

SENATE No. 2078

Senate, June 1, 2017 -- Message from His Excellency the Governor recommending legislation relative to the modernization of the commonwealth's administration of unemployment insurance

The Commonwealth of Massachusetts



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May 30, 2017

To the Honorable Senate and House of Representatives,

I am filing for your consideration a bill entitled “An Act to Modernize the Commonwealth’s Administration of Unemployment Insurance.” This legislation makes targeted adjustments to current law that will allow the Department of Unemployment Assistance (DUA) to continue its work of delivering support to workers temporarily separated from employment, improving efficiencies in its administration of these benefits, and ensuring fairness for all participants in the system.

The bill makes an important correction to current eligibility provisions as they apply to workers with spouses or other family members serving in the military. Workers in military families sometimes must leave work in order to join a family member 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 inadvertently treats 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 or other family member 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 serving sentences in our correctional facilities provide valuable job training that can help to reduce recidivism when inmates complete

their sentences and re-join society. The bill amends current statutory language to clarify that when inmates end their employment in work-release programs—either because they complete 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 ongoing 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. Currently 80% of claimants file initial applications for benefits electronically, but DUA is required to spend more than \$1 million each year in postal charges to process claims through paper communications after initial application. A shift to email for most communications will meaningfully reduce the time required to process claims and reduce DUA's postage costs by as much as \$500,000 annually, making more funds available for language services and other important aids to effective communication with claimants.

The bill supports improved efficiency and fairness by enhancing DUA's ability to reclaim benefits that have been obtained by fraud. Currently, the statute allows DUA to deduct only 25% of ongoing, weekly benefits to recover overpayments a claimant has obtained by fraud, although the statute places no limit on DUA's ability to offset weekly benefits when recovering benefits that have been overpaid in error. The result is that it is currently more difficult for DUA to recover fraudulent overpayments than to recover erroneous overpayments. The proposed legislation corrects this imbalance and grants the director discretion to make appropriate charge-backs to recover overpayments resulting either from error or from fraud.

Finally, at the request of the United States Department of Labor, the bill makes minor changes that limit DUA's ability to publish lists of employers that are delinquent in their payment of unemployment contributions. Following the proposed change, and consistent with current DUA practice, the statute will permit DUA to publicize delinquencies only when they have become a matter of public record as a result of legal proceedings.

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

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The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act to Modernize the Commonwealth's Administration of Unemployment Insurance.

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. Section 6 of chapter 151A of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by striking out sub-section (v) and inserting in place thereof
3 the following subsection: --

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

5 SECTION 2. Section 25 of said chapter 151A, as so appearing, is hereby amended by
6 striking out the final paragraph of sub-section (e) and inserting in place thereof the following
7 paragraph: --

8 Notwithstanding the provisions of this subsection, no waiting period shall be allowed and
9 no benefits shall be paid to an individual under this chapter for the period of unemployment next
10 ensuing and until the individual has had at least eight weeks of work and in each of said weeks
11 has earned an amount equivalent to or in excess of the individual's weekly benefit amount after
12 having left work to accompany or join one's spouse or another person at a new locality; provided
13 that this disqualification shall not apply to an individual who has left work to accompany or join

14 the individual's spouse or another person, who, being a service member on active service in the
15 armed forces of the United States, has relocated beyond commuting distance due to a permanent
16 change of station; provided further, however, that the service member has not been relocated in
17 order to be separated from service. If the individual's employer is liable for contributions under
18 section 14 or 14C of this chapter, such employer's account shall not be charged for any benefits
19 paid out to the individual under this paragraph.

20 SECTION 3. Section 25 of said chapter 151A is hereby further amended by striking out,
21 in lines 325 through 327, the following words --

22 provided further, that the amount deducted each week shall not exceed 25 per cent of the
23 individual's weekly unemployment benefit rate; and

24 SECTION 4. Section 46 of said chapter 151A, as so appearing, is hereby amended by
25 striking out sub-section (g) and inserting in place thereof the following sub-section: --

26 (g) Notwithstanding any of the foregoing provisions of this section, the director may
27 publish a list of active employers that are delinquent under this chapter in the payment of their
28 obligations in an amount greater than five thousand dollars, provided that the information already
29 has become public either through its inclusion in a document filed in court in connection with an
30 effort to collect the delinquency or in a notice of lien recorded as part of an effort to secure the
31 department's rights regarding the delinquency, and provided further that the disclosure is not
32 precluded by federal law. The director may promulgate regulations to implement this
33 subsection.

34 SECTION 5. Section 62A of chapter 151A of the General Laws, as so appearing, is
35 hereby amended by adding the following sub-section: --

36 (h) Any other general or special law or other provision of chapter 151A notwithstanding,
37 any written communication required or permitted by this chapter or by regulations promulgated
38 thereunder shall be made and transmitted in the manner and form prescribed by the director,
39 which may include by means of electronic communication. The director shall establish
40 procedures for allowing the use of electronic communications for such purposes, provided that
41 such procedures shall require that all written communications to and from persons lacking
42 reasonable access to, or the ability to use or receive, electronic communications shall be made by
43 means of the United States Postal Service. For the purpose of this sub-section, a
44 “communication” shall include, without limitation, any written notice or questionnaire from the
45 department and any written response or other submission from a claimant, a claimant’s
46 representative, an employer, or an employer’s representative.

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