

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 539

AN ACT

To repeal section 288.060 as enacted by house bill no. 150, ninety-eighth general assembly, first regular session, and section 288.060 as enacted by house bill no. 163, ninety-sixth general assembly, first regular session, and to enact in lieu thereof three new sections relating to employment security, with an effective date for a certain section.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 288.060 as enacted by house bill no. 150, ninety-eighth general assembly, first regular session, and section 288.060 as enacted by house bill no. 163, ninety-sixth general assembly, first regular session, are repealed and three new sections enacted in lieu thereof, to be known as sections 288.060, 288.104, and 288.112, to read as follows:

[288.060. 1. All benefits shall be paid through employment offices in accordance with such regulations as the division may prescribe.

2. Each eligible insured worker who is totally unemployed in any week shall be paid for such week a sum equal to his or her weekly benefit amount.

3. Each eligible insured worker who is partially unemployed in any week shall be paid for such week a partial benefit. Such partial benefit shall be an amount equal to the difference between his or her weekly benefit amount and that part of his or her wages for such week in excess of twenty dollars, and, if such partial benefit amount is not a multiple of one dollar, such amount shall be reduced to the nearest lower full dollar amount. For calendar year 2007 and each year thereafter, such partial benefit shall be an amount equal to the difference between his or her weekly benefit amount and that part of his or her wages for such week in excess of twenty dollars or twenty percent of his or her weekly benefit amount, whichever is greater, and, if such partial benefit amount is not a multiple of one dollar, such amount shall be reduced to the nearest

lower full dollar amount. Pay received by an eligible insured worker who is a member of the organized militia for training or duty authorized by Section 502(a)(1) of Title 32, United States Code, shall not be considered wages for the purpose of this subsection.

4. The division shall compute the wage credits for each individual by crediting him or her with the wages paid to him or her for insured work during each quarter of his or her base period or twenty-six times his or her weekly benefit amount, whichever is the lesser. In addition, if a claimant receives wages in the form of termination pay or severance pay and such payment appears in a base period established by the filing of an initial claim, the claimant may, at his or her option, choose to have such payment included in the calendar quarter in which it was paid or choose to have it prorated equally among the quarters comprising the base period of the claim. For the purpose of this section, wages shall be counted as wage credits for any benefit year, only if such benefit year begins subsequent to the date on which the employing unit by whom such wages were paid has become an employer. The wage credits of an individual earned during the period commencing with the end of a prior base period and ending on the date on which he or she filed an allowed initial claim shall not be available for benefit purposes in a subsequent benefit year unless, in addition thereto, such individual has subsequently earned either wages for insured work in an amount equal to at least five times his or her current weekly benefit amount or wages in an amount equal to at least ten times his or her current weekly benefit amount.

5. The duration of benefits payable to any insured worker during any benefit year shall be limited to:

- (1) Twenty weeks if the Missouri average unemployment rate is nine percent or higher;
- (2) Nineteen weeks if the Missouri average unemployment rate is between eight and one-half percent and nine percent;
- (3) Eighteen weeks if the Missouri average unemployment rate is eight percent up to and including eight and one-half percent;
- (4) Seventeen weeks if the Missouri average unemployment rate is between seven and one-half percent and eight percent;
- (5) Sixteen weeks if the Missouri average unemployment rate is seven percent up to and including seven and one-half percent;
- (6) Fifteen weeks if the Missouri average unemployment rate is between six and one-half percent and seven percent;

(7) Fourteen weeks if the Missouri average unemployment rate is six percent up to and including six and one-half percent;

(8) Thirteen weeks if the Missouri average unemployment rate is below six percent. As used in this subsection, the phrase "Missouri average unemployment rate" means the average of the seasonally adjusted statewide unemployment rates as published by the United States Department of Labor, Bureau of Labor Statistics, for the time periods of January first through March thirty-first and July first through September thirtieth. The average of the seasonally adjusted statewide unemployment rates for the time period of January first through March thirty-first shall be effective on and after July first of each year and shall be effective through December thirty-first. The average of the seasonally adjusted statewide unemployment rates for the time period of July first through September thirtieth shall be effective on and after January first of each year and shall be effective through June thirtieth; and

(9) The provisions of this subsection shall become effective January 1, 2016.

6. In the event that benefits are due a deceased person and no petition has been filed for the probate of the will or for the administration of the estate of such person within thirty days after his or her death, the division may by regulation provide for the payment of such benefits to such person or persons as the division finds entitled thereto and every such payment shall be a valid payment to the same extent as if made to the legal representatives of the deceased.

7. The division is authorized to cancel any benefit warrant remaining outstanding and unpaid one year after the date of its issuance and there shall be no liability for the payment of any such benefit warrant thereafter.

8. The division may establish an electronic funds transfer system to transfer directly to claimants' accounts in financial institutions benefits payable to them pursuant to this chapter. To receive benefits by electronic funds transfer, a claimant shall satisfactorily complete a direct deposit application form authorizing the division to deposit benefit payments into a designated checking or savings account. Any electronic funds transfer system created pursuant to this subsection shall be administered in accordance with regulations prescribed by the division.

9. The division may issue a benefit warrant covering more than one week of benefits.

10. Prior to January 1, 2005, the division shall institute procedures including, but not

limited to, name, date of birth, and Social Security verification matches for remote claims filing via the use of telephone or the internet in accordance with such regulations as the division shall prescribe. At a minimum, the division shall verify the Social Security number and date of birth when an individual claimant initially files for unemployment insurance benefits. If verification information does not match what is on file in division databases to what the individual is stating, the division shall require the claimant to submit a division-approved form requesting an affidavit of eligibility prior to the payment of additional future benefits. The division of employment security shall cross-check unemployment compensation applicants and recipients with Social Security Administration data maintained by the federal government at least weekly. The division of employment security shall cross-check at least monthly unemployment compensation applicants and recipients with department of revenue drivers license databases.]

288.060. 1. All benefits shall be paid through employment offices in accordance with such regulations as the division may prescribe.

2. Each eligible insured worker who is totally unemployed in any week shall be paid for such week a sum equal to his or her weekly benefit amount.

3. Each eligible insured worker who is partially unemployed in any week shall be paid for such week a partial benefit. Such partial benefit shall be an amount equal to the difference between his or her weekly benefit amount and that part of his or her wages for such week in excess of twenty dollars, and, if such partial benefit amount is not a multiple of one dollar, such amount shall be reduced to the nearest lower full dollar amount. For calendar year 2007 and each year thereafter, such partial benefit shall be an amount equal to the difference between his or her weekly benefit amount and that part of his or her wages for such week in excess of twenty dollars or twenty percent of his or her weekly benefit amount, whichever is greater, and, if such partial benefit amount is not a multiple of one dollar,

such amount shall be reduced to the nearest lower full dollar amount. Termination pay, severance pay, or pay received by an eligible insured worker who is a member of the organized militia for training or duty authorized by Section 502(a)(1) of Title 32, United States Code, shall not be considered wages for the purpose of this subsection.

4. The division shall compute the wage credits for each individual by crediting him or her with the wages paid to him or her for insured work during each quarter of his or her base period or twenty-six times his or her weekly benefit amount, whichever is the lesser. In addition, if a claimant receives wages in the form of termination pay or severance pay and such payment appears in a base period established by the filing of an initial claim, the claimant may, at his or her option, choose to have such payment included in the calendar quarter in which it was paid or choose to have it prorated equally among the quarters comprising the base period of the claim. The maximum total amount of benefits payable to any insured worker during any benefit year shall not exceed twenty times his or her weekly benefit amount, or thirty-three and one-third percent of his or her wage credits, whichever is the lesser. For the purpose of this section, wages shall be counted as wage credits for any benefit year, only if such benefit year begins subsequent to the date on which the employing unit by whom such wages were paid has become an employer. The wage credits of an individual earned during the period commencing with the end of a prior base period and ending on the date on which he or she filed an allowed initial claim shall not be available for benefit purposes in a subsequent benefit year unless, in addition thereto, such individual has subsequently earned either wages for insured work in an amount equal to at least five times his or her current

weekly benefit amount or wages in an amount equal to at least ten times his or her current weekly benefit amount.

5. (1) The duration of benefits payable to any insured worker during any benefit year shall be limited to:

(a) Twenty weeks if the Missouri average unemployment rate is higher than nine percent;

(b) Nineteen weeks if the Missouri average unemployment rate is higher than eight and one-half percent but no higher than nine percent;

(c) Eighteen weeks if the Missouri average unemployment rate is higher than eight percent but no higher than eight and one-half percent;

(d) Seventeen weeks if the Missouri average unemployment rate is higher than seven and one-half percent but no higher than eight percent;

(e) Sixteen weeks if the Missouri average unemployment rate is higher than seven percent but no higher than seven and one-half percent;

(f) Fifteen weeks if the Missouri average unemployment rate is higher than six and one-half percent but no higher than seven percent;

(g) Fourteen weeks if the Missouri average unemployment rate is higher than six percent but no higher than six and one-half percent;

(h) Thirteen weeks if the Missouri average unemployment rate is higher than five and one-half percent but no higher than six percent; and

(i) Twelve weeks if the Missouri average unemployment rate is at or below five and one-half percent.

(2) As used in this subsection, the phrase "Missouri average unemployment rate" means the average of the seasonally adjusted statewide unemployment rates as published by the United States Department of Labor, Bureau

of Labor Statistics, for the time periods of January first through March thirty-first and July first through September thirtieth. The average of the seasonally adjusted statewide unemployment rates for the time period of January first through March thirty-first shall be effective on and after July first of each year and shall be effective through December thirty-first. The average of the seasonally adjusted statewide unemployment rates for the time period of July first through September thirtieth shall be effective on and after January first of each year and shall be effective through June thirtieth.

(3) The provisions of this subsection shall become effective January 1, 2022.

6. In the event that benefits are due a deceased person and no petition has been filed for the probate of the will or for the administration of the estate of such person within thirty days after his or her death, the division may by regulation provide for the payment of such benefits to such person or persons as the division finds entitled thereto and every such payment shall be a valid payment to the same extent as if made to the legal representatives of the deceased.

[6.] 7. The division is authorized to cancel any benefit warrant remaining outstanding and unpaid one year after the date of its issuance and there shall be no liability for the payment of any such benefit warrant thereafter.

[7.] 8. The division may establish an electronic funds transfer system to transfer directly to claimants' accounts in financial institutions benefits payable to them pursuant to this chapter. To receive benefits by electronic funds transfer, a claimant shall satisfactorily complete a direct deposit application form authorizing the division to deposit

benefit payments into a designated checking or savings account. Any electronic funds transfer system created pursuant to this subsection shall be administered in accordance with regulations prescribed by the division.

[8.] 9. The division may issue a benefit warrant covering more than one week of benefits.

[9.] 10. Prior to January 1, 2005, the division shall institute procedures including, but not limited to, name, date of birth, and Social Security verification matches for remote claims filing via the use of telephone or the internet in accordance with such regulations as the division shall prescribe. At a minimum, the division shall verify the Social Security number and date of birth when an individual claimant initially files for unemployment insurance benefits. If verification information does not match what is on file in division databases to what the individual is stating, the division shall require the claimant to submit a division-approved form requesting an affidavit of eligibility prior to the payment of additional future benefits. The division of employment security shall cross-check unemployment compensation applicants and recipients with Social Security Administration data maintained by the federal government at least weekly. The division of employment security shall cross-check at least monthly unemployment compensation applicants and recipients with department of revenue drivers license databases.

11. The division shall promulgate rules and regulations to administer this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536

are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be invalid and void.

288.104. 1. This section shall be known and may be cited as the "Employment Security Program Integrity Act of 2021".

2. As used in this section, the following terms mean:

(1) "Department of corrections", the Missouri department of corrections;

(2) "Division", the division of employment security of the Missouri department of labor and industrial relations;

(3) "Employment security rolls", the list of all persons currently receiving employment security benefits under this chapter, to be kept and updated by the division;

(4) "Integrity Data Hub", the Integrity Data Hub designed and published by the UI Integrity Center of the National Association of State Workforce Agencies (NASWA);

(5) "New-hire records", the directory of newly hired and rehired employees reported under applicable state and federal laws and managed by the division.

3. The division shall engage with and utilize the Integrity Data Hub to ensure that only eligible individuals receive employment security benefits pursuant to this chapter.

4. The division shall, on a weekly basis, check its employment security rolls against a list of incarcerated individuals, which shall be provided to the division by the department of corrections, to verify the eligibility of benefit claimants and to ensure that only eligible

individuals receive employment security benefits pursuant to this chapter.

5. (1) The division shall adopt and implement internal administrative policies to prioritize and pursue the recovery of employment security benefits overpaid due to the nondisclosure or misrepresentation of a material fact to the fullest extent allowable under applicable state and federal law. The division shall, without exception, attempt to recover all outstanding employment security benefit overpayments unless doing so would violate state or federal law.

(2) The division shall maintain records of all of its attempts to recover employment security benefit overpayments. The division shall issue a written report to the general assembly each year, no later than December thirty-first, describing overpaid employment security benefit payments and the attempts at recovery, the extent to which any overpaid employment security benefit payments have not been corrected or recovered, and the reasons for the failure of the division to secure such correction or recovery.

(3) The division shall enter into a cooperative agreement with the Office of Inspector General of the United States Department of Labor to proactively detect and investigate cases of employment security benefits overpaid due to the nondisclosure or misrepresentation of a material fact.

(4) The division shall issue a written report to the general assembly each year, no later than December thirty-first, on the efficacy of the division's efforts at detecting overpayments of employment security benefits due to the nondisclosure or misrepresentation of a material fact

by a person and on the measures taken by the division to prevent such overpayments.

6. The division shall, on a weekly basis, check its new-hire records against the records contained in the National Directory of New Hires published by the office of child support enforcement within the federal department of health and human services in order to verify the eligibility of the individuals named in the division's new-hire records.

7. The division may execute a memorandum of understanding with any governmental entity of this state in order to share and receive such information as may be necessary for the division to administer the provisions of this section.

8. If the division receives information relating to an individual who has been found eligible for employment security benefits and such information indicates a change in circumstances that could affect the individual's eligibility, the division shall review the individual's eligibility case.

9. The division may promulgate all necessary rules and regulations for the administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section shall be invalid and void.

288.112. 1. Notwithstanding the provisions of section 288.113 to the contrary, a new employer shall receive an experience rating not later than twelve months after such employer hires an employee who works at least one thousand five hundred hours annually, pro rata.

2. Unless there have been twenty-four months immediately preceding the computation date of a new employer's experience rating throughout which an individual in the new employer's employ could have received benefits, if eligible, no new employer shall pay an unemployment contribution rate higher than average rate of all employers within the industrial classification division to which the new employer is assigned.

3. The department shall promulgate rules and regulations to implement this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be invalid and void.

4. For purposes of this section, the term "new employer" means any employer which has not yet received an experience rating.

Section B The enactment of section 288.104 of this act shall become effective on January 1, 2022.