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# A BILL FOR AN ACT

RELATING TO UNEMPLOYMENT INSURANCE.

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

1       SECTION 1. Section 383-7.6, Hawaii Revised Statutes, is  
2 amended to read as follows:

3       " ~~[H]~~ §383-7.6 ~~[H]~~ Separation for compelling family reason.

4       (a) An individual shall not be disqualified from regular  
5 unemployment benefits for separating from employment if that  
6 separation is for a compelling family reason.

7       For purposes of this section, the term "compelling family  
8 reason" means any of the following:

9       (1) Domestic or sexual violence that is verified by  
10       reasonable and confidential documentation that causes  
11       the individual to reasonably believe that the  
12       individual's continued employment may jeopardize the  
13       safety of the individual or any member of the  
14       individual's immediate family (as defined by the  
15       United States Secretary of Labor), including any of  
16       the following circumstances:

17       (A) The individual has a reasonable fear of the  
18       occurrence of future domestic or sexual violence



- 1 at, en route to, or en route from the  
2 individual's place of employment, including being  
3 a victim of stalking;
- 4 (B) The anxiety of the individual to relocate to  
5 avoid future domestic or sexual violence against  
6 the individual or the individual's minor child  
7 prevents the individual from reporting to work;
- 8 (C) The need of the individual or the individual's  
9 minor child to obtain treatment to recover from  
10 the physical or psychological effects of domestic  
11 or 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 Section 102 of the Federal Family  
18 and Medical Leave Act of 1993, Public Law 103-3,  
19 as amended, or other federal, state, or county  
20 law; or
- 21 (E) Any other circumstance in which domestic or  
22 sexual violence causes the individual to



1           reasonably believe that separation from  
2           employment is necessary for the future safety of  
3           the individual, the individual's minor child, or  
4           other individuals who may be present in the  
5           employer's workplace;

6           (2)   Illness or disability of a member of the individual's  
7           immediate family (as defined by the United States  
8           Secretary of Labor); or

9           (3)   The need for the individual to accompany the  
10          individual's spouse, because of a change in the  
11          location of the spouse's employment, to a place from  
12          which it is impractical for the individual to commute  
13          to work.

14          (b)   The department may request as reasonable and  
15          confidential documentation under subsection (a)(1) the following  
16          evidence:

17          (1)   A notarized written statement of the individual  
18          attesting to the status of the individual or the  
19          individual's minor child as a victim of domestic or  
20          sexual violence and explaining how continued  
21          employment creates an unreasonable risk of further  
22          violence;



- 1           (2) A signed written statement from:
  - 2                   (A) An employee, agent, or volunteer of a victim
  - 3                           services organization;
  - 4                   (B) The individual's attorney or advocate;
  - 5                   (C) A minor child's attorney or advocate; or
  - 6                   (D) A medical or other professional from whom the
  - 7                           individual or the individual's minor child has
  - 8                           sought assistance related to the domestic or
  - 9                           sexual violence,
  - 10                           attesting to the domestic or sexual violence and
  - 11                           explaining how the continued employment creates an
  - 12                           unreasonable risk of further violence; or
- 13           (3) A police or court record suggesting or demonstrating
- 14                   that the continued employment may cause an
- 15                   unreasonable risk of further violence.
- 16           (c) 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 domestic or sexual 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 (d) Notwithstanding any provision of this chapter to the  
7 contrary, an individual who is a victim of domestic or sexual  
8 violence shall have good cause for not accepting otherwise  
9 suitable, available work if the individual reasonably believes  
10 that the employment will subject the individual, the  
11 individual's minor child, or other individuals in the workplace  
12 to an unreasonable risk of violence, despite the individual's  
13 having sought appropriate assistance in responding to the  
14 domestic or sexual violence, including reporting the violence to  
15 the police, obtaining services from a victim services  
16 organization, or taking other appropriate legal action. The  
17 department may refer to documentation provided under subsection  
18 (b) (1) to determine whether this good cause exemption under  
19 subsection (a) applies; provided that the department may require  
20 additional documentation pursuant to subsection (b) (1), at  
21 reasonable intervals, to determine if an individual continues to  
22 have good cause.



# H.B. NO. 748

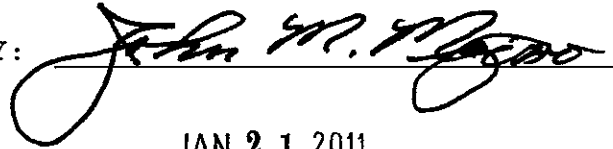
1        [~~(d)~~] (e) As used in this section, the terms "domestic or  
2 sexual violence", "stalking", and "victim services organization"  
3 shall have the same meaning as in section 378-71."

4        SECTION 2. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6        SECTION 3. This Act shall take effect on July 1, 2011.

7

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "John M. Pappas", is written over a horizontal line.

JAN 21 2011



**Report Title:**

Unemployment Insurance

**Description:**

Makes fear of domestic or sexual violence a good cause for not accepting otherwise suitable, available work.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

