
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 The purpose of this Act is to promote the State's interest
6 in reducing domestic violence, sexual assault, and stalking by
7 enabling victims of domestic or sexual violence to maintain the
8 financial independence necessary to leave abusive situations,
9 achieve safety, and minimize the physical and emotional injuries
10 from domestic or sexual violence, and to reduce the devastating
11 economic consequences of domestic or sexual violence to
12 employers and employees.

13 To accomplish these purposes, this Act provides
14 unemployment insurance to those who are separated from their
15 employment as a result of domestic or sexual violence, in a
16 manner that accommodates the legitimate interests of employers.



1 SECTION 2. Chapter 383, Hawaii Revised Statutes, is
2 amended by adding one 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 this subsection resulting from the individual's or the
10 individual's minor child's being a victim of domestic or sexual
11 violence.

12 (1) An individual's voluntary separation from employment
13 shall be deemed for good cause for purposes of section
14 383-30 in any of the following circumstances:

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

20 (B) The anxiety of the individual to relocate to
21 avoid future domestic or sexual violence against



1 the individual or the individual's minor child
2 prevents the individual from reporting to work;

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

8 (D) The employer's refusal to grant the individual's
9 request for leave to address domestic or sexual
10 violence and its effects on the individual or the
11 individual's minor child, including leave
12 authorized by Chapter 378, Section 102 of the
13 Federal Family and Medical Leave Act of 1993, or
14 other federal, state, or county law; or

15 (E) Any other circumstance in which domestic or
16 sexual violence causes the individual to
17 reasonably believe that separation from
18 employment is necessary for the future safety of
19 the individual, the individual's minor child, or
20 other individuals who may be present in the
21 employer's workplace.



1 (2) An individual's involuntary separation (suspension or
2 discharge) from employment shall not be considered
3 misconduct for purposes of section 383-30 if:

4 (A) The employer's discharge of the individual was
5 due to the individual's actions, including
6 absences from work, where such actions were
7 reasonably necessary to protect the individual or
8 the individual's minor child from domestic or
9 sexual violence; or

10 (B) The employer's discharge of the individual was
11 due to circumstances resulting from the
12 individual's or the individual's minor child's
13 being a victim of domestic or sexual violence.

14 (b) Notwithstanding any provision of this chapter to the
15 contrary, an individual who is a victim of domestic or sexual
16 violence shall have good cause for not accepting otherwise
17 suitable, available work in the following circumstances:

18 (1) The individual reasonably believes that the employment
19 will subject the individual, the individual's minor
20 child, or other individuals in the workplace to an
21 unreasonable risk of violence, despite the individual
22 having sought appropriate assistance in responding to



1 the domestic or sexual violence, including reporting
2 the violence to the police, obtaining services from a
3 victim services organization, and taking other
4 appropriate legal action;

5 (2) The individual or the individual's minor child is
6 seeking or residing in an emergency shelter, or is
7 engaged in temporary or permanent relocation,
8 regardless of whether the individual has actually
9 obtained such refuge or accomplished such relocation;

10 or

11 (3) The individual reasonably believes that options such
12 as taking a leave of absence, transferring jobs, or
13 receiving an alternative work schedule would not be
14 sufficient to guarantee the safety of the individual,
15 the individual's minor child, or other individuals in
16 the workplace.

17 (c) Notwithstanding any provision of this chapter to the
18 contrary, an individual who is a victim of domestic or sexual
19 violence shall be deemed to have satisfied the requirement of
20 undertaking an active search for employment where the individual
21 has registered for work and has not been offered an employment
22 opportunity that reasonably accommodates the individual's need



1 to take care of the physical, psychological, legal, and other
2 effects of the domestic or sexual violence within thirty days
3 after the date of the individual's loss of employment.

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

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

16 (2) A signed written statement from:

17 (A) An employee, agent, or volunteer of a victim
18 services organization;

19 (B) The individual's attorney or advocate;

20 (C) A minor child's attorney or advocate; or

21 (D) A medical or other professional from whom the
22 individual or the individual's minor child has



1 sought assistance related to the domestic or
2 sexual violence,
3 attesting to the domestic or sexual violence and
4 explaining how the domestic or sexual violence caused
5 the individual's loss of employment or continuing
6 unemployment; or

7 (3) A police or court record suggesting or demonstrating
8 that the domestic or sexual violence was the cause of
9 the individual's loss of employment or continuing
10 unemployment.

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



1 (f) As used in this section, the terms "domestic or sexual
2 violence", "stalking", and "victim services organization" shall
3 have the same meaning as in section 378-71."

4 SECTION 3. Section 383-65, Hawaii Revised Statutes, is
5 amended by amending subsection (b) to read as follows:

6 "(b) Benefits paid to an individual shall not be charged
7 against the account of any of the individual's base period
8 employers on a contributory plan under section 383-61 when such
9 benefits are:

10 (1) Paid to an individual during any benefit year if the
11 individual:

12 (A) Left work voluntarily without good cause; or

13 (B) Was discharged for misconduct connected with the
14 individual's work; or

15 (C) Left work voluntarily for good cause not
16 attributable to the employer.

17 The chargeability of benefits to an employer's account
18 shall be determined in accordance with section 383-94
19 and other applicable provisions of this chapter, or as
20 may be otherwise specified by the department;

21 (2) Paid to an individual, who, during the individual's
22 base period, earned wages for part-time employment



1 with an employer, if the employer continues to give
2 the individual employment to the same extent while the
3 individual is receiving benefits as during the base
4 period and the employer establishes such fact to the
5 satisfaction of the director of labor and industrial
6 relations;

7 (3) Paid to an individual for the period the individual is
8 enrolled in and is in regular attendance at a
9 vocational training or retraining course approved by
10 the director pursuant to section 383-29;

11 (4) Paid to an individual under the extended benefits
12 program, sections 383-168 to 383-174; except that
13 one-half of the amount of such benefits which are
14 based on services performed for a governmental
15 employer on a contributory plan shall be charged to
16 the account of such employer;

17 (5) Paid to an individual who qualifies to receive
18 benefits by meeting the minimum earnings and
19 employment requirements only by combining the
20 individual's employment and wages earned in two or
21 more states;



- 1 (6) Benefits overpaid to a claimant as a result of
2 ineligibility or disqualification under sections
3 383-29 and 383-30 unless such overpayment resulted
4 from the employer's failure to furnish information as
5 required by this chapter or the rules of the
6 department; [ø]
- 7 (7) Benefits paid to an individual during any benefit year
8 beginning September 13, 1992 and thereafter shall not
9 be charged to the account of any base period employer
10 from whose employment the individual is separated as a
11 direct result of a major disaster and would have been
12 entitled to disaster unemployment assistance under the
13 Stafford Disaster Relief and Emergency Assistance Act
14 (P.L. 100-707) but for the receipt of unemployment
15 insurance benefits paid under this chapter; provided
16 that the employer must petition for relief of any
17 charges to an employer's reserve account as requested
18 by the department and the director approves granting
19 relief of charges[-];
- 20 (8) Paid to an individual when the employer discharges the
21 individual due to the individual's actions, including
22 absences from work, where the individual's actions



1 were reasonably necessary to protect the individual or
2 the individual's minor child from domestic or sexual
3 violence; or

4 (9) Paid to an individual when the employer discharges the
5 individual due to circumstances resulting from the
6 individual's being a victim of domestic or sexual
7 violence."

8 SECTION 4. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 5. This Act shall take effect upon its approval.



Report Title:

Employment Security; Domestic Violence

Description:

Establishes eligibility for unemployment insurance. (HB332 HD1)

