

HOUSE No. 4192

The Commonwealth of Massachusetts



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To the Honorable Senate and House of Representatives,

I am filing for your consideration a bill entitled “An Act Relative to Military Family Support and Unemployment Transformation.” This legislation makes important adjustments to the Commonwealth’s unemployment assistance statute that are designed to support our military families and to enhance fairness and efficiency in the Department of Unemployment Assistance’s (DUA) administration of unemployment benefits.

Workers in military families sometimes must leave work in order to join a spouse serving in the United States armed forces who has been transferred to a location out of the Commonwealth or otherwise beyond reasonable commuting distance. Current statutory language requires DUA to treat a worker’s departure in these circumstances as a voluntary separation that disqualifies the worker from receiving unemployment benefits. The bill corrects this provision to make clear that Massachusetts workers will be eligible for benefits when they leave employment to follow a spouse who is serving in the military. The amendment brings the statute into line with the Commonwealth’s long-standing commitment to supporting military families.

We know that work-release programs for inmates who are nearing the end of their sentences in our correctional facilities provide valuable job training that can ease re-entry and reduce recidivism when inmates re-join society. The bill makes clear that when an inmate ends employment in a work-release program—because the inmate has completed a sentence or for other reasons—the change will not be treated as an involuntary termination entitling the inmate

to unemployment benefits. This clarification will protect employers from the risk of higher unemployment assessments when they provide these important job training opportunities.

The bill supports DUA's continuing efforts to deliver its services more efficiently by authorizing DUA to use electronic means to communicate with claimants who have ready access to email and other forms of electronic communication. DUA is currently required to spend more than \$1 million each year in postal charges to process claims through paper communications even though 80% of DUA's claimants file initial applications for benefits electronically. A shift to email for most communications will speed DUA's claims processing and reduce DUA's postage costs by as much as \$500,000 annually.

The bill also improves DUA's ability to reclaim benefits that have been obtained by fraud. Currently the statute allows DUA to deduct only 25% of a claimant's ongoing, weekly benefits when the claimant has obtained overpayments through fraud, even though no cap limits DUA's ability to offset weekly benefits when recovering overpayments that have been paid in error. The proposed legislation corrects this imbalance and grants the director discretion to make appropriate chargebacks against ongoing benefits to recover overpayments that have resulted either from error or from fraud.

Finally, the bill makes a number of adjustments to reflect changes in how DUA is required to administer the unemployment assistance law. The bill adds to an existing list of circumstances in which DUA is authorized to share program information three narrow provisions that will permit DUA to make limited disclosure of otherwise confidential information when disclosure is a requirement of Federal program support, mandated by Federal law, or otherwise required by compulsory legal process. To comply with Federal requirements, the bill also eliminates a long-standing provision—never used—that permits DUA to publish lists of employers delinquent in their payment of unemployment assessments. Lastly, in a long overdue housekeeping effort, the bill updates terminology that appears in the unemployment assistance statute to bring it into agreement with terminology used elsewhere in the General Laws.

The changes proposed in the bill will make important contributions to DUA's continuing efforts to improve efficiency and equity in administering unemployment benefits for Massachusetts workers. I urge your prompt enactment of this legislation.

Sincerely,

Charles D. Baker,
Governor

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to military family support and unemployment transformation.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Subsection (e) of section 25 of said chapter 151A of the General Laws, as
2 appearing in the 2018 Official Edition, is hereby amended by striking out the final paragraph and
3 inserting in place thereof the following paragraph:--

4 Notwithstanding the provisions of this subsection, no waiting period shall be allowed and
5 no benefits shall be paid to an individual under this chapter for the period of unemployment next
6 ensuing and until the individual has had at least eight weeks of work and in each of said weeks
7 has earned an amount equivalent to or in excess of the individual's weekly benefit amount after
8 having left work to accompany or join one's spouse or other person at a new locality; provided
9 that this disqualification shall not apply to an individual who has left work to accompany or join
10 the individual's spouse, who, being a service member on active service in the armed forces of the
11 United States, has relocated beyond commuting distance due to a permanent change of station;
12 provided further, however, that the service member has not been relocated in order to be
13 separated from service. If the individual's employer is liable for contributions under section 14

14 or 14C, such employer's account shall not be charged for any benefits paid out to the individual
15 under this paragraph.

16 SECTION 2. Section 1 of said chapter 151A, as so appearing, is hereby amended by
17 inserting after subsection (g) the following 2 subsections:--

18 (g^{1/4}) "Director", the director of unemployment assistance.

19 (g^{1/3}) "Division", the department of unemployment assistance.

20 SECTION 3. Subsection (k) of said section 1 of said chapter 151A is hereby amended by
21 striking out the words "sections two, three, four A, five, six, and eight C" and inserting in place
22 thereof the words: - sections two, three, four A, five, six, six A, and eight C.

23 SECTION 4. Section 6 of said chapter 151A, as so appearing, is hereby amended by
24 striking out subsection (v) and inserting in place thereof the following subsection: -

25 (v) service performed by a person committed to a custodial or penal institution.

26 SECTION 5. Subsection (j) of section 25 of said chapter 151A, as so appearing, is
27 hereby amended by striking out, in lines 326 through 328, the words "provided further, that the
28 amount deducted each week shall not exceed 25 per cent of the individual's weekly
29 unemployment benefit rate;".

30 SECTION 6. Section 29E of said chapter 151A, as so appearing, is hereby amended by
31 striking out, in lines 1, 15, 24, 36, and 50, each time it appears, the word "deputy".

32 SECTION 7. Said section 29E of said chapter 151A, as so appearing, is hereby further
33 amended by striking out, in line 38, the words "deputy director, with the approval of the".

34 SECTION 8. Subsection (e) of section 30A of said chapter 151A, as so appearing, is
35 hereby amended by striking out, in lines 165 and 166, the words “employment and training” and
36 inserting in place thereof, the following words:- unemployment assistance.

37 SECTION 9. Subsection (c) of section 46 of said chapter 151A, as so appearing, is
38 hereby amended by adding the following 3 paragraphs:-

39 (8) to the United States department of labor, such information as required by law, or as a
40 condition of receiving federal administrative funding.

41 (9) to any federal, state, or local agency entitled to such information under the social
42 security act or any other federal law, information to the degree and in the manner prescribed by
43 such federal law or its implementing regulations.

44 (10) to any federal, state, or local agency, information sought by a grand jury subpoena or
45 other compulsory legal process served upon the department; provided that the department shall
46 provide the notification required by subsection (k) of section 2 of Chapter 66A before providing
47 any information sought by such subpoena or compulsory legal process.

48 SECTION 10. Said section 46 of said chapter 151A is hereby further amended by
49 striking out subsection (g).

50 SECTION 11. Section 47 of said chapter 151A, as so appearing, is hereby amended by
51 striking out, in line 120, the words “employment and training” and inserting in place thereof, the
52 following words:- unemployment assistance.

53 SECTION 12. Subsection (f) of section 58 of said chapter 151A, as so appearing, is
54 hereby amended by striking out, in line 62, the words “employment and training” and inserting
55 in place thereof, the following words:- unemployment assistance.

56 SECTION 13. Subsection (a) of section 62A of said chapter 151A, as so appearing, is
57 hereby amended by striking out the first paragraph and inserting in place thereof the following
58 paragraph:-

59 The department of unemployment assistance shall provide a minimum level of in-person
60 assistance at every career center operated or overseen by the MassHire department of career
61 services.

62 SECTION 14. Said section 62A of said chapter 151A is hereby further amended by
63 striking out, in lines 19 and 34, the word “deputy”.

64 SECTION 15. Said section 62A of said chapter 151A is hereby further amended by
65 adding the following subsection: -

66 (h) Any written communication required or permitted by this chapter or by regulations
67 promulgated thereunder shall be made and transmitted in the manner and form prescribed by the
68 director, which may include by means of electronic communication. The director shall establish
69 procedures for allowing the use of electronic communications for such purposes, provided that
70 such procedures shall require that all written communications to and from persons lacking
71 reasonable access to, or the ability to use or receive, electronic communications shall be made by
72 means of the United States Postal Service. For the purpose of this subsection, a “communication”
73 shall include, without limitation, any written notice or questionnaire from the department and

74 any written response or other submission from a claimant, a claimant's representative, an
75 employer, or an employer's representative.

76 An electronic communication sent to the department and made in the name of a claimant
77 or employer and using the Social Security Account Number, Federal Employer Identification
78 Number, or unique identification number or code assigned to the claimant or employer by the
79 director shall be presumed to have been made by that individual or employer unless the director
80 is satisfied on the available evidence that the electronic communication was not made by or on
81 behalf of that individual or employer.