

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1446 Session of 2023

INTRODUCED BY R. MACKENZIE, CONKLIN, FREEMAN AND M. MACKENZIE, JUNE 20, 2023

AS REPORTED FROM COMMITTEE ON LABOR AND INDUSTRY, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 18, 2024

AN ACT

1 Amending the act of December 5, 1936 (2nd Sp.Sess., 1937
2 P.L.2897, No.1), entitled "An act establishing a system of
3 unemployment compensation to be administered by the
4 Department of Labor and Industry and its existing and newly
5 created agencies with personnel (with certain exceptions)
6 selected on a civil service basis; requiring employers to
7 keep records and make reports, and certain employers to pay
8 contributions based on payrolls to provide moneys for the
9 payment of compensation to certain unemployed persons;
10 providing procedure and administrative details for the
11 determination, payment and collection of such contributions
12 and the payment of such compensation; providing for
13 cooperation with the Federal Government and its agencies;
14 creating certain special funds in the custody of the State
15 Treasurer; and prescribing penalties," in compensation,
16 further providing for ineligibility for compensation. <--
17 PROVIDING FOR ELIGIBILITY RELATED TO DOMESTIC VIOLENCE. <--

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 Section 1. Section 402(b) of the act of December 5, 1936 <--
21 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment
22 Compensation Law, amended November 3, 2022 (P.L.2153, No.156),
23 is amended to read:

24 Section 402. Ineligibility for Compensation. An employe
25 shall be ineligible for compensation for any week

1       \* \* \*

2       ~~(b) In which his unemployment is due to voluntarily leaving~~  
3 ~~work without cause of a necessitous and compelling nature,~~  
4 ~~irrespective of whether or not such work is in "employment" as~~  
5 ~~defined in this act: Provided, That a voluntary leaving work~~  
6 ~~because of a disability if the employer is able to provide other~~  
7 ~~suitable work, shall be deemed not a cause of a necessitous and~~  
8 ~~compelling nature: And provided further, That no employe shall~~  
9 ~~be deemed to be ineligible under this section for voluntarily~~  
10 ~~leaving work if the individual reasonably believes that due to a~~  
11 ~~domestic violence situation the individual's continued~~  
12 ~~employment would jeopardize the safety of the individual, and in~~  
13 ~~that case, the domestic violence situation shall be verified by~~  
14 ~~reasonable and confidential documentation as determined by the~~  
15 ~~department in consultation with the Office of Victim Advocate,~~  
16 ~~to include a statement supporting the existence of recent~~  
17 ~~domestic violence from a qualified professional from whom the~~  
18 ~~individual has sought assistance, such as a counselor, shelter~~  
19 ~~worker, member of the clergy, attorney or health care worker or~~  
20 ~~any type of evidence that reasonably proves domestic violence,~~  
21 ~~but the department may not require an active or recently issued~~  
22 ~~protective or other order documenting domestic violence, or a~~  
23 ~~police record documenting recent domestic violence, although a~~  
24 ~~claimant may present that documentation as evidence: And~~  
25 ~~provided further, That no employe shall be deemed to be~~  
26 ~~ineligible under this subsection where as a condition of~~  
27 ~~continuing in employment such employe would be required to join~~  
28 ~~or remain a member of a company union or to resign from or~~  
29 ~~refrain from joining any bona fide labor organization, or to~~  
30 ~~accept wages, hours or conditions of employment not desired by a~~

~~1 majority of the employes in the establishment or the occupation,  
2 or would be denied the right of collective bargaining under  
3 generally prevailing conditions, and that in determining whether  
4 or not an employe has left his work voluntarily without cause of  
5 a necessitous and compelling nature, the department shall give  
6 consideration to the same factors, insofar as they are  
7 applicable, provided, with respect to the determination of  
8 suitable work under section four (t): And provided further, That  
9 the provisions of this subsection shall not apply in the event  
10 of a stoppage of work which exists because of a labor dispute  
11 within the meaning of subsection (d). Provided further, That no  
12 otherwise eligible claimant shall be denied benefits for any  
13 week in which his unemployment is due to exercising the option  
14 of accepting a layoff, from an available position pursuant to a  
15 labor management contract agreement, or pursuant to an  
16 established employer plan, program or policy: Provided further,  
17 That a claimant shall not be disqualified for voluntarily  
18 leaving work, which is not suitable employment to enter training  
19 approved under section 236(a) (1) of the Trade Act of 1974:  
20 Provided further, That a claimant shall not be disqualified for  
21 voluntarily leaving work if the claimant left such work to  
22 accompany a spouse who is on active duty with the United States  
23 Armed Forces and is required to relocate due to permanent change  
24 of station orders, activation orders or unit deployment orders  
25 and such relocation would make it impractical or unreasonably  
26 difficult, as determined by the department, for the claimant to  
27 continue employment with the claimant's employer. For purposes  
28 of this subsection the term "suitable employment" means with  
29 respect to a claimant, work of a substantially equal or higher  
30 skill level than the claimant's past "adversely affected"~~

1 ~~employment" (as defined in section 247 of the Trade Act of~~  
2 ~~1974), and wages for such work at not less than eighty per~~  
3 ~~centum of the worker's "average weekly wage" (as defined in~~  
4 ~~section 247 of the Trade Act of 1974).~~

5 \* \* \*

6 ~~Section 2. The Department of Labor and Industry shall~~  
7 ~~consult with the Office of Victim Advocate when implementing the~~  
8 ~~amendment of section 402(b) of this act, including updates to~~  
9 ~~the application for unemployment compensation and the~~  
10 ~~development of any forms related to documentation of a domestic~~  
11 ~~violence situation.~~

12 ~~Section 3. This act shall take effect in six months.~~

13 SECTION 1. THE ACT OF DECEMBER 5, 1936 (2ND SP.SESS., 1937 <--  
14 P.L.2897, NO.1), KNOWN AS THE UNEMPLOYMENT COMPENSATION LAW, IS  
15 AMENDED BY ADDING A SECTION TO READ:

16 SECTION 402.7. ELIGIBILITY RELATED TO DOMESTIC VIOLENCE.--

17 (A) AN EMPLOYE SHALL NOT BE DEEMED TO BE INELIGIBLE UNDER  
18 SECTION 402(B) FOR VOLUNTARILY LEAVING EMPLOYMENT OR SECTION  
19 402(E) FOR FAILURE TO ATTEND WORK IF, DUE TO A DOMESTIC VIOLENCE  
20 SITUATION, THE INDIVIDUAL'S CONTINUED EMPLOYMENT WOULD  
21 JEOPARDIZE THE SAFETY OF THE INDIVIDUAL OR A MEMBER OF THE  
22 INDIVIDUAL'S FAMILY OR HOUSEHOLD.

23 (B) VERIFICATION OF A DOMESTIC VIOLENCE SITUATION MAY BE  
24 PROVIDED ON THE INITIAL APPLICATION FOR BENEFITS THROUGH ANY ONE  
25 OF THE FOLLOWING WHICH DOCUMENTS RECENT DOMESTIC VIOLENCE:

26 (1) AN ACTIVE OR RECENTLY ISSUED PROTECTIVE ORDER OR OTHER  
27 ORDER, COURT RECORDS, A POLICE RECORD, MEDICAL TREATMENT  
28 RECORDS, SOCIAL SERVICES RECORDS OR CHILD PROTECTIVE SERVICES  
29 RECORDS.

30 (2) A STATEMENT SUPPORTING THE EXISTENCE OF RECENT DOMESTIC

1 VIOLENCE FROM A QUALIFIED PROFESSIONAL FROM WHOM THE INDIVIDUAL  
2 HAS SOUGHT ASSISTANCE, SUCH AS A COUNSELOR, SHELTER WORKER,  
3 MEMBER OF THE CLERGY, ATTORNEY OR HEALTH CARE WORKER, OR A  
4 SIMILAR STATEMENT FROM A FRIEND OR RELATIVE FROM WHOM THE  
5 INDIVIDUAL HAS SOUGHT ASSISTANCE.

6 (3) A SELF-AFFIRMATION THAT THE INDIVIDUAL'S CONTINUED  
7 EMPLOYMENT WOULD JEOPARDIZE THE SAFETY OF THE INDIVIDUAL OR A  
8 MEMBER OF THE INDIVIDUAL'S FAMILY OR HOUSEHOLD DUE TO THE  
9 DOMESTIC VIOLENCE SITUATION.

10 (4) ANY OTHER TYPE OF EVIDENCE THAT REASONABLY PROVES  
11 DOMESTIC VIOLENCE.

12 (C) THE DOCUMENTATION OF DOMESTIC VIOLENCE SHALL REMAIN  
13 CONFIDENTIAL, AND THE DEPARTMENT MAY NOT DISCLOSE THE EXISTENCE  
14 OF A DOMESTIC VIOLENCE SITUATION IN ANY NOTICE PROVIDED TO AN  
15 EMPLOYER REGARDING THE CLAIM FOR COMPENSATION.

16 (D) IF AN INDIVIDUAL WHO SUBMITS A SELF-AFFIRMATION UNDER  
17 SUBSECTION (B) (3) IS OTHERWISE ELIGIBLE UNDER SECTION 401, THE  
18 INDIVIDUAL SHALL BE CONSIDERED ELIGIBLE, AND THE DEPARTMENT  
19 SHALL EXPEDITE A DETERMINATION OF ELIGIBILITY UNDER SECTION 501.  
20 THIS SUBSECTION SHALL NOT BE CONSTRUED TO PROHIBIT  
21 REDETERMINATION OF ELIGIBILITY WITHIN EIGHTEEN (18) MONTHS OF  
22 THE APPLICATION FOR BENEFITS IF THE DEPARTMENT RECEIVES  
23 INFORMATION WITHIN EIGHTEEN (18) MONTHS OF THE APPLICATION FOR  
24 BENEFITS INDICATING THAT THE SELF-AFFIRMATION SUBMITTED UNDER  
25 SUBSECTION (B) (3) INCLUDED FALSE INFORMATION.

26 (E) IF THE DEPARTMENT HAS REASONABLE CAUSE TO SUSPECT THAT A  
27 SELF-AFFIRMATION SUBMITTED UNDER SUBSECTION (B) (3) INCLUDED  
28 FALSE INFORMATION, THE DEPARTMENT MAY REQUIRE ADDITIONAL  
29 DOCUMENTATION UNDER SUBSECTION (B) (1), (2) OR (4) TO VERIFY THE  
30 DOMESTIC VIOLENCE SITUATION WHEN CONSIDERING A REDETERMINATION

1 OF ELIGIBILITY.

2 (F) THE DEPARTMENT SHALL GRANT RELIEF FROM CHARGES UNDER  
3 SECTION 302.1 TO BASE YEAR EMPLOYERS FOR BENEFIT CHARGES RELATED  
4 TO A CLAIM THAT IS DETERMINED ELIGIBLE IN ACCORDANCE WITH THIS  
5 SECTION, UNLESS THE DEPARTMENT DETERMINES THAT THE DOMESTIC  
6 VIOLENCE SITUATION IS ATTRIBUTABLE TO THE EMPLOYMENT WITH THE  
7 BASE YEAR EMPLOYER. RELIEF FROM CHARGES SHALL BE PROVIDED  
8 WITHOUT A REQUEST FROM THE EMPLOYER.

9 (G) SUBJECT TO SUBSECTION (C), IF AN EMPLOYER WILL BE  
10 GRANTED RELIEF FROM CHARGES WITHOUT A REQUEST UNDER SUBSECTION  
11 (F), THE DEPARTMENT SHALL NOTIFY THE EMPLOYER THAT RELIEF FROM  
12 CHARGES SHALL BE GRANTED WITHOUT THE NEED FOR THE EMPLOYER TO  
13 SUBMIT A REQUEST. NOTICE UNDER THIS SUBSECTION MAY BE INCLUDED  
14 ON THE ELIGIBILITY DETERMINATION PROVIDED TO THE EMPLOYER OR ON  
15 OTHER RELEVANT CLAIM DOCUMENTATION DELIVERED TO THE EMPLOYER.

16 SECTION 2. THE DEPARTMENT OF LABOR AND INDUSTRY SHALL  
17 CONSULT WITH THE OFFICE OF VICTIM ADVOCATE AND RELEVANT ADVOCACY  
18 GROUPS WHEN IMPLEMENTING THE ADDITION OF SECTION 402.7 OF THE  
19 ACT, INCLUDING UPDATES TO THE APPLICATION FOR UNEMPLOYMENT  
20 COMPENSATION, UPDATED NOTICES TO CLAIMANTS AND EMPLOYERS AND THE  
21 DEVELOPMENT OF ANY FORMS RELATED TO DOCUMENTATION OF A DOMESTIC  
22 VIOLENCE SITUATION.

23 SECTION 3. THIS ACT SHALL TAKE EFFECT IN SIX MONTHS.