

ASSEMBLY, No. 1815

STATE OF NEW JERSEY

INTRODUCED MARCH 28, 1996

By Assemblywoman ALLEN

1 **AN ACT** concerning unemployment compensation for certain victims
2 of domestic violence and amending R.S.43:21-5.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. R.S. 43:21-5 is amended to read as follows:

8 43:21-5. Disqualification for benefits

9 An individual shall be disqualified for benefits:

10 (a) For the week in which the individual has left work voluntarily
11 without good cause attributable to such work, and for each week
12 thereafter until the individual becomes reemployed and works four
13 weeks in employment, which may include employment for the federal
14 government, and has earned in employment at least six times the
15 individual's weekly benefit rate, as determined in each case. This
16 subsection shall apply to any individual seeking unemployment benefits
17 on the basis of employment in the production and harvesting of
18 agricultural crops, including any individual who was employed in the
19 production and harvesting of agricultural crops on a contract basis and
20 who has refused an offer of continuing work with that employer
21 following the completion of the minimum period of work required to
22 fulfill the contract.

23 (b) For the week in which the individual has been suspended or
24 discharged for misconduct connected with the work, and for the five
25 weeks which immediately follow that week (in addition to the waiting
26 period), as determined in each case. In the event the discharge should
27 be rescinded by the employer voluntarily or as a result of mediation or
28 arbitration, this subsection (b) shall not apply, provided, however, an
29 individual who is restored to employment with back pay shall return
30 any benefits received under this chapter for any week of
31 unemployment for which the individual is subsequently compensated
32 by the employer.

33 If the discharge was for gross misconduct connected with the work
34 because of the commission of an act punishable as a crime of the first,

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 second, third or fourth degree under the "New Jersey Code of Criminal
2 Justice," N.J.S.2C:1-1 et seq., the individual shall be disqualified in
3 accordance with the disqualification prescribed in subsection (a) of this
4 section and no benefit rights shall accrue to any individual based upon
5 wages from that employer for services rendered prior to the day upon
6 which the individual was discharged.

7 The director shall insure that any appeal of a determination holding
8 the individual disqualified for gross misconduct in connection with the
9 work shall be expeditiously processed by the appeal tribunal.

10 (c) If it is found that the individual has failed, without good cause,
11 either to apply for available, suitable work when so directed by the
12 employment office or the director or to accept suitable work when it
13 is offered, or to return to the individual's customary self-employment
14 (if any) when so directed by the director. The disqualification shall
15 continue for the week in which the failure occurred and for the three
16 weeks which immediately follow that week (in addition to the waiting
17 period), as determined:

18 (1) In determining whether or not any work is suitable for an
19 individual, consideration shall be given to the degree of risk involved
20 to health, safety, and morals, the individual's physical fitness and prior
21 training, experience and prior earnings, the individual's length of
22 unemployment and prospects for securing local work in the individual's
23 customary occupation, and the distance of the available work from the
24 individual's residence. In the case of work in the production and
25 harvesting of agricultural crops, the work shall be deemed to be
26 suitable without regard to the distance of the available work from the
27 individual's residence if all costs of transportation are provided to the
28 individual and the terms and conditions of hire are as favorable or
29 more favorable to the individual as the terms and conditions of the
30 individual's base year employment.

31 (2) Notwithstanding any other provisions of this chapter, no work
32 shall be deemed suitable and benefits shall not be denied under this
33 chapter to any otherwise eligible individual for refusing to accept new
34 work under any of the following conditions: (a) if the position offered
35 is vacant due directly to a strike, lockout, or other labor dispute; (b)
36 if the remuneration, hours, or other conditions of the work offered are
37 substantially less favorable to the individual than those prevailing for
38 similar work in the locality; (c) if as a condition of being employed the
39 individual would be required to join a company union or to resign from
40 or refrain from joining any bona fide labor organization.

41 (d) If it is found that this unemployment is due to a stoppage of
42 work which exists because of a labor dispute at the factory,
43 establishment or other premises at which the individual is or was last
44 employed. No disqualification under this subsection shall apply if it is
45 shown that:

46 (1) The individual is not participating in or financing or directly

1 interested in the labor dispute which caused the stoppage of work; and

2 (2) The individual does not belong to a grade or class of workers
3 of which, immediately before the commencement of the stoppage,
4 there were members employed at the premises at which the stoppage
5 occurs, any of whom are participating in or financing or directly
6 interested in the dispute; provided that if in any case in which (1) or
7 (2) above applies, separate branches of work which are commonly
8 conducted as separate businesses in separate premises are conducted
9 in separate departments of the same premises, each department shall,
10 for the purpose of this subsection, be deemed to be a separate factory,
11 establishment, or other premises.

12 (e) For any week with respect to which the individual is receiving
13 or has received remuneration in lieu of notice.

14 (f) For any week with respect to which or a part of which the
15 individual has received or is seeking unemployment benefits under an
16 unemployment compensation law of any other state or of the United
17 States; provided that if the appropriate agency of the other state or of
18 the United States finally determines that the individual is not entitled
19 to unemployment benefits, this disqualification shall not apply.

20 (g) (1) For a period of one year from the date of the discovery by
21 the division of the illegal receipt or attempted receipt of benefits
22 contrary to the provisions of this chapter, as the result of any false or
23 fraudulent representation; provided that any disqualification may be
24 appealed in the same manner as any other disqualification imposed
25 hereunder; and provided further that a conviction in the courts of this
26 State arising out of the illegal receipt or attempted receipt of these
27 benefits in any proceeding instituted against the individual under the
28 provisions of this chapter or any other law of this State shall be
29 conclusive upon the appeals tribunal and the board of review.

30 (2) A disqualification under this subsection shall not preclude the
31 prosecution of any civil, criminal or administrative action or
32 proceeding to enforce other provisions of this chapter for the
33 assessment and collection of penalties or the refund of any amounts
34 collected as benefits under the provisions of R.S. 43:21-16, or to
35 enforce any other law, where an individual obtains or attempts to
36 obtain by theft or robbery or false statements or representations any
37 money from any fund created or established under this chapter or any
38 negotiable or nonnegotiable instrument for the payment of money from
39 these funds, or to recover money erroneously or illegally obtained by
40 an individual from any fund created or established under this chapter.

41 (h) (1) Notwithstanding any other provisions of this chapter
42 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied
43 benefits for any week because the individual is in training approved
44 under section 236(a)(1) of the Trade Act of 1974, P.L.93-618, 19
45 U.S.C. §2296, nor shall the individual be denied benefits by reason of
46 leaving work to enter this training, provided the work left is not

1 suitable employment, or because of the application to any week in
2 training of provisions in this chapter (R.S.43:21-1 et seq.), or any
3 applicable federal unemployment compensation law, relating to
4 availability for work, active search for work, or refusal to accept
5 work.

6 (2) For purposes of this subsection (h), the term "suitable"
7 employment means, with respect to an individual, work of a
8 substantially equal or higher skill level than the individual's past
9 adversely affected employment (as defined for purposes of the Trade
10 Act of 1974, P.L.93-618, 19 U.S.C. §2102 et seq.), and wages for this
11 work at not less than 80% of the individual's average weekly wage, as
12 determined for the purposes of the Trade Act of 1974.

13 (i) For benefit years commencing after June 30, 1984, for any week
14 in which the individual is a student in full attendance at, or on vacation
15 from, an educational institution, as defined in subsection (y) of
16 R.S.43:21-19; except that this subsection shall not apply to any
17 individual attending a training program approved by the division to
18 enhance the individual's employment opportunities, as defined under
19 subsection (c) of R.S.43:21-4; nor shall this subsection apply to any
20 individual who, during the individual's base year, earned sufficient
21 wages, as defined under subsection (e) of R.S.43:21-4, while attending
22 an educational institution during periods other than established and
23 customary vacation periods or holiday recesses at the educational
24 institution, to establish a claim for benefits. For purposes of this
25 subsection, an individual shall be treated as a full-time student for any
26 period:

27 (1) During which the individual is enrolled as a full-time student at
28 an educational institution, or

29 (2) Which is between academic years or terms, if the individual was
30 enrolled as a full-time student at an educational institution for the
31 immediately preceding academic year or term.

32 (j) Notwithstanding any other provisions of this chapter
33 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied
34 benefits because the individual left work or was discharged due to
35 circumstances directly resulting from the individual being a victim of
36 domestic violence as defined in section 3 of P.L.1991,
37 c.261 (C.2C:25-19). No employer's account shall be charged for the
38 payment of benefits to an individual who left work due to
39 circumstances directly resulting from the individual being a victim of
40 domestic violence.

41 (cf: P.L.1985, c.508, s.3)

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43 2. This act shall take effect immediately.

STATEMENT

3 This bill amends the "unemployment compensation law" to prevent
4 any otherwise eligible individual from being denied unemployment
5 benefits because the individual left work or was discharged due to
6 circumstances directly resulting from the individual being a victim of
7 domestic violence. The purpose of the bill is to prevent economic
8 concerns from causing a victim to hesitate in taking all appropriate
9 actions to increase personal safety in what may potentially be a
10 life-threatening situation. The bill also provides that no employer's
11 account be charged for the payment of benefits to an individual who
12 left work due to circumstances directly resulting from the individual
13 being a victim of domestic violence.

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18 Concerns UI benefits for victims of domestic violence.