



**Sub. S.B. 92**

125th General Assembly  
(As Passed by the General Assembly)

**Sens. Nein, Armbruster, Carey, Austria, Mumper, Roberts, White, Harris**

**Reps. Schmidt, Flowers, Otterman, Chandler, Clancy, Domenick, C. Evans, Hoops, McGregor, Niehaus, Price, Raussen, Schlichter, Seitz, J. Stewart, Ujvagi, Yates**

**Effective date:** \*

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**ACT SUMMARY**

- Revises the parameters for use of new hire reports.
- Allows an otherwise eligible individual to receive unemployment compensation benefits if the individual's unemployment is directly attributable to a major disaster declared as such by the United States President.
- Modifies the collateral estoppel rule and res judicata effect relative to the findings and decisions of reviewing courts for appeals under the Unemployment Compensation Law.
- Permits up to a one year delay in changes due to take effect by December 28, 2003, relative to the criteria used in determining the validity of an application for unemployment compensation.
- Declares an emergency.

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\* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

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## CONTENT AND OPERATION

### New hire reports

(R.C. 3121.898 and 3121.899)

Employers are required by continuing law to make a new hire reports to the Department of Job and Family Services regarding the hiring, rehiring, or return to work of any person who resides, works, or will be assigned to work in Ohio and to whom the employer anticipates paying compensation. The Department must use the new hire reports to (1) locate individuals for purposes of establishing paternity, (2) establish, modify, and enforce support orders, and (3) detect fraud in any program administered by the Department. The act specifies that "support order" in (2) above refers to child support orders. It eliminates the general provision in (3) above that the reports be used to detect fraud and instead specifies that the Department is to use the new hire reports to verify eligibility for any of the following programs:

(1) Specified programs that are funded in part by the Temporary Assistance for Needy Families Block Grant established by Title IV-A of the Social Security Act, 110 Stat. 2113 (1996), 42 U.S.C. 601;

(2) Medicaid;

(3) The unemployment compensation program;

(4) The food stamp program;

(5) Any other programs that must participate in the income and eligibility verification system as required under federal Social Security law.

The act also requires the Department to use the new hire reports for the administration of the employment security program under the Director of Job and Family Services.

Continuing law generally considers new hire reports to not be public records, but authorizes the Department to adopt rules governing access to, and the use and disclosure of, the information contained in the reports. The Department also may disclose information in the reports to agents of the Department and to child support enforcement agencies contracting with the Department for the purposes for which the Department must use the reports. The act permits the Department to disclose information in the new hire reports to all of the following:

(1) Any child enforcement agency and any agent of a child support enforcement agency for the purpose of locating individuals to establish paternity, and to establish, modify, and enforce child support orders (a continuation of existing law);

(2) Any county department of job and family services and any agent under contract with a county department of job and family services for the purpose of verifying eligibility for the programs listed in (1) through (5) above;

(3) Employees of the Department and any agent under contract with the Department for the purposes of (a) locating individuals to establish paternity, and to establish, modify, and enforce child support orders and (b) verifying eligibility for the programs listed in (1) through (5) above.

(4) The Administrator of Workers' Compensation for the purpose of administering the workers' compensation system.

**Eligibility for unemployment compensation benefits due to major disaster**

(R.C. 4141.29)

Continuing law sets forth criteria that must be satisfied for an individual to be eligible to receive unemployment compensation benefits. One criterion is that an individual be actively seeking suitable work, except when laid off for a period that is expected to be less than 45 days.

The act adds another exception to this general requirement to be actively seeking suitable work. Under the act, an otherwise eligible individual will not be disqualified if the individual's unemployment is directly attributable to a major disaster declared by the President of the United States pursuant to the federal "Disaster Relief Act of 1974," 88 Stat. 143, 42 U.S.C. 5121, and the employer whose operation was adversely affected by the disaster requests a waiver from the Director for the individual to be exempt from the requirement to actively seek suitable work.

Continuing law requires a one-week waiting period before benefits are payable to an eligible individual. The act waives this one-week waiting period for individuals whose unemployment during this waiting period is directly attributable to a major disaster declared by the President pursuant to the "Disaster Relief Act of 1974."

### **Collateral estoppel**

(R.C. 4141.281)

Under continuing law, no finding of fact or law, decision, or order of the Director of Job and Family Services, a hearing officer, or the Unemployment Compensation Review Commission may be given collateral estoppel or res judicata effect in any separate or subsequent judicial, administrative, or arbitration proceeding, other than a proceeding arising under the unemployment compensation law.<sup>1</sup> Under the act, this provision also applies to a finding, decision, or order of a reviewing court.

### **Delay of changes to criteria for determining an unemployment compensation application's validity**

(R.C. 4141.01(R)(2); Sections 3 and 4)

Under law that was to be effective for applications filed on and after December 28, 2003, applications for determination of unemployment compensation benefits were to be valid if the applicants satisfied requirements applicable after that date, which differ from those before that date. The act modifies the timing of this provision. Under the act, this provision applies to applications for benefit years beginning on and after December 26, 2004, instead of December 28, 2003. However, the act provides the Director may specify that that provision is applicable for the determination of benefits involving benefit years beginning on or *before* December 26, 2004, if the Director determines that the technological systems necessary to effect the purposes of that provision are operational and sufficiently adequate to assure no interruption in the discharge of the duties of the Director and the Department of Job and Family Services.

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<sup>1</sup> *The collateral estoppel doctrine means that when an issue of ultimate fact has been determined by a valid judgment, that issue cannot be again litigated between the same parties in future litigation. Res judicata refers to the rule that a final judgment rendered by a court of competent jurisdiction on the merits is conclusive as to the rights of the parties, and as to them, constitutes an absolute bar to a subsequent action involving the same claim, demand, or cause of action. (Black's Law Dictionary.)*

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-20-03	p. 352
Reported, S. Insurance, Commerce & Labor	10-14-03	pp. 1083-1084
Passed Senate (31-0)	10-14-03	pp. 1087-1088
Reported, H. Human Services & Aging	12-03-03	p. 1147
Passed House (94-2)	12-09-03	pp. 1267-1268

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