

# HOUSE BILL No. 1299

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-4-15-1; IC 22-5-7.

**Synopsis:** Protective orders and employment. Provides that: (1) an individual is not subject to disqualification from eligibility for unemployment benefits because of discharge from the individual's employment due to circumstances directly related to the individual's filing of a petition for a protective order; and (2) an employer may not terminate an employee or discriminate against an employee with respect to compensation, benefits, or terms and conditions of employment based on the filing by the employee of a petition for a protective order, whether or not the order has been issued.

**Effective:** July 1, 2013.

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January 14, 2013, read first time and referred to Committee on Employment, Labor and Pensions.

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First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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## HOUSE BILL No. 1299



A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 22-4-15-1, AS AMENDED BY P.L.175-2009,  
 2 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2013]: Sec. 1. (a) With respect to benefit periods established  
 4 on and after July 6, 1980, an individual who has voluntarily left the  
 5 individual's most recent employment without good cause in connection  
 6 with the work or who was discharged from the individual's most recent  
 7 employment for just cause is ineligible for waiting period or benefit  
 8 rights for the week in which the disqualifying separation occurred and  
 9 until the individual has earned remuneration in employment equal to  
 10 or exceeding the weekly benefit amount of the individual's claim in  
 11 each of eight (8) weeks. If the qualification amount has not been earned  
 12 at the expiration of an individual's benefit period, the unearned amount  
 13 shall be carried forward to an extended benefit period or to the benefit  
 14 period of a subsequent claim.

15 (b) When it has been determined that an individual has been  
 16 separated from employment under disqualifying conditions as outlined  
 17 in this section, the maximum benefit amount of the individual's current



1 claim, as initially determined, shall be reduced by an amount  
2 determined as follows:

3 (1) For the first separation from employment under disqualifying  
4 conditions, the maximum benefit amount of the individual's  
5 current claim is equal to the result of:

6 (A) the maximum benefit amount of the individual's current  
7 claim, as initially determined; multiplied by

8 (B) seventy-five percent (75%);

9 rounded (if not already a multiple of one dollar (\$1)) to the next  
10 higher dollar.

11 (2) For the second separation from employment under  
12 disqualifying conditions, the maximum benefit amount of the  
13 individual's current claim is equal to the result of:

14 (A) the maximum benefit amount of the individual's current  
15 claim determined under subdivision (1); multiplied by

16 (B) eighty-five percent (85%);

17 rounded (if not already a multiple of one dollar (\$1)) to the next  
18 higher dollar.

19 (3) For the third and any subsequent separation from employment  
20 under disqualifying conditions, the maximum benefit amount of  
21 the individual's current claim is equal to the result of:

22 (A) the maximum benefit amount of the individual's current  
23 claim determined under subdivision (2); multiplied by

24 (B) ninety percent (90%);

25 rounded (if not already a multiple of one dollar (\$1)) to the next  
26 higher dollar.

27 (c) The disqualifications provided in this section shall be subject to  
28 the following modifications:

29 (1) An individual shall not be subject to disqualification because  
30 of separation from the individual's employment if:

31 (A) the individual left to accept with another employer  
32 previously secured permanent full-time work which offered  
33 reasonable expectation of continued covered employment and  
34 betterment of wages or working conditions and thereafter was  
35 employed on said job;

36 (B) having been simultaneously employed by two (2)  
37 employers, the individual leaves one (1) such employer  
38 voluntarily without good cause in connection with the work  
39 but remains in employment with the second employer with a  
40 reasonable expectation of continued employment; or

41 (C) the individual left to accept recall made by a base period  
42 employer.

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- 1 (2) An individual whose unemployment is the result of medically
- 2 substantiated physical disability and who is involuntarily
- 3 unemployed after having made reasonable efforts to maintain the
- 4 employment relationship shall not be subject to disqualification
- 5 under this section for such separation.
- 6 (3) An individual who left work to enter the armed forces of the
- 7 United States shall not be subject to disqualification under this
- 8 section for such leaving of work.
- 9 (4) An individual whose employment is terminated under the
- 10 compulsory retirement provision of a collective bargaining
- 11 agreement to which the employer is a party, or under any other
- 12 plan, system, or program, public or private, providing for
- 13 compulsory retirement and who is otherwise eligible shall not be
- 14 deemed to have left the individual's work voluntarily without
- 15 good cause in connection with the work. However, if such
- 16 individual subsequently becomes reemployed and thereafter
- 17 voluntarily leaves work without good cause in connection with the
- 18 work, the individual shall be deemed ineligible as outlined in this
- 19 section.
- 20 (5) An otherwise eligible individual shall not be denied benefits
- 21 for any week because the individual is in training approved under
- 22 Section 236(a)(1) of the Trade Act of 1974, nor shall the
- 23 individual be denied benefits by reason of leaving work to enter
- 24 such training, provided the work left is not suitable employment,
- 25 or because of the application to any week in training of provisions
- 26 in this law (or any applicable federal unemployment
- 27 compensation law), relating to availability for work, active search
- 28 for work, or refusal to accept work. For purposes of this
- 29 subdivision, the term "suitable employment" means with respect
- 30 to an individual, work of a substantially equal or higher skill level
- 31 than the individual's past adversely affected employment (as
- 32 defined for purposes of the Trade Act of 1974), and wages for
- 33 such work at not less than eighty percent (80%) of the individual's
- 34 average weekly wage as determined for the purposes of the Trade
- 35 Act of 1974.
- 36 (6) An individual is not subject to disqualification because of
- 37 separation from the individual's employment if:
- 38 (A) the employment was outside the individual's labor market;
- 39 (B) the individual left to accept previously secured full-time
- 40 work with an employer in the individual's labor market; and
- 41 (C) the individual actually became employed with the
- 42 employer in the individual's labor market.

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1 (7) An individual who, but for the voluntary separation to move  
 2 to another labor market to join a spouse who had moved to that  
 3 labor market, shall not be disqualified for that voluntary  
 4 separation, if the individual is otherwise eligible for benefits.  
 5 Benefits paid to the spouse whose eligibility is established under  
 6 this subdivision shall not be charged against the employer from  
 7 whom the spouse voluntarily separated.

8 (8) An individual shall not be subject to disqualification if the  
 9 individual voluntarily left employment or was discharged due to  
 10 circumstances directly caused by domestic or family violence (as  
 11 defined in IC 31-9-2-42). An individual who may be entitled to  
 12 benefits based on this modification may apply to the office of the  
 13 attorney general under IC 5-26.5 to have an address designated by  
 14 the office of the attorney general to serve as the individual's  
 15 address for purposes of this article.

16 **(9) An individual is not subject to disqualification under this**  
 17 **section because of discharge from the individual's**  
 18 **employment due to circumstances directly related to the filing**  
 19 **by the individual of a petition for a protective order (as**  
 20 **defined in IC 5-2-9-2.1) for the protection of the individual.**

21 As used in this subsection, "labor market" means the area surrounding  
 22 an individual's permanent residence, outside which the individual  
 23 cannot reasonably commute on a daily basis. In determining whether  
 24 an individual can reasonably commute under this subdivision, the  
 25 department shall consider the nature of the individual's job.

26 (d) "Discharge for just cause" as used in this section is defined to  
 27 include but not be limited to:

- 28 (1) separation initiated by an employer for falsification of an  
 29 employment application to obtain employment through  
 30 subterfuge;
- 31 (2) knowing violation of a reasonable and uniformly enforced rule  
 32 of an employer, including a rule regarding attendance;
- 33 (3) if an employer does not have a rule regarding attendance, an  
 34 individual's unsatisfactory attendance, if the individual cannot  
 35 show good cause for absences or tardiness;
- 36 (4) damaging the employer's property through willful negligence;
- 37 (5) refusing to obey instructions;
- 38 (6) reporting to work under the influence of alcohol or drugs or  
 39 consuming alcohol or drugs on employer's premises during  
 40 working hours;
- 41 (7) conduct endangering safety of self or coworkers;
- 42 (8) incarceration in jail following conviction of a misdemeanor or

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1           felony by a court of competent jurisdiction; or  
2           (9) any breach of duty in connection with work which is  
3           reasonably owed an employer by an employee.  
4           (e) To verify that domestic or family violence has occurred, an  
5           individual who applies for benefits under subsection (c)(8) shall  
6           provide one (1) of the following:  
7           (1) A report of a law enforcement agency (as defined in  
8           IC 10-13-3-10).  
9           (2) A protection order issued under IC 34-26-5.  
10          (3) A foreign protection order (as defined in IC 34-6-2-48.5).  
11          (4) An affidavit from a domestic violence service provider  
12          verifying services provided to the individual by the domestic  
13          violence service provider.  
14          **(f) If an individual applies for benefits under this article and**  
15          **asserts that the individual, under subsection (c)(9), is not subject to**  
16          **disqualification, the individual must provide to the department a**  
17          **copy of the petition for a protective order (as defined in**  
18          **IC 5-2-9-2.1) filed by the individual.**  
19          SECTION 2. IC 22-5-7 IS ADDED TO THE INDIANA CODE AS  
20          A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
21          1, 2013]:  
22          **Chapter 7. Protective Orders and Employment**  
23          **Sec. 1. As used in this chapter, "protective order" has the**  
24          **meaning set forth in IC 5-2-9-2.1.**  
25          **Sec. 2. (a) An employer may not:**  
26          **(1) discriminate against an employee with respect to:**  
27          **(A) compensation and benefits from the employer; or**  
28          **(B) terms and conditions of employment; or**  
29          **(2) terminate an employee from employment;**  
30          **based on the filing by the employee of a petition for a protective**  
31          **order for the protection of the employee, whether or not the**  
32          **protective order has been issued.**  
33          **(b) This section does not prohibit an employer from altering the**  
34          **location of employment of an employee, an employee's**  
35          **compensation or benefits, or a term or condition of employment**  
36          **upon which an employee and employer have agreed mutually.**  
37          **Sec. 3. (a) An employee may bring a civil action against an**  
38          **employer to enforce section 2 of this chapter.**  
39          **(b) If an employer is found in an action brought under this**  
40          **section to have violated section 2 of this chapter, the court may do**  
41          **the following:**  
42          **(1) Award:**

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1                   **(A) actual damages; and**  
2                   **(B) court costs and reasonable attorney's fees;**  
3                   **to the prevailing party.**  
4                   **(2) Enjoin further violation of this chapter.**  
5                   **Sec. 4. This chapter does not limit an employee's rights or**  
6                   **remedies under any other state or federal law.**

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