
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 to
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- Eligibility of benefits for domestic or sexual
5 violence victims. (a) Notwithstanding any provision of this
6 chapter to the contrary, an individual shall not be denied
7 benefits where the individual is separated voluntarily or
8 involuntarily from employment due to circumstances set forth in
9 subsections (b) or (c) resulting from the individual or the
10 individual's minor child being a victim of domestic or sexual
11 violence.

12 (b) For purposes of section 383-30 an individual's
13 voluntary separation from employment shall be deemed for good
14 cause if:

15 (1) The individual has a reasonable fear of the occurrence
16 of future domestic or sexual violence at, en route to,
17 or en route from, the individual's place of
18 employment, including being a victim of stalking;

19 (2) The efforts of the individual to relocate to avoid
20 future domestic or sexual violence against the
21 individual or the individual's minor child prevent the
22 individual from reporting to work;



1 (3) The individual's or the individual's minor child need
2 to obtain treatment to recover from the physical or
3 psychological effects of domestic or sexual violence
4 prevents the individual from reporting to work;

5 (4) The employer's refusal to grant the individual's
6 request for leave to address domestic or sexual
7 violence and its effects on the individual or the
8 individual's minor child, including leave authorized
9 by the Federal Family and Medical Leave Act of 1993,
10 Title 29 United States Code Section 2612; or

11 (5) Any other circumstance in which domestic or sexual
12 violence causes the individual to reasonably believe
13 that separation from employment is necessary for the
14 future safety of the individual, the individual's
15 minor child, or other individuals who may be present
16 in the employer's workplace.

17 (c) An individual's involuntary separation (suspension or
18 discharge) from employment shall not be considered misconduct
19 under section 383-30 if:

20 (1) The employer's discharge of the individual was due to
21 the individual's actions, including absences from
22 work, where the actions were reasonably necessary to



1 protect the individual or the individual's minor child
2 from domestic or sexual violence; or

3 (2) The employer's discharge of the individual was due to
4 circumstances resulting from the individual or the
5 individual's minor child being a victim of domestic or
6 sexual violence.

7 (d) Notwithstanding any provision of this chapter to the
8 contrary, an individual who is a victim of domestic or sexual
9 violence shall have good cause for not accepting otherwise
10 suitable, available work in the following circumstances:

11 (1) The individual reasonably believes that the employment
12 will subject the individual, the individual's minor
13 child, or other individuals in the workplace to an
14 unreasonable risk of violence, despite the individual
15 having sought appropriate assistance in responding to
16 the domestic or sexual violence, including reporting
17 the violence to the police, obtaining services from a
18 victim services organization, and taking other
19 appropriate legal action;

20 (2) The individual or the individual's minor child is
21 seeking or residing in emergency shelter, or is
22 engaged in temporary or permanent relocation,



1 regardless of whether the individual has actually
2 obtained such refuge or accomplished such relocation;
3 or

4 (3) The individual reasonably believes that options such
5 as taking a leave of absence, transferring jobs, or
6 receiving an alternative work schedule would not be
7 sufficient to guarantee the safety of the individual,
8 the individual's minor child, or other individuals in
9 the workplace.

10 (e) The department may require an individual to provide
11 certification demonstrating that the individual's loss of
12 employment and continued unemployment is due to the individual
13 or the individual's minor child being a victim of domestic or
14 sexual violence. To demonstrate the individual's eligibility
15 for benefits, the department may request:

16 (1) A notarized written statement of the individual
17 attesting that the individual or the individual's
18 minor child has been a victim of domestic or sexual
19 violence and explaining how the domestic or sexual
20 violence caused the individual's loss of employment or
21 continuing unemployment;



1 (2) A signed written statement from an employee, agent, or
2 volunteer of a victim services organization, from the
3 individual's attorney or advocate, from a minor
4 child's attorney or advocate, or a medical or other
5 professional from whom the individual or the
6 individual's minor child has sought assistance related
7 to the domestic or sexual violence attesting to the
8 domestic or sexual violence and explaining how the
9 domestic or sexual violence was the cause of the
10 individual's loss of employment or continuing
11 unemployment; or

12 (3) A police or court record suggesting or demonstrating
13 that the domestic or sexual violence was the cause of
14 the individual's loss of employment or continuing
15 unemployment.

16 (f) All information provided to the department pursuant to
17 this section, including any statement of the individual or any
18 other documentation, record, or corroborating evidence
19 discussing or relating to sexual or domestic violence, and the
20 fact that the individual has applied for, inquired about, or
21 obtained unemployment compensation by reason of this section
22 shall be retained in the strictest confidence by the



1 individual's former or current employer, and shall not be
2 disclosed except to the extent that disclosure is requested or
3 consented to by the employee, ordered by a court or
4 administrative agency, or otherwise required by applicable
5 federal or state law.

6 (g) As used in this section, "course of conduct,"
7 "domestic or sexual violence," "electronic communications,"
8 "sexual assault," "stalking," and "victim services organization"
9 has the same meaning as in section 378-71."

10 SECTION 3. If any provision of this Act, or the
11 application thereof to any person or circumstance is held
12 invalid, the invalidity does not affect other provisions or
13 applications of the Act, which can be given effect without the
14 invalid provision or application, and to this end the provisions
15 of this Act are severable.

16 SECTION 4. It is the intent of this Act not to jeopardize
17 the receipt of any federal aid. If this Act is found to be in
18 conflict with federal requirements that are a prescribed
19 condition for the allocation of federal funds to the State, the
20 conflicting part of this Act is inoperative solely to the extent
21 of the conflict and with respect to the agencies directly
22 affected, and this finding does not affect the operation of the



1 remainder of this Act in its application to the agencies
2 concerned. Any rules adopted pursuant to this Act shall meet
3 federal requirements that are a necessary condition to the
4 receipt of federal funds by the State.

5 SECTION 5. New statutory material is underscored.

6 SECTION 6. This Act shall take effect on July 1, 2112.



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S.D. 1
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Report Title:

Employment Security; Domestic Violence

Description:

Establishes eligibility for unemployment insurance. Effective
07/01/2112. (SB782 HD1)

SB782 HD1 HMS 2009-3128

