

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 445

A bill to amend 1936 (Ex Sess) PA 1, entitled
"Michigan employment security act,"
by amending section 28 (MCL 421.28), as amended by 2021 PA 66.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 28. (1) An unemployed individual is eligible to receive
2 benefits with respect to any week only if the unemployment agency
3 finds all of the following:

4 (a) The individual registered for work pursuant to subsection
5 (10) after the individual applied for benefits and within the time
6 period prescribed by the unemployment agency, has continued to
7 report pursuant to unemployment agency rules, and is actively
8 engaged in seeking work. The requirements that the individual must
9 report, must register for work, must be available to perform

1 suitable full-time work, and must seek work may be waived by the
2 unemployment agency if the individual is laid off and the employer
3 ~~who~~**that** laid the individual off notifies the unemployment agency
4 in writing or by computerized data exchange that the layoff is
5 temporary and that work is expected to be available for the
6 individual within a declared number of days, not to exceed 45
7 calendar days, plus up to an additional 90 calendar days as
8 provided for in subsection (11), following the last day the
9 individual worked. Except as otherwise provided in subsection (12),
10 this waiver is not effective unless the notification from the
11 employer is received by the unemployment agency before the
12 individual has completed his or her first compensable week
13 following layoff. If the individual is not recalled within the
14 specified period, the waiver ceases to be operative with respect to
15 that layoff. Except for a period of disqualification, the
16 requirement that the individual shall seek work may be waived by
17 the unemployment agency if it finds that suitable work is
18 unavailable both in the locality where the individual resides and
19 in those localities in which the individual has earned wages during
20 or after the base period. This waiver does not apply to a claimant
21 enrolled and attending classes as a full-time student. An
22 individual is considered to have satisfied the requirement of
23 personal reporting at an employment office, as applied to a week in
24 a period during which the requirements of registration and seeking
25 work have been waived by the unemployment agency pursuant to this
26 subdivision, if the individual has satisfied the personal reporting
27 requirement with respect to a preceding week in that period and the
28 individual has reported with respect to the week by mail pursuant
29 to the rules promulgated by the unemployment agency.

1 (b) The individual has made a claim for benefits pursuant to
2 section 32 and has provided the unemployment agency with all of the
3 following:

4 (i) His or her Social Security number.

5 (ii) His or her driver license number, and the state that
6 issued the license, or state identification card number, and the
7 state that issued the identification card, or copies of the
8 acceptable documents as provided in the Form I-9.

9 (iii) If the unemployment agency has requested them, copies of
10 the acceptable documents as provided in the Form I-9. As used in
11 this subdivision, "Form I-9" means the employment verification form
12 that fulfills the employment verification obligations under 8 CFR
13 274a.2.

14 (c) The individual is able and available to appear at a
15 location of the unemployment agency's choosing for evaluation of
16 eligibility for benefits, if required, and to perform suitable
17 full-time work of a character that the individual is qualified to
18 perform by past experience or training, which is of a character
19 generally similar to work for which the individual has previously
20 received wages, and for which the individual is available, full
21 time, either at a locality at which the individual earned wages for
22 insured work during his or her base period or at a locality where
23 it is found by the unemployment agency that such work is available.

24 **Notwithstanding any other provision of this act, for all claims**
25 **filed after March 1, 2020 and established under the federal**
26 **pandemic unemployment assistance program, with respect to the able**
27 **and available requirements, an individual must be able and**
28 **available to perform suitable full- or part-time work.** An
29 individual is considered unavailable for work under any of the

1 following circumstances:

2 (i) The individual fails during a benefit year to notify or
3 update a chargeable employer with telephone, ~~electronic mail,~~
4 **email**, or other information sufficient to allow the employer to
5 contact the individual about available work.

6 (ii) The individual fails, without good cause, to respond to
7 the unemployment agency within 14 calendar days of the later of the
8 mailing of a notice to the address of record requiring the
9 individual to contact the unemployment agency or of the leaving of
10 a telephone message requesting a return call and providing a return
11 name and telephone number on an automated answering device or with
12 an individual answering the telephone number of record.

13 (iii) Unless the claimant shows good cause for failure to
14 respond, mail sent to the individual's address of record is
15 returned as undeliverable and the telephone number of record has
16 been disconnected or changed or is otherwise no longer associated
17 with the individual.

18 (d) In the event of the death of an individual's immediate
19 family member, the eligibility requirements of availability and
20 reporting are waived for the day of the death and for 4 consecutive
21 calendar days thereafter. As used in this subdivision, "immediate
22 family member" means a spouse, child, stepchild, adopted child,
23 grandchild, parent, grandparent, brother, or sister of the
24 individual or his or her spouse. ~~It shall also include~~ **Immediate**
25 **family member includes** the spouse of any of the ~~persons~~ **individuals**
26 specified in the previous sentence.

27 (e) The individual participates in reemployment services, such
28 as job search assistance services, if the individual has been
29 determined or redetermined by the unemployment agency to be likely

1 to exhaust regular benefits and need reemployment services pursuant
2 to a profiling system established by the unemployment agency.

3 (2) The unemployment agency may authorize an individual with
4 an unexpired benefit year to pursue vocational training or
5 retraining only if the unemployment agency finds all of the
6 following:

7 (a) Reasonable opportunities for employment in occupations for
8 which the individual is fitted by training and experience do not
9 exist in the locality in which the individual is claiming benefits.

10 (b) The vocational training course relates to an occupation or
11 skill for which there are, or are expected to be in the immediate
12 future, reasonable employment opportunities.

13 (c) The training course has been approved by a local advisory
14 council on which both management and labor are represented, or if
15 there is no local advisory council, by the unemployment agency.

16 (d) The individual has the required qualifications and
17 aptitudes to complete the course successfully.

18 (e) The vocational training course has been approved by the
19 state board of education and is maintained by a public or private
20 school or by the unemployment agency.

21 (3) Notwithstanding any other provision of this act, an
22 otherwise eligible individual is not ineligible for benefits
23 because he or she is participating in training with the approval of
24 the unemployment agency. For each week that the unemployment agency
25 finds that an individual who is claiming benefits under this act
26 and who is participating in training with the approval of the
27 unemployment agency, is satisfactorily pursuing an approved course
28 of vocational training, ~~it~~ **the unemployment agency** shall waive the
29 requirements that he or she be available for work and be seeking

1 work as prescribed in subsection (1)(a) and (c), and ~~it~~ shall find
2 good cause for his or her failure to apply for suitable work,
3 report to a former employer for an interview concerning suitable
4 work, or accept suitable work as required in section 29(1)(c), (d),
5 and (e).

6 (4) Notwithstanding any other provisions of this act, an
7 otherwise eligible individual must not be denied benefits solely
8 because the individual is in training approved under section
9 236(a)(1) of the trade act of 1974, 19 USC 2296, nor shall the
10 individual be denied benefits by reason of leaving work to enter
11 such training if the work left is not suitable employment.
12 Furthermore, an otherwise eligible individual must not be denied
13 benefits because of the application to any such week in training of
14 provisions of this act, or any applicable federal unemployment
15 compensation law, relating to availability for work, active search
16 for work, or refusal to accept work. For purposes of this
17 subsection, "suitable employment" means, with respect to an
18 individual, work of a substantially equal or higher skill level
19 than the individual's past adversely affected employment, as
20 defined for purposes of the trade act of 1974, 19 USC 2101 to
21 2497b, and wages for that work at not less than 80% of the
22 individual's average weekly wage as determined for the purposes of
23 the trade act of 1974, 19 USC 2101 to 2497b.

24 (5) Except as otherwise provided in subsection (6), for
25 purposes of this section, for benefit years beginning on or after
26 January 1, 2013, to be actively engaged in seeking work, an
27 individual must conduct a systematic and sustained search for work
28 in each week the individual is claiming benefits, using any of the
29 following methods to report the details of the work search:

1 (a) Reporting at monthly intervals on the unemployment
2 agency's online reporting system the name of each employer and
3 physical or online location of each employer where work was sought
4 and the date and method by which work was sought with each
5 employer.

6 (b) Filing a written report with the unemployment agency by
7 mail or facsimile transmission not later than the end of the fourth
8 calendar week after the end of the week in which the individual
9 engaged in the work search, on a form approved by the unemployment
10 agency, indicating the name of each employer and physical or online
11 location of each employer where work was sought and the date and
12 method by which work was sought with each employer.

13 (c) Appearing at least monthly in person at a Michigan works
14 agency office to report the name and physical or online location of
15 each employer where the individual sought work during the previous
16 month and the date and method by which work was sought with each
17 employer.

18 (6) For purposes of this section, beginning on April 2, 2020,
19 to be actively engaged in seeking work, an individual must conduct
20 a systematic and sustained search for work in each week the
21 individual is claiming benefits and must report to the unemployment
22 agency the details of the work search at least once every 2 weeks
23 or, if the unemployment agency prescribes a shorter reporting
24 period, the reporting period prescribed by the unemployment agency.
25 An individual may conduct a systematic and sustained search for
26 work by doing any of the following:

27 (a) Using resources available at a Michigan works agency
28 office to do any of the following:

29 (i) Participate in reemployment services and eligibility

1 assessment activities.

2 (ii) Identify the skills the individual possesses that are
3 consistent with target or demand occupations in the local workforce
4 development area.

5 (iii) Obtain job postings and seek employment for suitable
6 positions needed by local employers.

7 (b) Attending job search seminars or other employment
8 workshops that offer instruction in improving an individual's
9 skills for finding and obtaining employment.

10 (c) Creating a user profile on a professional networking site
11 or using an online career tool. Creating duplicate user profiles or
12 resubmitting or reuploading the same resume to the same
13 professional networking site does not satisfy the requirements of
14 this subdivision.

15 (d) Applying for an available position with, submitting a
16 resume to, or interviewing with employers. Applying for the same
17 position within a 4-week period or contacting an employer to
18 determine whether a position is available does not satisfy the
19 requirements of this subdivision, unless the individual uses his or
20 her union hiring hall to conduct a search for work.

21 (e) Registering for work with a private employment agency or,
22 if it is available to the individual in his or her occupation or
23 profession, the placement facility of a school, college, or
24 university.

25 (f) Taking an examination that is required for a position in
26 the state civil service.

27 (7) The work search conducted by the claimant is subject to
28 audit by the unemployment agency.

29 (8) The unemployment agency shall request but shall not

1 require an individual who is applying for benefits to submit his or
2 her base period employer's unemployment agency account number and
3 federal employer identification number.

4 (9) The unemployment agency shall use all of the documentation
5 and information provided by an individual applying for benefits to
6 verify the identity of the individual before making an initial
7 payment on the individual's claim.

8 (10) An individual must register for work as required under
9 subsection (1) (a) by registering with a Michigan works agency.

10 (11) The unemployment agency may extend a waiver described in
11 subsection (1) (a) beyond 45 calendar days, but not for more than an
12 additional 90 calendar days, if, before the end of the specified
13 period of the waiver, the employer notifies the unemployment agency
14 in writing or by computerized data exchange that the layoff is an
15 extended layoff and is the result of 1 or more of the following:

16 (a) The retooling of the employer's equipment.

17 (b) A parts shortage.

18 (c) A temporary production volume adjustment.

19 (12) If an individual is laid off because of an extended
20 layoff described in subsection (11) that existed on May 31, 2021,
21 the requirements that the individual must report, must register for
22 work, must be available to perform suitable full-time work, and
23 must seek work may be waived by the unemployment agency as
24 described in subsection (1) (a) if, before July 16, 2021, the
25 individual's employer notifies the unemployment agency pursuant to
26 subsection (11) that the individual was laid off because of an
27 extended layoff described in subsection (11). The specified period
28 of a waiver granted under this subsection begins on May 31, 2021.