

SENATE BILL No. 378

April 27, 1989, Introduced by Senators CARL, CRUCE,
DI NELLO, DILLINGHAM and BINSFELD and referred
to the Committee on Human Resources and Senior
Citizens.

A bill to amend section 11 of Act No. 1 of the Public Acts
of the Extra Session of 1936, entitled as amended
"Michigan employment security act,"
as amended by Act No. 197 of the Public Acts of 1985, being sec-
tion 421.11 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 11 of Act No. 1 of the Public Acts of
2 the Extra Session of 1936, as amended by Act No. 197 of the
3 Public Acts of 1985, being section 421.11 of the Michigan
4 Compiled Laws, is amended to read as follows:

5 Sec. 11. (a) In the administration of this act, the commis-
6 sion shall cooperate with the appropriate agency of the United
7 States under the social security act. The commission shall make
8 reports, in a form and containing information as the appropriate
9 agency of the United States may from time to time require, and

1 shall comply with such provisions as the appropriate agency of
2 the United States may from time to time prescribe to assure the
3 correctness and verification of the reports. The commission,
4 subject to this act, shall comply with the regulations prescribed
5 by the appropriate agency of the United States relating to the
6 receipt or expenditure of such sums as may be allotted and paid
7 to this state for the purpose of assisting in the administration
8 of this act. As used in this section, "social security act"
9 means the social security act, chapter 531, 49 Stat. 620.

10 (b) (1) Information obtained from any employing unit or
11 individual pursuant to the administration of this act, and deter-
12 minations as to the benefit rights of any individual shall be
13 held confidential and shall not be disclosed or open to public
14 inspection other than to public employees in the performance of
15 their official duties pursuant to this act in any manner reveal-
16 ing the individual's or the employing unit's identity. However,
17 any information in the commission's possession that may affect a
18 claim for benefits or a charge to an employer's rating account
19 shall be available to interested parties. Except as provided in
20 this act, such information and determinations shall not be used
21 in any action or proceeding before any court or administrative
22 tribunal unless the commission is a party to or a complainant in
23 the action or proceeding, or unless used for the prosecution of
24 fraud, civil proceeding, or other legal proceeding pursuant to
25 subdivision (2). Any report or statement, written or verbal,
26 made by any person to the commission, any member of the
27 commission, or to any person engaged in administering this law

1 shall be a privileged communication, and a person, firm, or
2 corporation shall not be held liable for slander or libel on
3 account of a report or statement. Such records and reports in
4 the custody of the commission shall be available for examination
5 by the employer or employee affected.

6 Subject to restrictions as the commission may by rule pre-
7 scribe, such information may be made available to any agency of
8 this or any other state, or any federal agency, charged with the
9 administration of an unemployment compensation law or the mainte-
10 nance of a system of public employment offices; the bureau of
11 internal revenue of the United States department of the treasury;
12 or the social security administration of the United States
13 department of health and human services. Information obtained in
14 connection with the administration of the employment service may
15 be made available to persons or agencies for purposes appropriate
16 to the operation of a public employment service. Subject to such
17 restrictions as the commission may by rule prescribe, the commis-
18 sion may also make such information available to agencies of
19 other states which are responsible for the administration of
20 public assistance to unemployed workers, and to the departments
21 of this state. Information so released shall be used only for
22 purposes not inconsistent with the purposes of this act.

23 Upon request, the commission shall furnish to any agency of
24 the United States charged with the administration of public works
25 or assistance through public employment, and may furnish to any
26 state agency similarly charged, the name, address, ordinary

1 occupation, and employment status of each recipient of benefits
2 and the recipient's rights to further benefits under this act.

3 Subject to restrictions as the commission may prescribe, by
4 rule or otherwise, the commission may also make such information
5 available to colleges, universities, and public agencies of this
6 state for use in connection with research projects of a public
7 service nature. A person associated with such institutions or
8 agencies shall not disclose the information in any manner which
9 would reveal the identity of any individual or employing unit
10 from or concerning whom the information was obtained by the
11 commission.

12 The commission may request the comptroller of the currency
13 of the United States to cause an examination of the correctness
14 of any return or report of any national banking association
15 rendered pursuant to this act, and may, in connection with the
16 request, transmit the report or return to the comptroller of the
17 currency of the United States as provided in section 3305(c) of
18 the internal revenue code.

19 (2) The commission shall disclose to qualified requesting
20 agencies, upon request, with respect to an identified individual,
21 information in its records pertaining to the individual's name;
22 social security number; gross wages paid during each quarter; the
23 name, address, and federal and state employer identification
24 number of the individual's employer; any other wage information;
25 whether an individual is receiving, has received, or has applied
26 for unemployment benefits; the amount of unemployment benefits
27 the individual is receiving or is entitled to receive; the

1 individual's current or most recent home address; whether the
2 individual has refused an offer of work and if so a description
3 of the job offered including the terms, conditions, and rate of
4 pay; and any other information which the qualified requesting
5 agency considers useful in verifying eligibility for, and the
6 amount of, benefits. For purposes of this subdivision,
7 "qualified requesting agency" means any state or local child sup-
8 port enforcement agency responsible for enforcing child support
9 obligations under a plan approved under part d of Title IV of the
10 social security act, 42 U.S.C. 651 to 667; the United States
11 department of health and human services for purposes of estab-
12 lishing or verifying eligibility or benefit amounts under Titles
13 II and XVI of the social security act, 42 U.S.C. 401 to 433 and
14 42 U.S.C. 1381 to 1383c; the United States department of agricul-
15 ture for the purposes of determining eligibility for, and amount
16 of, benefits under the food stamp program established under the
17 food stamp act of 1977, U.S.C. 2011 to 2027; and any other state
18 or local agency of this or any other state responsible for admin-
19 istering the following programs:

20 (i) The aid to families with dependent children program
21 under part a of Title IV of the social security act, 42
22 U.S.C. 601 to 615.

23 (ii) The medicaid program under Title XIX of the social
24 security act, 42 U.S.C. 1396 to 1396g.

25 (iii) The unemployment compensation program under section
26 3304 of the internal revenue code of 1954, 26 U.S.C. 3304.

1 (iv) The food stamp program under the food stamp act of
2 1977, 7 U.S.C. 2011 to 2029.

3 (v) Any state program under a plan approved under Title I,
4 X, XIV, or XVI of the social security act, 42 U.S.C. 301 to 306,
5 42 U.S.C. 1201 to 1206, 42 U.S.C. 1351 to 1355, and 42
6 U.S.C. 1381 to 1383c.

7 (vi) Any program administered under the social welfare act,
8 Act No. 280 of the Public Acts of 1939, being sections 400.1 to
9 400.121 of the Michigan Compiled Laws.

10 The information shall be disclosed only if the qualified
11 requesting agency has executed an agreement with the commission
12 to obtain such information and if the information is requested
13 for the purpose of determining the eligibility of applicants for
14 benefits, or the type and amount of benefits for which applicants
15 are eligible, under any of the programs listed above or under
16 Titles II and XVI of the social security act; for establishing
17 and collecting child support obligations from, and locating indi-
18 viduals owing such obligations which are being enforced pursuant
19 to a plan described in section 454 of the social security act, 42
20 U.S.C. 654; or for investigating or prosecuting alleged fraud
21 under any of these programs.

22 The commission shall cooperate with the department of social
23 services in establishing the computer data matching system autho-
24 rized in section 83 of Act No. 280 of the Public Acts of 1939,
25 being section 400.83 of the Michigan Compiled Laws, to transmit
26 the information requested on at least a quarterly basis. The
27 information shall not be released unless the qualified requesting

1 agency agrees to reimburse the commission for the costs incurred
2 in furnishing the information.

3 In addition to the requirements of this section, except as
4 later provided in this subdivision, all other requirements with
5 respect to confidentiality of information obtained in the admin-
6 istration of this act shall apply to the use of the information
7 by the officers and employees of the qualified requesting agen-
8 cies, and the sanctions imposed under this act for improper dis-
9 closure of the information shall be applicable to such officers
10 and employees. A qualified requesting agency may redisclose
11 information only to the following individuals or agencies: (1)
12 the individual who is the subject of the information, (2) an
13 attorney or other duly authorized agent representing the individ-
14 ual if the information is needed in connection with a claim for
15 benefits against the requesting agency, or (3) any criminal or
16 civil prosecuting authorities acting for or on behalf of the
17 requesting agency.

18 The commission is authorized to enter into an agreement with
19 any qualified requesting agency for the purposes described in
20 this subdivision. Such agreement or agreements must comply with
21 all federal laws and regulations applicable to such agreements.

22 (3) THE COMMISSION SHALL DISCLOSE TO THE UNITED STATES
23 DEPARTMENT OF HEALTH AND HUMAN SERVICES ANY WAGE AND UNEMPLOYMENT
24 BENEFIT CLAIMS INFORMATION, INCLUDING ANY INFORMATION THAT MIGHT
25 BE USEFUL IN LOCATING AN ABSENT PARENT OR AN ABSENT PARENT'S
26 EMPLOYER, FOR PURPOSES OF SECTION 453 OF THE SOCIAL SECURITY ACT,
27 42 U.S.C. 653, IN CARRYING OUT THE CHILD SUPPORT ENFORCEMENT

1 PROGRAM UNDER TITLE IV. THE INFORMATION SHALL NOT BE RELEASED
2 UNLESS THE REQUESTING AGENCY AGREES TO REIMBURSE THE COMMISSION
3 FOR THE COSTS INCURRED IN FURNISHING THE INFORMATION.

4 (4) UPON REQUEST ACCOMPANIED BY PRESENTATION OF A CONSENT TO
5 THE RELEASE OF INFORMATION SIGNED BY A CLAIMANT, THE COMMISSION
6 SHALL DISCLOSE TO THE UNITED STATES DEPARTMENT OF HOUSING AND
7 URBAN DEVELOPMENT AND ANY STATE OR LOCAL PUBLIC HOUSING AGENCY
8 RESPONSIBLE FOR VERIFYING AN APPLICANT'S OR PARTICIPANT'S ELIGI-
9 BILITY FOR, OR LEVEL OF BENEFITS IN, ANY HOUSING ASSISTANCE PRO-
10 GRAM ADMINISTERED BY THE UNITED STATES DEPARTMENT OF HOUSING AND
11 URBAN DEVELOPMENT, THE NAME, ADDRESS, WAGE INFORMATION, WHETHER
12 AN INDIVIDUAL IS RECEIVING, HAS RECEIVED, OR HAS MADE APPLICATION
13 FOR UNEMPLOYMENT BENEFITS, AND THE AMOUNT OF UNEMPLOYMENT BENE-
14 FITS THE INDIVIDUAL IS RECEIVING OR IS ENTITLED TO RECEIVE UNDER
15 THIS ACT. THIS INFORMATION SHALL BE USED ONLY TO DETERMINE AN
16 INDIVIDUAL'S ELIGIBILITY FOR BENEFITS OR THE AMOUNT OF BENEFITS
17 TO WHICH AN INDIVIDUAL IS ENTITLED UNDER A HOUSING ASSISTANCE
18 PROGRAM OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN
19 DEVELOPMENT. THE INFORMATION SHALL NOT BE RELEASED UNLESS THE
20 REQUESTING AGENCY AGREES TO REIMBURSE THE COMMISSION FOR THE
21 COSTS INCURRED IN FURNISHING THE INFORMATION. FOR PURPOSES OF
22 THIS SUBSECTION, "PUBLIC HOUSING AGENCY" MEANS AN AGENCY
23 DESCRIBED IN SECTION 3(B)(6) OF THE UNITED STATES HOUSING ACT OF
24 1937, 42 U.S.C. 1437a.

25 (c) The commission is authorized to enter into agreements
26 with the appropriate agencies of other states or the federal
27 government whereby potential rights to benefits accumulated under

1 the unemployment compensation laws of other states or such a law
2 of the federal government, or both, may constitute the basis for
3 the payment of benefits through a single appropriate agency under
4 plans which the commission finds will be fair and reasonable as
5 to all affected interests and will not result in substantial loss
6 to the unemployment compensation fund.

7 (d) (1) The commission is authorized to enter into recipro-
8 cal agreements with the appropriate agencies of other states or
9 of the federal government adjusting the collection and payment of
10 contributions by employers with respect to employment not local-
11 ized within this state.

12 (2) The commission is authorized to enter into reciprocal
13 agreements with agencies of other states administering unemploy-
14 ment compensation, whereby contributions paid by an employer to
15 any other state may be received by the other state as an agent
16 acting for and on behalf of this state to the same extent as if
17 the contributions had been paid directly to this state if the
18 payment is remitted to this state. Contributions so received by
19 another state shall be deemed contributions, required and paid
20 under this act as of the date the contributions were received by
21 the other state. The commission may collect contributions in a
22 like manner for agencies of other states administering unemploy-
23 ment compensation and remit the contributions to the agencies
24 under the terms of the reciprocal agreements.

25 (e) The commission may make the state's records relating to
26 the administration of this act available and may furnish to the
27 railroad retirement board or any other state or federal agency

1 administering an unemployment compensation law, at the expense of
2 that board, state, or agency, copies of the records as the rail-
3 road retirement board deems necessary for its purpose.

4 (f) The commission may cooperate with or enter into agree-
5 ments with any agency of another state or of the United States
6 charged with the administration of any unemployment insurance or
7 public employment service law.

8 The commission is authorized to make investigations, secure
9 and transmit information, make available services and facilities,
10 and exercise other powers provided in this act with respect to
11 the administration of this act as it deems necessary or appropri-
12 ate to facilitate the administration of any unemployment compen-
13 sation or public employment service law, and in like manner, to
14 accept and utilize information, services, and facilities made
15 available to this state by the agency charged with the adminis-
16 tration of any other unemployment compensation or public employ-
17 ment service law.

18 On request of an agency which administers an employment
19 security law of another state or foreign government and which has
20 found, in accordance with that law, that a claimant is liable to
21 repay benefits received under that law, the commission may col-
22 lect the amount of the benefits from the claimant to be refunded
23 to the agency.

24 In any case in which under this subsection a claimant is
25 liable to repay any amount to the agency of another state or for-
26 eign government, the amount may be collected by civil action in

1 the name of the commission acting as agent for the agency. Court
2 costs shall be paid or guaranteed by the agency.

3 To the extent permissible under the laws and constitution of
4 the United States, the commission is authorized to enter into or
5 cooperate in arrangements whereby facilities and services pro-
6 vided under this act and facilities and services provided under
7 the unemployment compensation law of the Dominion of Canada may
8 be utilized for the taking of claims and the payment of benefits
9 under the unemployment compensation law of this state or under a
10 similar law of the Dominion of Canada.

11 Any employer who is not a resident of this state and who
12 exercises the privilege of having 1 or more individuals perform
13 service for him or her within this state, and any resident
14 employer who exercises that privilege and thereafter leaves this
15 state, shall be deemed thereby to appoint the secretary of state
16 as his or her agent and attorney for the acceptance of process in
17 any civil action under this act. In instituting such an action
18 against any employer, the commission shall cause such process or
19 notice to be filed with the secretary of state, and such service
20 shall be sufficient and shall be of the same force and validity
21 as if served upon the employer personally within this state. The
22 commission immediately shall send notice of the service of pro-
23 cess or notice, together with a copy thereof, by registered mail,
24 return receipt requested, to the employer at his or her last
25 known address. The return receipt, the commission's affidavit of
26 compliance with this section, and a copy of the notice of service

1 shall be attached to the original of the process filed in the
2 court in which the civil action is pending.

3 The courts of this state shall recognize and enforce liabil-
4 ities, as provided in this act, for unemployment compensation
5 contributions, penalties, and interest imposed by other states
6 which extend a like comity to this state.

7 The attorney general is empowered to commence action in the
8 appropriate court of any other state or any other jurisdiction of
9 the United States by and in the name of the commission to collect
10 unemployment compensation contributions, penalties, and interest
11 finally determined, redetermined, or decided under this act to be
12 legally due this state. The officials of other states which
13 extend a like comity to this state are empowered to sue in the
14 courts of this state for the collection of unemployment compensa-
15 tion contributions, penalties, and interest, the liability for
16 which has been similarly established under the laws of the other
17 state or jurisdiction. A certificate by the secretary of another
18 state under the great seal of that state attesting the authority
19 of the official or officials to collect unemployment compensation
20 contributions, penalties, and interest shall be conclusive evi-
21 dence of that authority.

22 The attorney general is authorized to commence action in
23 this state as agent for or on behalf of any other state to
24 enforce judgments and established liabilities for unemployment
25 compensation taxes or contributions, penalties, and interest due
26 the other state if the other state extends a like comity to this
27 state.

1 (g) The commission is also authorized to enter into
2 reciprocal agreements with the appropriate and authorized agen-
3 cies of other states or of the federal government (1) whereby
4 remuneration and services, upon the basis of which an individual
5 may become entitled to benefits under the unemployment compensa-
6 tion law of another state or of the federal government, shall be
7 deemed to be wages and employment for the purposes of sections 27
8 and 46, if the other state agency or agency of the federal gov-
9 ernment has agreed to reimburse the fund for that portion of ben-
10 efits paid under this act upon the basis of the remuneration and
11 services as the commission finds will be fair and reasonable as
12 to all affected interests, and wages and employment, on the basis
13 of which an individual may become entitled to benefits under this
14 act, shall be deemed to be wages or services on the basis of
15 which unemployment compensation under the law of another state or
16 of the federal government is payable, and (2) whereby services
17 performed by an individual for a single employing unit for which
18 services are customarily performed by the individual in more than
19 1 state shall be deemed to be services performed entirely within
20 any 1 of the states (a) in which any part of the individual's
21 service is performed, (b) in which the individual has his or her
22 residence, or (c) in which the employing unit maintains a place
23 of business, provided there is, in effect as to such services, an
24 election approved by the agency charged with the administration
25 of the state's unemployment compensation law, pursuant to which
26 all the services performed by the individual for the employing
27 unit are deemed to be performed entirely within the state, and

1 (3) whereby the commission will reimburse other state or federal
2 agencies charged with the administration of unemployment compen-
3 sation laws with such reasonable portion of benefits, paid under
4 the law of any other state or of the federal government upon the
5 basis of employment and wages, as the commission finds will be
6 fair and reasonable as to all affected interests. Reimbursements
7 so payable shall be deemed to be benefits for the purpose of lim-
8 iting duration of benefits and for the purposes of sections 20a
9 and 26, and the payments shall be charged to the contributing
10 employer's rating account for the purposes of sections 17, 18,
11 19, and 20, or the reimbursing employer's account under section
12 13c or 13g, as applicable. Benefits paid under a combined wage
13 plan shall be allocated and charged to each employer involved in
14 the quarter in which the paying state requires reimbursement.
15 Benefits charged to this state shall be allocated to each
16 employer of this state who has employed the claimant during the
17 base period of the paying state in the same ratio that the wages
18 earned by the claimant during the base period of the paying state
19 in the employ of the employer bears to the total amount of wages
20 earned by the claimant in the base period of the paying state in
21 the employ of all employers of the state. The commission is
22 authorized to make to other state or federal agencies and receive
23 from other state or federal agencies reimbursements from or to
24 the fund, in accordance with arrangements made pursuant to this
25 section.

26 (h) The commission is authorized and directed to enter into
27 any agreement necessary in order that it may cooperate with any

1 agency of the United States charged with the administration of
2 any program for the payment of primary or supplemental benefits
3 to individuals recently discharged from the military services of
4 the United States, and to assist in the establishing of eligibil-
5 ity and in the payments of benefits thereunder, and for those
6 purposes may accept and administer funds made available by the
7 federal government and may accept and exercise any delegated
8 function as may be provided thereunder. The commission shall not
9 have power to enter into any agreement providing for, or exercise
10 any function connected with, the disbursement of the state's
11 unemployment trust fund for purposes not authorized by this act.

12 (i) The commission may enter into agreements with the appro-
13 priate agency of the United States whereby, in accordance with
14 the laws of the United States, the commission, as agent of the
15 United States, or from funds provided by the United States, shall
16 provide for the payment of unemployment compensation or unemploy-
17 ment allowances of any kind, including the payment of any bene-
18 fits and allowances that are made available for manpower develop-
19 ment, training, retraining, readjustment, and relocation. The
20 commission may receive and disburse funds from the United States
21 or any appropriate agency of the United States in accordance with
22 any such agreements.

23 If the federal enactment providing for unemployment compen-
24 sation, training allowance, or relocation payments requires joint
25 federal-state financing of such payments, the commission may par-
26 ticipate in the programs by using funds appropriated by the

1 legislature to the extent provided by the legislature for such
2 programs.

3 (j) The commission shall participate in any arrangement
4 which provides for the payment of compensation on the basis of
5 combining an individual's wages and employment covered under this
6 act with his or her wages and employment covered under the unem-
7 ployment compensation laws of other states, if the arrangement is
8 approved by the United States secretary of labor in consultation
9 with the state unemployment compensation agencies as reasonably
10 calculated to assure the prompt and full payment of
11 compensation. An arrangement shall include provisions for both
12 of the following:

13 (i) Applying the base period of a single state law to a
14 claim involving the combining of an individual's wages and
15 employment covered under 2 or more state unemployment compensa-
16 tion laws.

17 (ii) Avoiding the duplicate use of wages and employment as a
18 result of the combining.

19 (k) In a proceeding before any court, the commission and the
20 state shall be represented by the attorney general of this state
21 or attorneys designated by the attorney general. Only the attor-
22 ney general or other attorneys designated by the attorney general
23 shall act as legal counsel for the commission.