

SENATE BILL No. 12

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-4-15-1; IC 22-5-7.

Synopsis: Protective orders and employment. Provides that: (1) an individual is not subject to disqualification from eligibility for unemployment benefits because of discharge from the individual's employment due to circumstances directly related to the individual's filing of a petition for a protective order; and (2) an employer may not terminate an employee or discriminate against an employee with respect to compensation, benefits, or terms and conditions of employment based on the filing by the employee of a petition for a protective order, whether or not the order has been issued.

Effective: July 1, 2014.

Randolph

January 6, 2014, read first time and referred to Committee on Judiciary.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 12

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-4-15-1, AS AMENDED BY P.L.175-2009,
2 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]: Sec. 1. (a) With respect to benefit periods established
4 on and after July 6, 1980, an individual who has voluntarily left the
5 individual's most recent employment without good cause in connection
6 with the work or who was discharged from the individual's most recent
7 employment for just cause is ineligible for waiting period or benefit
8 rights for the week in which the disqualifying separation occurred and
9 until the individual has earned remuneration in employment equal to
10 or exceeding the weekly benefit amount of the individual's claim in
11 each of eight (8) weeks. If the qualification amount has not been earned
12 at the expiration of an individual's benefit period, the unearned amount
13 shall be carried forward to an extended benefit period or to the benefit
14 period of a subsequent claim.
15 (b) When it has been determined that an individual has been
16 separated from employment under disqualifying conditions as outlined



1 in this section, the maximum benefit amount of the individual's current
2 claim, as initially determined, shall be reduced by an amount
3 determined as follows:

4 (1) For the first separation from employment under disqualifying
5 conditions, the maximum benefit amount of the individual's
6 current claim is equal to the result of:

7 (A) the maximum benefit amount of the individual's current
8 claim, as initially determined; multiplied by

9 (B) seventy-five percent (75%);

10 rounded (if not already a multiple of one dollar (\$1)) to the next
11 higher dollar.

12 (2) For the second separation from employment under
13 disqualifying conditions, the maximum benefit amount of the
14 individual's current claim is equal to the result of:

15 (A) the maximum benefit amount of the individual's current
16 claim determined under subdivision (1); multiplied by

17 (B) eighty-five percent (85%);

18 rounded (if not already a multiple of one dollar (\$1)) to the next
19 higher dollar.

20 (3) For the third and any subsequent separation from employment
21 under disqualifying conditions, the maximum benefit amount of
22 the individual's current claim is equal to the result of:

23 (A) the maximum benefit amount of the individual's current
24 claim determined under subdivision (2); multiplied by

25 (B) ninety percent (90%);

26 rounded (if not already a multiple of one dollar (\$1)) to the next
27 higher dollar.

28 (c) The disqualifications provided in this section shall be subject to
29 the following modifications:

30 (1) An individual shall not be subject to disqualification because
31 of separation from the individual's employment if:

32 (A) the individual left to accept with another employer
33 previously secured permanent full-time work which offered
34 reasonable expectation of continued covered employment and
35 betterment of wages or working conditions and thereafter was
36 employed on said job;

37 (B) having been simultaneously employed by two (2)
38 employers, the individual leaves one (1) such employer
39 voluntarily without good cause in connection with the work
40 but remains in employment with the second employer with a
41 reasonable expectation of continued employment; or

42 (C) the individual left to accept recall made by a base period



- 1 employer.
- 2 (2) An individual whose unemployment is the result of medically
3 substantiated physical disability and who is involuntarily
4 unemployed after having made reasonable efforts to maintain the
5 employment relationship shall not be subject to disqualification
6 under this section for such separation.
- 7 (3) An individual who left work to enter the armed forces of the
8 United States shall not be subject to disqualification under this
9 section for such leaving of work.
- 10 (4) An individual whose employment is terminated under the
11 compulsory retirement provision of a collective bargaining
12 agreement to which the employer is a party, or under any other
13 plan, system, or program, public or private, providing for
14 compulsory retirement and who is otherwise eligible shall not be
15 deemed to have left the individual's work voluntarily without
16 good cause in connection with the work. However, if such
17 individual subsequently becomes reemployed and thereafter
18 voluntarily leaves work without good cause in connection with the
19 work, the individual shall be deemed ineligible as outlined in this
20 section.
- 21 (5) An otherwise eligible individual shall not be denied benefits
22 for any week because the individual is in training approved under
23 Section 236(a)(1) of the Trade Act of 1974, nor shall the
24 individual be denied benefits by reason of leaving work to enter
25 such training, provided the work left is not suitable employment,
26 or because of the application to any week in training of provisions
27 in this law (or any applicable federal unemployment
28 compensation law), relating to availability for work, active search
29 for work, or refusal to accept work. For purposes of this
30 subdivision, the term "suitable employment" means with respect
31 to an individual, work of a substantially equal or higher skill level
32 than the individual's past adversely affected employment (as
33 defined for purposes of the Trade Act of 1974), and wages for
34 such work at not less than eighty percent (80%) of the individual's
35 average weekly wage as determined for the purposes of the Trade
36 Act of 1974.
- 37 (6) An individual is not subject to disqualification because of
38 separation from the individual's employment if:
- 39 (A) the employment was outside the individual's labor market;
40 (B) the individual left to accept previously secured full-time
41 work with an employer in the individual's labor market; and
42 (C) the individual actually became employed with the



- 1 employer in the individual's labor market.
- 2 (7) An individual who, but for the voluntary separation to move
- 3 to another labor market to join a spouse who had moved to that
- 4 labor market, shall not be disqualified for that voluntary
- 5 separation, if the individual is otherwise eligible for benefits.
- 6 Benefits paid to the spouse whose eligibility is established under
- 7 this subdivision shall not be charged against the employer from
- 8 whom the spouse voluntarily separated.
- 9 (8) An individual shall not be subject to disqualification if the
- 10 individual voluntarily left employment or was discharged due to
- 11 circumstances directly caused by domestic or family violence (as
- 12 defined in IC 31-9-2-42). An individual who may be entitled to
- 13 benefits based on this modification may apply to the office of the
- 14 attorney general under IC 5-26.5 to have an address designated by
- 15 the office of the attorney general to serve as the individual's
- 16 address for purposes of this article.
- 17 **(9) An individual is not subject to disqualification under this**
- 18 **section because of discharge from the individual's**
- 19 **employment due to circumstances directly related to the filing**
- 20 **by the individual of a petition for a protective order (as**
- 21 **defined in IC 5-2-9-2.1) for the protection of the individual.**
- 22 As used in this subsection, "labor market" means the area surrounding
- 23 an individual's permanent residence, outside which the individual
- 24 cannot reasonably commute on a daily basis. In determining whether
- 25 an individual can reasonably commute under this subdivision, the
- 26 department shall consider the nature of the individual's job.
- 27 (d) "Discharge for just cause" as used in this section is defined to
- 28 include but not be limited to:
- 29 (1) separation initiated by an employer for falsification of an
- 30 employment application to obtain employment through
- 31 subterfuge;
- 32 (2) knowing violation of a reasonable and uniformly enforced rule
- 33 of an employer, including a rule regarding attendance;
- 34 (3) if an employer does not have a rule regarding attendance, an
- 35 individual's unsatisfactory attendance, if the individual cannot
- 36 show good cause for absences or tardiness;
- 37 (4) damaging the employer's property through willful negligence;
- 38 (5) refusing to obey instructions;
- 39 (6) reporting to work under the influence of alcohol or drugs or
- 40 consuming alcohol or drugs on employer's premises during
- 41 working hours;
- 42 (7) conduct endangering safety of self or coworkers;



1 (8) incarceration in jail following conviction of a misdemeanor or
 2 felony by a court of competent jurisdiction; or

3 (9) any breach of duty in connection with work which is
 4 reasonably owed an employer by an employee.

5 (e) To verify that domestic or family violence has occurred, an
 6 individual who applies for benefits under subsection (c)(8) shall
 7 provide one (1) of the following:

8 (1) A report of a law enforcement agency (as defined in
 9 IC 10-13-3-10).

10 (2) A protection order issued under IC 34-26-5.

11 (3) A foreign protection order (as defined in IC 34-6-2-48.5).

12 (4) An affidavit from a domestic violence service provider
 13 verifying services provided to the individual by the domestic
 14 violence service provider.

15 **(f) If an individual applies for benefits under this article and**
 16 **asserts that the individual, under subsection (c)(9), is not subject to**
 17 **disqualification, the individual must provide to the department a**
 18 **copy of the petition for a protective order (as defined in**
 19 **IC 5-2-9-2.1) filed by the individual.**

20 SECTION 2. IC 22-5-7 IS ADDED TO THE INDIANA CODE AS
 21 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 22 1, 2014]:

23 **Chapter 7. Protective Orders and Employment**

24 **Sec. 1. As used in this chapter, "protective order" has the**
 25 **meaning set forth in IC 5-2-9-2.1.**

26 **Sec. 2. (a) An employer may not:**

27 **(1) discriminate against an employee with respect to:**

28 **(A) compensation and benefits from the employer; or**

29 **(B) terms and conditions of employment; or**

30 **(2) terminate an employee from employment;**

31 **based on the filing by the employee of a petition for a protective**
 32 **order for the protection of the employee, whether or not the**
 33 **protective order has been issued.**

34 **(b) This section does not prohibit an employer from altering:**

35 **(1) the location of employment of an employee;**

36 **(2) an employee's compensation or benefits; or**

37 **(3) a term or condition of employment;**

38 **upon which an employee and employer mutually have agreed to**
 39 **alter.**

40 **Sec. 3. (a) An employee may bring a civil action against an**
 41 **employer to enforce section 2 of this chapter.**

42 **(b) If an employer is found in an action brought under this**



1 section to have violated section 2 of this chapter, the court may do
2 the following:

3 (1) Award:

4 (A) actual damages; and

5 (B) court costs and reasonable attorney's fees;

6 to the prevailing employee or prospective employee.

7 (2) Enjoin further violation of this chapter.

8 Sec. 4. This chapter does not limit an employee's rights or
9 remedies under any other state or federal law.

