



Sub. S.B. 92

125th General Assembly
(As Reported by H. Human Services and Aging)

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

Reps. Schmidt, Flowers, Otterman

BILL 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.

CONTENT AND OPERATION

New hire reports

Employers are required by existing law to make a new hire report to the Department of Job and Family Services regarding the hiring, rehiring, or return to work of a person who resides, works, or will be assigned to work in Ohio and to whom the employer anticipates paying compensation. Under current law, the Department must use the new hire reports it receives 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

bill clarifies that the support order in (2) above refers to a child support order and eliminates the general wording of (3) above and instead states that duty in the affirmative with more specific directives. It specifies that the Department must 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 the Social Security Act.

Additionally, the bill 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. (Sec. 3121.898.)

Existing 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 report. 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 bill 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. (Sec. 3121.899.)

Eligibility for unemployment compensation benefits due to major disaster

Current 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 bill adds another exception to this general requirement to be actively seeking suitable work. Under the bill, 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. (Sec. 4141.29(A)(4)(a)(ii)(I).)

Current law requires a one-week waiting period before benefits are payable to an eligible individual. The bill 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," 88 Stat. 143, 42 U.S.C.A. 5121. (Sec. 4141.29(B).)

Collateral estoppel

Under existing 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 is 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.¹ Under the bill, this provision also applies to a finding, decision, or order of a reviewing court. (Sec. 4141.281(D)(8).)

¹ *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.)*

Potential delay for changes relative to criteria used in determining the validity of an application

Under existing law, effective for applications filed on and after December 28, 2003, applications for the determination of unemployment compensation benefit rights will be valid if the individual satisfies the requirements applicable after that date, which differ from those before that date. The bill modifies the timing structure of this provision. The applications this provision applies to under the bill will be those for benefit years beginning on and after December 26, 2004, instead of December 28, 2003. However, the bill provides the Director may specify that that provision is applicable for the determination of benefit rights 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. (Sec. 4141.01(R)(2); Sections 3 and 4.)

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

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