
A BILL FOR AN ACT

RELATING TO EMPLOYMENT SECURITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that violence against
2 women has been reported to be the leading cause of physical
3 injury and has a devastating impact on women's physical and
4 emotional health and financial security.

5 It is in the interest of the State to reduce domestic
6 violence, sexual assault, and stalking by enabling victims of
7 domestic or sexual violence to maintain the financial
8 independence necessary to leave abusive situations and situate
9 themselves in safe, violence-free locations. Empowering
10 domestic violence victims with financial security allows them
11 escape from or minimize the physical and emotional injuries from
12 domestic or sexual violence and reduce the devastating economic
13 consequences of domestic or sexual violence to employers and
14 employees;

15 The purpose of this Act is to provide unemployment
16 insurance to those who are separated from their employment as a
17 result of domestic or sexual violence.

1 SECTION 2. Chapter 383, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 **"§383-A Eligibility of benefits for domestic or sexual**
5 **violence victims.** (a) As used in this section, the terms
6 "course of conduct", "domestic or sexual violence", "electronic
7 communications", "sexual assault", "stalking", and "victim
8 services organization" shall have the same meaning as in section
9 378-71.

10 (b) Notwithstanding any provision of this chapter to the
11 contrary, an individual shall not be denied benefits where the
12 individual is separated voluntarily or involuntarily from
13 employment due to circumstances set forth in this subsection
14 resulting from the individual or the individual's minor child
15 being a victim of domestic or sexual violence.

16 (1) An individual's voluntary separation from employment
17 shall be deemed for good cause for purposes of section
18 383-30 in any of the following circumstances:

19 (A) The individual has a reasonable fear of the
20 occurrence of future domestic or sexual violence
21 at, en route to, or en route from, the

1 individual's place of employment, including being
2 a victim of stalking;

3 (B) The efforts of the individual relating to
4 relocating in order to avoid future domestic or
5 sexual violence against the individual or the
6 individual's minor child prevent the individual
7 from reporting to work;

8 (C) The individual's or the individual's minor child
9 need to obtain treatment to recover from the
10 physical or psychological effects of domestic or
11 sexual violence prevents the individual from
12 reporting to work;

13 (D) The employer's refusal to grant the individual's
14 request for leave to address domestic or sexual
15 violence and its effects on the individual or the
16 individual's minor child, including leave
17 authorized by the Federal Family and Medical
18 Leave Act of 1993, title 29 United States Code
19 section 2612; or

20 (E) Any other circumstance in which domestic or
21 sexual violence causes the individual to
22 reasonably believe that separation from

1 employment is necessary for the future safety of
2 the individual, the individual's minor child, or
3 other individuals who may be present in the
4 employer's workplace.

5 (2) An individual's involuntary separation (suspension or
6 discharge) from employment shall not be considered
7 misconduct under section 383-30 if:

8 (A) The employer's discharge of the individual was
9 due to the individual's actions, including
10 absences from work, where the actions were
11 reasonably necessary to protect the individual or
12 the individual's minor child from domestic or
13 sexual violence; or

14 (B) The employer's discharge of the individual was
15 due to circumstances resulting from the
16 individual or the individual's minor child being
17 a victim of domestic or sexual violence.

18 (c) Notwithstanding any provision of this chapter to the
19 contrary, an individual who is a victim of domestic or sexual
20 violence shall have good cause for not accepting otherwise
21 suitable, available work in the following circumstances:

- 1 (1) The individual reasonably believes that the employment
2 will subject the individual, the individual's minor
3 child, or other individuals in the workplace to an
4 unreasonable risk of violence, despite the individual
5 having sought appropriate assistance in responding to
6 the domestic or sexual violence, including reporting
7 the violence to the police, obtaining services from a
8 victim services organization, and taking other
9 appropriate legal action;
- 10 (2) The individual or the individual's minor child is
11 seeking or residing in emergency shelter, or is
12 engaged in temporary or permanent relocation,
13 regardless of whether the individual has actually
14 obtained such refuge or accomplished such relocation;
15 or
- 16 (3) The individual reasonably believes that options such
17 as taking a leave of absence, transferring jobs, or
18 receiving an alternative work schedule would not be
19 sufficient to guarantee the safety of the individual,
20 the individual's minor child, or other individuals in
21 the workplace.

1 (d) The department may require an individual to provide
2 certification demonstrating that the individual's loss of
3 employment and continued unemployment is due to the individual
4 or the individual's minor child being a victim of domestic or
5 sexual violence. To demonstrate the individual's eligibility
6 for benefits, the department may request the following evidence:

7 (1) A notarized written statement of the individual
8 attesting to the individual or the individual's minor
9 child having been a victim of domestic or sexual
10 violence and explaining how the domestic or sexual
11 violence caused the individual's loss of employment or
12 continuing unemployment;

13 (2) A signed written statement from an employee, agent, or
14 volunteer of a victim services organization, from the
15 individual's attorney or advocate, from a minor
16 child's attorney or advocate, or a medical or other
17 professional from whom the individual or the
18 individual's minor child has sought assistance related
19 to the domestic or sexual violence attesting to the
20 domestic or sexual violence and explaining how the
21 domestic or sexual violence was the cause of the

1 individual's loss of employment or continuing
2 unemployment; or
3 (3) A police or court record suggesting or demonstrating
4 that the domestic or sexual violence was the cause of
5 the individual's loss of employment or continuing
6 unemployment.

7 (e) All information provided to the department pursuant to
8 this section, including any statement of the individual or any
9 other documentation, record, or corroborating evidence
10 discussing or relating to sexual or domestic violence, and the
11 fact that the individual has applied for, inquired about, or
12 obtained unemployment compensation by reason of this section
13 shall be retained in the strictest confidence by the
14 individual's former or current employer, and shall not be
15 disclosed except to the extent that disclosure is requested or
16 consented to by the employee, ordered by a court or
17 administrative agency, or otherwise required by applicable
18 federal or state law."

19 SECTION 3. If any provision of this Act, or the
20 application thereof to any person or circumstance is held
21 invalid, the invalidity does not affect other provisions or
22 applications of the Act, which can be given effect without the

1 invalid provision or application, and to this end the provisions
2 of this Act are severable.

3 SECTION 4. It is the intent of this Act not to jeopardize
4 the receipt of any federal aid. If this Act is found to be in
5 conflict with federal requirements that are a prescribed
6 condition for the allocation of federal funds to the State, the
7 conflicting part of this Act is inoperative solely to the extent
8 of the conflict and with respect to the agencies directly
9 affected, and this finding does not affect the operation of the
10 remainder of this Act in its application to the agencies
11 concerned. Any rules adopted pursuant to this Act shall meet
12 federal requirements that are a necessary condition to the
13 receipt of federal funds by the State.

14 SECTION 5. New statutory material is underscored.

15 SECTION 6. This Act shall take effect upon its approval.

Report Title:

Employment Security; Domestic Violence

Description:

Establishes eligibility for unemployment insurance. (SD1)