
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 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 this subsection that resulted from the status of the individual
10 or the individual's minor child as a victim of domestic or
11 sexual 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 Section 102 of the Federal Family
13 and Medical Leave Act of 1993, Public Law 103-3,
14 as amended, or other federal, state, or county
15 law; or

16 (E) Any other circumstance in which domestic or
17 sexual violence causes the individual to
18 reasonably believe that separation from
19 employment is necessary for the future safety of
20 the individual, the individual's minor child, or
21 other individuals who may be present in the
22 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 that resulted from the
12 status of the individual or the individual's
13 minor child as a victim of domestic or sexual
14 violence.

15 (b) Notwithstanding any provision of this chapter to the
16 contrary, an individual who is a victim of domestic or sexual
17 violence shall have good cause for not accepting otherwise
18 suitable, available work if the individual reasonably believes
19 that the employment will subject the individual, the
20 individual's minor child, or other individuals in the workplace
21 to an unreasonable risk of violence, despite the individual
22 having sought appropriate assistance in responding to the



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

4 (c) The department may require an individual to provide
5 certification demonstrating that the individual's failure to
6 accept otherwise suitable, available work is due to an
7 unreasonable risk of violence. To demonstrate the individual's
8 eligibility for benefits, the department may request the
9 following evidence:

10 (1) A notarized written statement of the individual
11 attesting to the status of the individual or the
12 individual's minor child as a victim of domestic or
13 sexual violence and explaining how the domestic or
14 sexual violence creates an unreasonable risk of
15 further violence if the offer of otherwise suitable,
16 available work were accepted;

17 (2) A signed written statement from:

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

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

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



1 (D) A medical or other professional from whom the
2 individual or the individual's minor child has
3 sought assistance related to the domestic or
4 sexual violence,
5 attesting to the domestic or sexual violence and
6 explaining how the domestic or sexual violence creates
7 an unreasonable risk of further violence; or
8 (3) A police or court record suggesting or demonstrating
9 that the domestic or sexual violence may cause an
10 unreasonable risk of further violence if otherwise
11 suitable, available work were accepted.

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



1 administrative agency, or otherwise required by applicable
2 federal or state law.

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

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

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

12 (1) Paid to an individual during any benefit year if the
13 individual:

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

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

17 (C) Left work voluntarily for good cause not
18 attributable to the employer.

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



- 1 (2) Paid to an individual, who, during the individual's
2 base period, earned wages for part-time employment
3 with an employer, if the employer continues to give
4 the individual employment to the same extent while the
5 individual is receiving benefits as during the base
6 period and the employer establishes such fact to the
7 satisfaction of the director of labor and industrial
8 relations;
- 9 (3) Paid to an individual for the period the individual is
10 enrolled in and is in regular attendance at a
11 vocational training or retraining course approved by
12 the director pursuant to section 383-29;
- 13 (4) Paid to an individual under the extended benefits
14 program, sections 383-168 to 383-174; except that
15 one-half of the amount of such benefits which are
16 based on services performed for a governmental
17 employer on a contributory plan shall be charged to
18 the account of such employer;
- 19 (5) Paid to an individual who qualifies to receive
20 benefits by meeting the minimum earnings and
21 employment requirements only by combining the



1 individual's employment and wages earned in two or
2 more states;

3 (6) Benefits overpaid to a claimant as a result of
4 ineligibility or disqualification under sections
5 383-29 and 383-30 unless such overpayment resulted
6 from the employer's failure to furnish information as
7 required by this chapter or the rules of the
8 department; [~~or~~]

9 (7) Benefits paid to an individual during any benefit year
10 beginning September 13, 1992 and thereafter shall not
11 be charged to the account of any base period employer
12 from whose employment the individual is separated as a
13 direct result of a major disaster and would have been
14 entitled to disaster unemployment assistance under the
15 Stafford Disaster Relief and Emergency Assistance Act
16 (P.L. 100-707) but for the receipt of unemployment
17 insurance benefits paid under this chapter; provided
18 that the employer must petition for relief of any
19 charges to an employer's reserve account as requested
20 by the department and the director approves granting
21 relief of charges[-];



1 (8) Paid to an individual when the employer discharges the
2 individual due to the individual's actions, including
3 absences from work, where the individual's actions
4 were reasonably necessary to protect the individual or
5 the individual's minor child from domestic or sexual
6 violence; or

7 (9) Paid to an individual when the employer discharges the
8 individual due to circumstances resulting from the
9 status of the individual as a victim of domestic or
10 sexual violence."

11 SECTION 4. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 5. This Act shall take effect on July 1, 2020.



Report Title:

Employment Security; Domestic Violence

Description:

Establishes eligibility for unemployment insurance for persons separated from employment as a result of domestic or sexual violence. (HB332 HD2)

