

CHAPTER 297

LABOR AND INDUSTRY

SENATE BILL 20-170

BY SENATOR(S) Danielson, Bridges, Donovan, Fenberg, Fields, Ginal, Hansen, Lee, Moreno, Pettersen, Rodriguez, Story, Todd, Winter, Zenzinger, Garcia;
also REPRESENTATIVE(S) Jackson and Duran, Esgar, Exum, Froelich, Herod, Jaquez Lewis, Melton, Mullica, Sullivan, Titone.

AN ACT

CONCERNING EMPLOYMENT SECURITY, AND, IN CONNECTION THEREWITH, AMENDING THE DEFINITION OF "IMMEDIATE FAMILY", REMOVING A REQUIREMENT THAT A CLAIMANT SUFFERING FROM DOMESTIC VIOLENCE PROVIDE WRITTEN DOCUMENTATION OF THE DOMESTIC VIOLENCE IN ORDER TO ESTABLISH THE CLAIMANT'S ELIGIBILITY FOR BENEFITS, AND LIMITING THE MEANING OF CERTAIN INSTANCES OF THE TERM "REMUNERATION" TO DESCRIBE A SEVERANCE ALLOWANCE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 8-73-108, **amend** (4)(r)(I) and (4)(v)(V) introductory portion; and **repeal** (4)(r)(V) and (4)(v)(V)(C) as follows:

8-73-108. Benefit awards - definitions. (4) Full award. An individual separated from a job must be given a full award of benefits if the division determines that any of the following reasons and pertinent related conditions exist. The determination of whether or not the separation from employment must result in a full award of benefits is the responsibility of the division. The following reasons must be considered, along with any other factors that may be pertinent to such determination:

(r) (I) Separating from a job because of domestic violence may be reason for a determination for a full award if THE WORKER REASONABLY BELIEVES THAT THE WORKER'S CONTINUED EMPLOYMENT WOULD JEOPARDIZE THE SAFETY OF THE WORKER OR ANY MEMBER OF THE WORKER'S IMMEDIATE FAMILY.

~~(A) The worker reasonably believes that his or her continued employment would jeopardize the safety of the worker or any member of the worker's immediate family and provides the division with substantiating documentation as described in~~

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

~~sub-subparagraph (B) or (C) of this subparagraph (f); or~~

~~(B) The worker provides the division with an active or recently issued protective order or other order documenting the domestic violence or a police record documenting recent domestic violence; or~~

~~(C) The worker provides the division with a statement substantiating recent domestic violence from a qualified professional from whom the worker has sought assistance for the domestic violence, such as a counselor, shelter worker, member of the clergy, attorney, or health worker.~~

~~(V) As used in this paragraph (r), "immediate family" means the worker's spouse, partner in a civil union, parent, or minor child under eighteen years of age.~~

(v) (V) As used in this ~~paragraph (v)~~ SUBSECTION (4)(v):

~~(C) "Immediate family member" means the worker's spouse, partner in a civil union, parent, or minor child under eighteen years of age.~~

SECTION 2. In Colorado Revised Statutes, 8-73-110, **amend** (1)(a) as follows:

8-73-110. Other remuneration - severance pay - definitions. (1) (a) ~~THE BENEFITS FOR an individual who is separated from employment and because of the separation, receives additional remuneration not otherwise referred to in this section and the remuneration is not wages shall have his or her benefits~~ A SEVERANCE ALLOWANCE MUST BE postponed for a number of calendar weeks after separation from employment that is equal to the total amount of the ~~additional remuneration~~ SEVERANCE ALLOWANCE, divided by the individual's usual weekly wage. The postponement required by this subsection (1) ~~shall begin~~ BEGINS with the calendar week in which the ~~payment~~ SEVERANCE ALLOWANCE was received. If the number of weeks does not equal a whole number, the remainder ~~shall be~~ IS disregarded. Notwithstanding section 8-73-107 (1)(f), any wages earned by an individual in a calendar week during postponement ~~shall be~~ ARE disregarded.

SECTION 3. In Colorado Revised Statutes, 8-70-103, **amend** the introductory portion; and **add** (14.5) and (23.7) as follows:

8-70-103. Definitions. As used in articles 70 to 82 of this ~~title~~ TITLE 8, unless the context otherwise requires:

(14.5) "IMMEDIATE FAMILY" MEANS AN INDIVIDUAL'S SPOUSE, PARTNER IN A CIVIL UNION, PARENT, OR MINOR CHILD UNDER EIGHTEEN YEARS OF AGE; A SIBLING OF THE INDIVIDUAL WHO IS UNDER EIGHTEEN YEARS OF AGE AND FOR WHOM THE INDIVIDUAL STANDS IN LOCO PARENTIS; OR A SIBLING OF THE INDIVIDUAL WHO IS INCAPABLE OF SELF-CARE DUE TO A MENTAL OR PHYSICAL DISABILITY OR A LONG-TERM ILLNESS.

(23.7) (a) "SEVERANCE ALLOWANCE" MEANS ANY PAYMENT THAT IS:

(I) DESIGNATED BY AN EMPLOYER AS A SEVERANCE ALLOWANCE;

(II) PAID TO AN INDIVIDUAL BECAUSE THE INDIVIDUAL IS SEPARATED FROM EMPLOYMENT; AND

(III) PAID TO COMPENSATE THE SEPARATED INDIVIDUAL FOR A PERIOD OF TIME FOLLOWING THE SEPARATION DURING WHICH PERIOD THE INDIVIDUAL DOES NOT WORK.

(b) NOTWITHSTANDING SUBSECTION (23.7)(a) OF THIS SECTION, A PAYMENT MADE BY AN EMPLOYER TO AN INDIVIDUAL IS NOT A "SEVERANCE ALLOWANCE" IF THE PURPOSE OF THE PAYMENT IS TO INDUCE THE INDIVIDUAL TO WAIVE RIGHTS OR CLAIMS AGAINST THE EMPLOYER.

SECTION 4. In Colorado Revised Statutes, 8-72-114, **add** (3)(e)(IV) and (9) as follows:

8-72-114. Employee misclassification - investigations - enforcement - advisory opinions - rules - employee misclassification advisory opinion fund - statewide study - report - definitions - legislative declaration. (3) (e) (IV) FINES RECEIVED BY THE DIVISION PURSUANT TO SUBSECTION (3)(e)(III) OF THIS SECTION OR BY THE DEPARTMENT OF LAW PURSUANT TO SUBSECTION (9) OF THIS SECTION SHALL BE TRANSFERRED TO THE DEPARTMENT OF LABOR AND EMPLOYMENT AND CREDITED TO THE UNEMPLOYMENT REVENUE FUND CREATED IN SECTION 8-77-106.

(9) SUBJECT TO THE APPROVAL OF THE EXECUTIVE DIRECTOR, THE DIRECTOR MAY ENTER INTO AN INTERAGENCY AGREEMENT WITH THE DEPARTMENT OF LAW FOR ASSISTANCE IN ENFORCING THIS SECTION. THE DIRECTOR IS AUTHORIZED TO TRANSFER TO THE DEPARTMENT OF LAW FROM THE UNEMPLOYMENT REVENUE FUND CREATED IN SECTION 8-77-106 SUCH MONEY AS IS NECESSARY TO PAY FOR REASONABLE COSTS ASSOCIATED WITH ENFORCEMENT ACTIONS BY THE DEPARTMENT OF LAW.

SECTION 5. Act subject to petition - effective date. This act takes effect January 1, 2021; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect January 1, 2021, or on the date of the official declaration of the vote thereon by the governor, whichever is later.

Approved: July 14, 2020