OF A VICTIM OF DOMESTIC VIOLENCE; OR

25 (2) IS DUE TO THE INDIVIDUAL'S NEED TO ADDRESS THE PHYSICAL,  
26 PSYCHOLOGICAL, AND LEGAL EFFECTS OF BEING A VICTIM OF DOMESTIC VIOLENCE.  
27 8-1001.

28 (a) (1) An individual who otherwise is eligible to receive benefits is  
29 disqualified from receiving benefits if the Secretary finds that unemployment results  
30 from voluntarily leaving work without good cause.

31 (2) A claimant who is otherwise eligible for benefits from the loss of  
32 full-time employment may not be disqualified from the benefits attributable to the  
33 full-time employment because the claimant voluntarily quit a part-time  
34 employment, if the claimant quit the part-time employment before the loss of the  
35 full-time employment.

36 (b) The Secretary may find that a cause for voluntarily leaving is good cause  
37 only if:

- 1 (1) the cause is directly attributable to, arising from, or connected with:
- 2 (i) the conditions of employment; or
- 3 (ii) the actions of the employing unit; [or]
- 4 (2) an individual:
- 5 (i) is laid off from employment through no fault of the individual;
- 6 (ii) obtains subsequent employment that pays weekly wages that
- 7 total less than 50% of the weekly wage earned in the employment from which the
- 8 individual was laid off; and
- 9 (iii) leaves the subsequent employment to attend a training
- 10 program for which the individual has been chosen that:
- 11 1. is offered under the Maryland Job Training Partnership
- 12 Act; or
- 13 2. otherwise is approved by the [Secretary.] SECRETARY; OR
- 14 (3) AN INDIVIDUAL'S REASON FOR LEAVING WORK WAS DUE TO BEING
- 15 THE VICTIM OF DOMESTIC VIOLENCE AS DEFINED IN § 4-513 OF THE FAMILY LAW
- 16 ARTICLE OR THE PARENT OR GUARDIAN OF A VICTIM OF DOMESTIC VIOLENCE
- 17 WHICH INCLUDES:
- 18 (I) THE REASONABLE FEAR OF FUTURE DOMESTIC VIOLENCE AT
- 19 OR EN ROUTE TO OR FROM THE INDIVIDUAL'S PLACE OF EMPLOYMENT;
- 20 (II) THE NEED TO RELOCATE TO ANOTHER GEOGRAPHIC AREA TO
- 21 AVOID FUTURE DOMESTIC VIOLENCE;
- 22 (III) THE NEED TO ADDRESS THE PHYSICAL, PSYCHOLOGICAL, AND
- 23 LEGAL EFFECTS OF DOMESTIC VIOLENCE;
- 24 (IV) THE NEED TO LEAVE EMPLOYMENT AS A CONDITION OF
- 25 RECEIVING SERVICES OR SHELTER FROM AN AGENCY THAT PROVIDES SUCH
- 26 SERVICES FOR VICTIMS OF DOMESTIC VIOLENCE; OR
- 27 (V) THE REASONABLE BELIEF THAT TERMINATION OF
- 28 EMPLOYMENT IS NECESSARY FOR THE FUTURE SAFETY OF THE INDIVIDUAL OR THE
- 29 INDIVIDUAL'S FAMILY.
- 30 (c) (1) A circumstance for voluntarily leaving work is valid only if it is:
- 31 (i) a substantial cause that is directly attributable to, arising from,
- 32 or connected with conditions of employment or actions of the employing unit; or
- 33 (ii) of such necessitous or compelling nature that the individual has
- 34 no reasonable alternative other than leaving the employment.

1           (2)     For determination of the application of paragraph (1)(ii) of this  
2 subsection to an individual who leaves employment because of the health of the  
3 individual or another for whom the individual must care, the individual shall submit  
4 a written statement or other documentary evidence of the health problem from a  
5 hospital or physician.

6           (d)     In addition to other circumstances for which a disqualification may be  
7 imposed, neither good cause nor a valid circumstance exist and a disqualification  
8 shall be imposed if an individual leaves employment:

9           (1)     to become self-employed;

10          (2)     to accompany a spouse to a new location or to join a spouse in a new  
11 location; or

12          (3)     to attend an educational institution.

13          (e)     A disqualification under this section:

14           (1)     shall begin with the first week for which unemployment is caused by  
15 voluntarily leaving without good cause; and

16           (2)     subject to subsection (c) of this section, shall continue:

17           (i)     if a valid circumstance exists, for a total of at least 5 but not  
18 more than 10 weeks, as determined by the Secretary based on the seriousness of the  
19 circumstance; or

20           (ii)    if a valid circumstance does not exist, until the individual is  
21 reemployed and has earned wages for covered employment that equal at least 15  
22 times the weekly benefit amount of the individual.

23 8-1003.

24          (a)     An individual who otherwise is eligible to receive benefits is disqualified  
25 from receiving benefits if the Secretary finds that unemployment results from  
26 discharge or suspension as a disciplinary measure for behavior that the Secretary  
27 finds is misconduct in connection with employment but that is not:

28           (1)     aggravated misconduct, under § 8-1002.1 of this subtitle; or

29           (2)     gross misconduct under § 8-1002 of this subtitle.

30          (B)     AN INDIVIDUAL IS NOT DISQUALIFIED UNDER THIS SECTION IF THE  
31 INDIVIDUAL ESTABLISHES THAT THE INDIVIDUAL'S DISCHARGE OR SUSPENSION  
32 RESULTED FROM DOMESTIC VIOLENCE OR THE NEED TO ADDRESS THE PHYSICAL,  
33 PSYCHOLOGICAL, AND LEGAL EFFECTS OF DOMESTIC VIOLENCE.

34          [(b)]    (C)     A disqualification under this section shall:

1 (1) begin with the first week for which unemployment is caused by  
2 discharge or suspension for misconduct; and

3 (2) continue for a total of at least 5 but not more than 10 weeks, as  
4 determined by the Secretary, based on the seriousness of the misconduct.

5 8-1005.

6 (a) Subject to subsection (d) of this section, an individual who otherwise is  
7 eligible to receive benefits is disqualified from receiving benefits if the Secretary  
8 finds that the individual, without good cause, failed to:

9 (1) apply for work that is available and suitable when directed to do so  
10 by the Secretary;

11 (2) accept suitable work when offered; or

12 (3) return to the individual's usual self-employment when directed to do  
13 so by the Secretary.

14 (b) (1) In determining whether work is suitable for an individual, the  
15 Secretary shall consider:

16 (i) the degree of risk involved to the health, morals, and safety of  
17 the individual;

18 (ii) the experience, previous earnings, previous training, and  
19 physical fitness of the individual;

20 (iii) the length of unemployment of the individual and the prospects  
21 for securing local work in the usual occupation of the individual; [and]

22 (iv) the distance of available work from the residence of the  
23 [individual.] INDIVIDUAL;

24 (V) THE INDIVIDUAL'S STATUS AS A VICTIM OF DOMESTIC  
25 VIOLENCE; AND

26 (VI) THE NEED TO ADDRESS THE PHYSICAL, PSYCHOLOGICAL, AND  
27 LEGAL EFFECTS OF DOMESTIC VIOLENCE.

28 (2) Notwithstanding any other provisions of this title, the Secretary may  
29 not consider work to be suitable and thus deny benefits to an otherwise eligible  
30 individual for refusal to accept the new work if:

31 (i) the position offered is vacant as a direct result of a strike,  
32 lockout, or other labor dispute;

33 (ii) hours, wages, or other conditions of work offered are  
34 substantially less favorable to the individual than those prevailing for similar work in  
35 the locality; or

1 (iii) as a condition of being employed, the individual would be  
2 required to join a company union or resign from or refrain from joining any bona fide  
3 labor organization.

4 (c) A disqualification under this section:

5 (1) shall be effective beginning with the latest week in which the  
6 individual:

7 (i) was to have applied for work at the direction of the Secretary;

8 (ii) was notified that suitable work had become available to the  
9 individual; or

10 (iii) was to return to the usual self-employment of the individual at  
11 the direction of the Secretary; and

12 (2) shall continue:

13 (i) for a total of at least 5 but not more than 10 weeks; or

14 (ii) until the individual is reemployed and has earned wages for  
15 covered employment that equal at least 10 times the weekly benefit amount of the  
16 individual.

17 (d) (1) In this subsection, the terms "affected employee" and "work sharing  
18 employer" have the meanings stated in § 8-1201 of this title.

19 (2) An affected employee who refuses to apply for or accept suitable work  
20 from a person other than the work sharing employer may not be denied benefits  
21 under this section.

22 SECTION 2. AND BE IT FURTHER ENACTED, That the Secretary of Labor,  
23 Licensing, and Regulation shall implement a training curriculum on assisting victims  
24 of domestic violence which shall be approved by the Family Violence Council. All  
25 senior management personnel in the Office of Unemployment Insurance shall be  
26 trained in the curriculum no later than 60 days from the effective date of this Act. The  
27 Secretary shall develop a plan for training departmental employees who interact with  
28 claimants who may be the victims of domestic violence.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 October 1, 2002.