
HOUSE BILL No. 1228

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-4.

Synopsis: Unemployment benefits after military service. Authorizes an individual eligible for unemployment compensation benefits to be exempt from the requirements of: (1) registration for work; and (2) reporting for availability for work; for a period of six weeks after the individual's discharge from service in the armed forces of the United States or the National Guard or postdeployment in the armed forces of the United States or the National Guard, after having served the one week waiting period for unemployment compensation benefits.

Effective: July 1, 2010.

Pearson, Reske

January 11, 2010, read first time and referred to Committee on Veterans Affairs and Public Safety.

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Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

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HOUSE BILL No. 1228



A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 22-4-14-2, AS AMENDED BY P.L.175-2009,
- 2 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2010]: Sec. 2. (a) **Except as provided in subsections (e) and**
- 4 **(f),** an unemployed individual is eligible to receive benefits with
- 5 respect to any week only if the individual has:
- 6 (1) registered for work at an employment office or branch thereof
- 7 or other agency designated by the commissioner within the time
- 8 limits that the department by rule adopts; and
- 9 (2) subsequently reported with the frequency and in the manner,
- 10 either in person or in writing, that the department by rule adopts.
- 11 (b) Failure to comply with subsection (a) shall be excused by the
- 12 commissioner or the commissioner's authorized representative upon a
- 13 showing of good cause therefor. The department shall waive or alter the
- 14 requirements of this section as to such types of cases or situations that
- 15 compliance with such requirements would be oppressive or would be
- 16 inconsistent with the purposes of this article.
- 17 (c) The department shall provide job counseling or training to an



1 individual who remains unemployed for at least four (4) weeks. The
2 manner and duration of the counseling shall be determined by the
3 department.

4 (d) An individual who is receiving benefits as determined under
5 IC 22-4-15-1(c)(8) is entitled to complete the reporting, counseling, or
6 training that must be conducted in person at a one stop center selected
7 by the individual. The department shall advise an eligible individual
8 that this option is available.

9 (e) The department may waive the requirements of subsection (a)
10 for a week only when one (1) of the following applies to an individual
11 for that week:

12 (1) The individual is attending training or retraining approved by
13 the department.

14 (2) The individual is a job-attached worker with a specific recall
15 date that is not more than sixty (60) days after the individual's
16 separation date.

17 (3) The individual is using:
18 (A) a hiring service;
19 (B) a referral service; or
20 (C) another job placement service as determined by the
21 department.

22 (4) Any other situation exists for which the department considers
23 requiring compliance by the individual with this section to be
24 inconsistent with the purposes of this article.

25 **(f) An unemployed individual who is otherwise eligible to**
26 **receive benefits is not required to comply with the conditions set**
27 **forth in subsection (a) for a period of six (6) weeks after the**
28 **individual's discharge from service in the armed forces of the**
29 **United States or the National Guard or postdeployment in the**
30 **armed forces of the United States or the National Guard. The**
31 **individual must serve the waiting period required under section 4**
32 **of this chapter before the six (6) week period begins.**

33 SECTION 2. IC 22-4-14-3, AS AMENDED BY P.L.175-2009,
34 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2010]: Sec. 3. (a) An individual who is receiving benefits as
36 determined under IC 22-4-15-1(c)(8) may restrict the individual's
37 availability because of the individual's need to address the physical,
38 psychological, or legal effects of being a victim of domestic or family
39 violence (as defined in IC 31-9-2-42).

40 (b) An unemployed individual shall be eligible to receive benefits
41 with respect to any week only if the individual:

42 (1) is physically and mentally able to work;

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- 1 (2) is available for work;
- 2 (3) is found by the department to be making an effort to secure
- 3 full-time work; and
- 4 (4) participates in reemployment services, such as job search
- 5 assistance services, if the individual has been determined to be
- 6 likely to exhaust regular benefits and to need reemployment
- 7 services under a profiling system established by the department,
- 8 unless the department determines that:
- 9 (A) the individual has completed the reemployment services;
- 10 or
- 11 (B) failure by the individual to participate in or complete the
- 12 reemployment services is excused by the director under
- 13 IC 22-4-14-2(b).

14 **Subdivisions (3) and (4) do not apply to an individual to whom**
 15 **section 2(f) of this chapter applies.** The term "effort to secure
 16 full-time work" shall be defined by the department through rule which
 17 shall take into consideration whether such individual has a reasonable
 18 assurance of reemployment and, if so, the length of the prospective
 19 period of unemployment, but must include as a condition the
 20 individual's submission of at least one (1) application for work in each
 21 week for which the individual is claiming benefits. An individual who
 22 submits an application for work online through an Internet web site
 23 complies with this condition. However, if an otherwise eligible
 24 individual is unable to work or unavailable for work on any normal
 25 work day of the week, the individual shall be eligible to receive
 26 benefits with respect to such week reduced by one-third (1/3) of the
 27 individual's weekly benefit amount for each day of such inability to
 28 work or unavailability for work.

29 (c) For the purpose of this article, unavailability for work of an
 30 individual exists in, but is not limited to, any case in which, with
 31 respect to any week, it is found:

- 32 (1) that such individual is engaged by any unit, agency, or
- 33 instrumentality of the United States, in charge of public works or
- 34 assistance through public employment, or any unit, agency, or
- 35 instrumentality of this state, or any political subdivision thereof,
- 36 in charge of any public works or assistance through public
- 37 employment;
- 38 (2) that such individual is in full-time active military service of
- 39 the United States, or is enrolled in civilian service as a
- 40 conscientious objector to military service;
- 41 (3) that such individual is suspended for misconduct in
- 42 connection with the individual's work; or

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1 (4) that such individual is in attendance at a regularly established
 2 public or private school during the customary hours of the
 3 individual's occupation or is in any vacation period intervening
 4 between regular school terms during which the individual is a
 5 student. However, this subdivision does not apply to any
 6 individual who is attending a regularly established school, has
 7 been regularly employed and upon becoming unemployed makes
 8 an effort to secure full-time work and is available for suitable
 9 full-time work with the individual's last employer, or is available
 10 for any other full-time employment deemed suitable.

11 (d) Notwithstanding any other provisions in this section or
 12 IC 22-4-15-2, no otherwise eligible individual shall be denied benefits
 13 for any week because the individual is in training with the approval of
 14 the department, nor shall such individual be denied benefits with
 15 respect to any week in which the individual is in training with the
 16 approval of the department by reason of the application of the
 17 provisions of this section with respect to the availability for work or
 18 active search for work or by reason of the application of the provisions
 19 of IC 22-4-15-2 relating to failure to apply for, or the refusal to accept,
 20 suitable work. The department shall by rule prescribe the conditions
 21 under which approval of such training will be granted.

22 SECTION 3. IC 22-4-15-2, AS AMENDED BY P.L.175-2009,
 23 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2010]: Sec. 2. (a) With respect to benefit periods established
 25 on and after July 3, 1977, an individual is ineligible for waiting period
 26 or benefit rights, or extended benefit rights, if the department finds that,
 27 being totally, partially, or part-totally unemployed at the time when the
 28 work offer is effective or when the individual is directed to apply for
 29 work, the individual fails without good cause:

- 30 (1) to apply for available, suitable work when directed by the
 31 commissioner, the deputy, or an authorized representative of the
 32 department of workforce development or the United States
 33 training and employment service;
- 34 (2) to accept, at any time after the individual is notified of a
 35 separation, suitable work when found for and offered to the
 36 individual by the commissioner, the deputy, or an authorized
 37 representative of the department of workforce development or the
 38 United States training and employment service, or an employment
 39 unit; or
- 40 (3) to return to the individual's customary self-employment when
 41 directed by the commissioner or the deputy.

42 (b) With respect to benefit periods established on and after July 6,

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1 1980, the ineligibility shall continue for the week in which the failure
2 occurs and until the individual earns remuneration in employment
3 equal to or exceeding the weekly benefit amount of the individual's
4 claim in each of eight (8) weeks. If the qualification amount has not
5 been earned at the expiration of an individual's benefit period, the
6 unearned amount shall be carried forward to an extended benefit period
7 or to the benefit period of a subsequent claim.

8 (c) With respect to extended benefit periods established on and after
9 July 5, 1981, the ineligibility shall continue for the week in which the
10 failure occurs and until the individual earns remuneration in
11 employment equal to or exceeding the weekly benefit amount of the
12 individual's claim in each of four (4) weeks.

13 (d) If an individual failed to apply for or accept suitable work as
14 outlined in this section, the maximum benefit amount of the
15 individual's current claim, as initially determined, shall be reduced by
16 an amount determined as follows:

17 (1) For the first failure to apply for or accept suitable work, the
18 maximum benefit amount of the individual's current claim is
19 equal to the result of:

20 (A) the maximum benefit amount of the individual's current
21 claim, as initially determined; multiplied by

22 (B) seventy-five percent (75%);

23 rounded (if not already a multiple of one dollar (\$1)) to the next
24 higher dollar.

25 (2) For the second failure to apply for or accept suitable work, the
26 maximum benefit amount of the individual's current claim is
27 equal to the result of:

28 (A) the maximum benefit amount of the individual's current
29 claim determined under subdivision (1); multiplied by

30 (B) eighty-five percent (85%);

31 rounded (if not already a multiple of one dollar (\$1)) to the next
32 higher dollar.

33 (3) For the third and any subsequent failure to apply for or accept
34 suitable work, the maximum benefit amount of the individual's
35 current claim is equal to the result of:

36 (A) the maximum benefit amount of the individual's current
37 claim determined under subdivision (2); multiplied by

38 (B) ninety percent (90%);

39 rounded (if not already a multiple of one dollar (\$1)) to the next
40 higher dollar.

41 (e) In determining whether or not any such work is suitable for an
42 individual, the department shall consider:

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- 1 (1) the degree of risk involved to such individual's health, safety,
- 2 and morals;
- 3 (2) the individual's physical fitness and prior training and
- 4 experience;
- 5 (3) the individual's length of unemployment and prospects for
- 6 securing local work in the individual's customary occupation; and
- 7 (4) the distance of the available work from the individual's
- 8 residence.

9 However, work under substantially the same terms and conditions
 10 under which the individual was employed by a base-period employer,
 11 which is within the individual's prior training and experience and
 12 physical capacity to perform, shall be considered to be suitable work
 13 unless the claimant has made a bona fide change in residence which
 14 makes such offered work unsuitable to the individual because of the
 15 distance involved. During the fifth through the eighth consecutive week
 16 of claiming benefits, work is not considered unsuitable solely because
 17 the work pays not less than ninety percent (90%) of the individual's
 18 prior weekly wage. After eight (8) consecutive weeks of claiming
 19 benefits, work is not considered unsuitable solely because the work
 20 pays not less than eighty percent (80%) of the individual's prior weekly
 21 wage. However, work is not considered suitable under this section if
 22 the work pays less than Indiana's minimum wage as determined under
 23 IC 22-2-2. For an individual who is subject to section 1(c)(8) of this
 24 chapter, the determination of suitable work for the individual must
 25 reasonably accommodate the individual's need to address the physical,
 26 psychological, legal, and other effects of domestic or family violence.

27 (f) Notwithstanding any other provisions of this article, no work
 28 shall be considered suitable and benefits shall not be denied under this
 29 article to any otherwise eligible individual for refusing to accept new
 30 work under any of the following conditions:

- 31 (1) If the position offered is vacant due directly to a strike,
- 32 lockout, or other labor dispute.
- 33 (2) If the remuneration, hours, or other conditions of the work
- 34 offered are substantially less favorable to the individual than
- 35 those prevailing for similar work in the locality.
- 36 (3) If as a condition of being employed the individual would be
- 37 required to join a company union or to resign from or refrain from
- 38 joining a bona fide labor organization.
- 39 (4) If as a condition of being employed the individual would be
- 40 required to discontinue training into which the individual had
- 41 entered with the approval of the department.
- 42 (5) **If IC 22-4-14-2(f) applies to the individual.**

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1 (g) Notwithstanding subsection (e), with respect to extended benefit
 2 periods established on and after July 5, 1981, "suitable work" means
 3 any work which is within an individual's capabilities. However, if the
 4 individual furnishes evidence satisfactory to the department that the
 5 individual's prospects for obtaining work in the individual's customary
 6 occupation within a reasonably short period are good, the
 7 determination of whether any work is suitable work shall be made as
 8 provided in subsection (e).

9 (h) With respect to extended benefit periods established on and after
 10 July 5, 1981, no work shall be considered suitable and extended
 11 benefits shall not be denied under this article to any otherwise eligible
 12 individual for refusing to accept new work under any of the following
 13 conditions:

14 (1) If the gross average weekly remuneration payable to the
 15 individual for the position would not exceed the sum of:

16 (A) the individual's average weekly benefit amount for the
 17 individual's benefit year; plus

18 (B) the amount (if any) of supplemental unemployment
 19 compensation benefits (as defined in Section 501(c)(17)(D) of
 20 the Internal Revenue Code) payable to the individual for such
 21 week.

22 (2) If the position was not offered to the individual in writing or
 23 was not listed with the department of workforce development.

24 (3) If such failure would not result in a denial of compensation
 25 under the provisions of this article to the extent that such
 26 provisions are not inconsistent with the applicable federal law.

27 (4) If the position pays wages less than the higher of:

28 (A) the minimum wage provided by 29 U.S.C. 206(a)(1) (the
 29 Fair Labor Standards Act of 1938), without regard to any
 30 exemption; or

31 (B) the state minimum wage (IC 22-2-2).

32 (i) The department of workforce development shall refer individuals
 33 eligible for extended benefits to any suitable work (as defined in
 34 subsection (g)) to which subsection (h) would not apply.

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