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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2366

02/25/2014 Authored by Rosenthal; Slocum; Dorholt; Dehn, R., and Masin

The bill was read for the first time and referred to the Committee on Labor, Workplace and Regulated Industries

1.1 A bill for an act  
1.2 relating to employment; modifying eligibility for unemployment benefits when  
1.3 applicant is victim of sexual assault or stalking; amending Minnesota Statutes  
1.4 2012, section 268.095, subdivisions 1, 6, by adding a subdivision.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2012, section 268.095, subdivision 1, is amended to read:

1.7 Subdivision 1. **Quit.** An applicant who quit employment is ineligible for all  
1.8 unemployment benefits according to subdivision 10 except when:

1.9 (1) the applicant quit the employment because of a good reason caused by the  
1.10 employer as defined in subdivision 3;

1.11 (2) the applicant quit the employment to accept other covered employment that  
1.12 provided substantially better terms and conditions of employment, but the applicant did  
1.13 not work long enough at the second employment to have sufficient subsequent earnings to  
1.14 satisfy the period of ineligibility that would otherwise be imposed under subdivision 10  
1.15 for quitting the first employment;

1.16 (3) the applicant quit the employment within 30 calendar days of beginning the  
1.17 employment because the employment was unsuitable for the applicant;

1.18 (4) the employment was unsuitable for the applicant and the applicant quit to enter  
1.19 reemployment assistance training;

1.20 (5) the employment was part time and the applicant also had full-time employment  
1.21 in the base period, from which full-time employment the applicant separated because of  
1.22 reasons for which the applicant was held not to be ineligible, and the wage credits from  
1.23 the full-time employment are sufficient to meet the minimum requirements to establish a  
1.24 benefit account under section 268.07;

2.1 (6) the applicant quit because the employer notified the applicant that the applicant  
 2.2 was going to be laid off because of lack of work within 30 calendar days. An applicant  
 2.3 who quit employment within 30 calendar days of a notified date of layoff because of lack  
 2.4 of work is ineligible for unemployment benefits through the end of the week that includes  
 2.5 the scheduled date of layoff;

2.6 (7) the applicant quit the employment (i) because the applicant's serious illness or  
 2.7 injury made it medically necessary that the applicant quit; or (ii) in order to provide  
 2.8 necessary care because of the illness, injury, or disability of an immediate family member  
 2.9 of the applicant. This exception only applies if the applicant informs the employer of  
 2.10 the medical problem and requests accommodation and no reasonable accommodation  
 2.11 is made available.

2.12 If the applicant's serious illness is chemical dependency, this exception does not  
 2.13 apply if the applicant was previously diagnosed as chemically dependent or had treatment  
 2.14 for chemical dependency, and since that diagnosis or treatment has failed to make  
 2.15 consistent efforts to control the chemical dependency.

2.16 This exception raises an issue of the applicant's being available for suitable  
 2.17 employment under section 268.085, subdivision 1, that the commissioner must determine;

2.18 (8) the applicant's loss of child care for the applicant's minor child caused the  
 2.19 applicant to quit the employment, provided the applicant made reasonable effort to obtain  
 2.20 other child care and requested time off or other accommodation from the employer and no  
 2.21 reasonable accommodation is available.

2.22 This exception raises an issue of the applicant's being available for suitable  
 2.23 employment under section 268.085, subdivision 1, that the commissioner must determine;

2.24 (9) domestic abuse, sexual assault, or stalking of the applicant or an immediate  
 2.25 family member of the applicant, necessitated the applicant's quitting the employment.  
 2.26 Domestic abuse, sexual assault, or stalking must be shown by one or more of the following:

2.27 (i) a district court order for protection or other documentation of equitable relief  
 2.28 issued by a court;

2.29 (ii) a police record documenting the domestic abuse, sexual assault, or stalking;

2.30 (iii) documentation that the perpetrator of the domestic abuse, sexual assault, or  
 2.31 stalking has been convicted of the offense of ~~domestic abuse~~;

2.32 (iv) medical documentation of domestic abuse, sexual assault, or stalking; or

2.33 (v) written statement that the applicant or an immediate family member of the  
 2.34 applicant is a victim of domestic abuse, sexual assault, or stalking provided by a social  
 2.35 worker, member of the clergy, shelter worker, attorney at law, or other professional who  
 2.36 has assisted the applicant in dealing with the domestic abuse-, sexual assault, or stalking; or

3.1 ~~Domestic abuse for purposes of this clause is defined under section 518B.01; or~~  
 3.2 (vi) the applicant's sworn statement attesting to the domestic abuse, sexual assault,  
 3.3 or stalking; or

3.4 (10) the applicant quit in order to relocate to accompany a spouse whose job location  
 3.5 changed making it impractical for the applicant to commute.

3.6 Sec. 2. Minnesota Statutes 2012, section 268.095, subdivision 6, is amended to read:

3.7 Subd. 6. **Employment misconduct defined.** (a) Employment misconduct means any  
 3.8 intentional, negligent, or indifferent conduct, on the job or off the job that displays clearly:

3.9 (1) a serious violation of the standards of behavior the employer has the right to  
 3.10 reasonably expect of the employee; or

3.11 (2) a substantial lack of concern for the employment.

3.12 (b) Regardless of paragraph (a), the following is not employment misconduct:

3.13 (1) conduct that was a consequence of the applicant's mental illness or impairment;

3.14 (2) conduct that was a consequence of the applicant's inefficiency or inadvertence;

3.15 (3) simple unsatisfactory conduct;

3.16 (4) conduct an average reasonable employee would have engaged in under the  
 3.17 circumstances;

3.18 (5) conduct that was a consequence of the applicant's inability or incapacity;

3.19 (6) good faith errors in judgment if judgment was required;

3.20 (7) absence because of illness or injury of the applicant, with proper notice to the  
 3.21 employer;

3.22 (8) absence, with proper notice to the employer, in order to provide necessary care  
 3.23 because of the illness, injury, or disability of an immediate family member of the applicant;

3.24 (9) conduct that was a consequence of the applicant's chemical dependency, unless  
 3.25 the applicant was previously diagnosed chemically dependent or had treatment for  
 3.26 chemical dependency, and since that diagnosis or treatment has failed to make consistent  
 3.27 efforts to control the chemical dependency; or

3.28 (10) conduct that was a consequence of the applicant, or an immediate family  
 3.29 member of the applicant, being a victim of domestic abuse ~~as defined under section~~  
 3.30 ~~518B.01, sexual assault, or stalking.~~ Domestic abuse, sexual assault, or stalking must be  
 3.31 shown as provided for in subdivision 1, clause (9).

3.32 (c) Regardless of paragraph (b), clause (9), conduct in violation of sections 169A.20,  
 3.33 169A.31, or 169A.50 to 169A.53 that interferes with or adversely affects the employment  
 3.34 is employment misconduct.

4.1 (d) If the conduct for which the applicant was discharged involved only a single  
4.2 incident, that is an important fact that must be considered in deciding whether the conduct  
4.3 rises to the level of employment misconduct under paragraph (a). This paragraph does  
4.4 not require that a determination under section 268.101 or decision under section 268.105  
4.5 contain a specific acknowledgment or explanation that this paragraph was considered.

4.6 (e) The definition of employment misconduct provided by this subdivision is  
4.7 exclusive and no other definition applies.

4.8 Sec. 3. Minnesota Statutes 2012, section 268.095, is amended by adding a subdivision  
4.9 to read:

4.10 Subd. 13. **Definitions.** For purposes of this section, the following terms have the  
4.11 meanings given.

4.12 (a) "Domestic abuse" has the meaning given in section 518B.01.

4.13 (b) "Sexual assault" means an act that would constitute a violation of sections  
4.14 609.342 to 609.3453 or 609.352.

4.15 (c) "Stalking" means an act that would constitute a violation of section 609.749.