

SENATE BILL NO. 962

June 26, 2024, Introduced by Senator CHERRY and referred to the Committee on Labor.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending sections 28d, 29, 29a, 33, and 62 (MCL 421.28d, 421.29, 421.29a, 421.33, and 421.62), sections 28d and 29 as amended and section 29a as added by 2020 PA 258, section 33 as amended by 2011 PA 269, and section 62 as amended by 2017 PA 231.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 28d. (1) The unemployment agency shall approve a shared-
2 work plan only if the plan meets all of the following requirements:
3 (a) The shared-work plan applies to 1 affected unit.
4 (b) All employees in the affected unit are participating

1 employees, except that, until March 31, 2021, an employee whose
2 hours of work per week determined under subdivision (e) are 40 or
3 more hours must not be a participating employee.

4 (c) There are no fewer than 2 participating employees,
5 determined without regard to corporate officers.

6 (d) The participating employees are identified by name and
7 Social Security number.

8 (e) The number of hours a participating employee will work
9 each week during the effective period of the shared-work plan is
10 the number of the employee's normal weekly hours of work reduced by
11 the reduction percentage.

12 (f) The plan includes an estimate of the number of employees
13 who would have been laid off if the plan were not implemented.

14 (g) The plan indicates the manner in which the employer will
15 give advance notice, if feasible, to an employee whose hours of
16 work per week under the plan will be reduced.

17 (h) As a result of a decrease in the number of hours worked by
18 each participating employee, there is a corresponding reduction in
19 wages.

20 (i) The shared-work plan does not affect the fringe benefits
21 of any participating employee.

22 (j) The specified effective period of the shared-work plan is
23 52 consecutive weeks or less and the benefits payable under the
24 shared-work plan will not exceed 20 times the weekly benefit amount
25 for each participating employee, calculated without regard to any
26 existing benefit year.

27 (k) The reduction percentage satisfies the requirements of
28 subsection (2).

29 (2) The reduction percentage under an approved shared-work

1 plan ~~shall~~**must** meet all of the following requirements:

2 (a) The reduction percentage ~~shall~~**must** be ~~no less than 15%~~
3 ~~and no more than 45% or, until March 31, 2021, no~~**not** less than 10%
4 ~~and~~**not** more than 60%.

5 (b) The reduction percentage ~~shall~~**must** be the same for all
6 participating employees.

7 (c) The reduction percentage ~~shall~~**must** not change during the
8 period of the shared-work plan unless the plan is modified in
9 accordance with section 28i.

10 Sec. 29. (1) Except as provided in subsection (5), an
11 individual is disqualified from receiving benefits if ~~he or she~~**the**
12 **individual**:

13 (a) Left work voluntarily without good cause attributable to
14 the employer or employing unit. An individual who left work is
15 presumed to have left work voluntarily without good cause
16 attributable to the employer or employing unit. An individual who
17 is absent from work for a period of 3 consecutive work days or more
18 without contacting the employer ~~in a manner acceptable to the~~
19 ~~employer and of which the individual was informed at the time of~~
20 ~~hire is considered~~**rebuttably presumed** to have voluntarily left
21 work without good cause attributable to the employer. An individual
22 who becomes unemployed as a result of negligently losing a
23 requirement for the job of which ~~he or she~~**the individual** was
24 informed at the time of hire is considered to have voluntarily left
25 work without good cause attributable to the employer. An individual
26 claiming benefits under this act has the burden of proof to
27 establish that ~~he or she~~**the individual** left work involuntarily or
28 for good cause that was attributable to the employer or employing
29 unit. An individual claiming to have left work involuntarily for

1 medical reasons must have done all of the following before the
2 leaving: secured a statement from a medical professional that
3 continuing in the individual's current job would be harmful to the
4 individual's physical or mental health, unsuccessfully attempted to
5 secure alternative work with the employer, and unsuccessfully
6 attempted to be placed on a leave of absence with the employer to
7 last until the individual's mental or physical health would no
8 longer be harmed by the current job. Notwithstanding any other
9 provision of this act, with respect to claims for weeks beginning
10 before April 1, 2021, an individual is considered to have left work
11 involuntarily for medical reasons if ~~he or she~~ **the individual**
12 leaves work to self-isolate or self-quarantine in response to
13 elevated risk from COVID-19 because ~~he or she~~ **the individual** is
14 immunocompromised, displayed a commonly recognized principal
15 symptom of COVID-19 that was not otherwise associated with a known
16 medical or physical condition of the individual, had contact in the
17 last 14 days with an individual with a confirmed diagnosis of
18 COVID-19, needed to care for an individual with a confirmed
19 diagnosis of COVID-19, or had a family care responsibility that was
20 the result of a government directive regarding COVID-19.
21 Notwithstanding any other provision of this act, with respect to
22 claims for weeks beginning before April 1, 2021, the unemployment
23 agency may consider an individual laid off if the individual became
24 unemployed to self-isolate or self-quarantine in response to
25 elevated risk from COVID-19 because ~~he or she~~ **the individual** is
26 immunocompromised, displayed a commonly recognized principal
27 symptom of COVID-19 that was not otherwise associated with a known
28 medical or physical condition of the individual, had contact in the
29 last 14 days with an individual with a confirmed diagnosis of

1 COVID-19, needed to care for an individual with a confirmed
2 diagnosis of COVID-19, or had a family care responsibility that was
3 the result of a government directive regarding COVID-19. However,
4 if any of the following conditions are met, the leaving does not
5 disqualify the individual:

6 (i) The individual has an established benefit year in effect
7 and during that benefit year leaves unsuitable work within 60 days
8 after the beginning of that work. Benefits paid after a leaving
9 under this subparagraph must not be charged to the experience
10 account of the employer the individual left, but must be charged
11 instead to the nonchargeable benefits account.

12 (ii) The individual is the spouse of a full-time member of the
13 United States Armed Forces, and the leaving is due to the military
14 duty reassignment of that member of the United States Armed Forces
15 to a different geographic location. Benefits paid after a leaving
16 under this subparagraph must not be charged to the experience
17 account of the employer the individual left, but must be charged
18 instead to the nonchargeable benefits account.

19 (iii) The individual is concurrently working part-time for an
20 employer or employing unit and for another employer or employing
21 unit and voluntarily leaves the part-time work while continuing
22 work with the other employer. The portion of the benefits paid in
23 accordance with this subparagraph that would otherwise be charged
24 to the experience account of the part-time employer that the
25 individual left must not be charged to the account of that employer
26 but must be charged instead to the nonchargeable benefits account.

27 (iv) The individual is a victim of domestic violence who meets
28 the requirements in section 29a. Benefits paid after a leaving
29 under this subparagraph must not be charged to the experience

1 account of the employer the individual left, but must be charged
2 instead to the nonchargeable benefits account. ~~This subparagraph~~
3 ~~does not apply after March 31, 2021.~~

4 (b) Was suspended or discharged for misconduct connected with
5 the individual's work or for intoxication while at work.

6 (c) Failed without good cause to apply diligently for
7 available suitable work after receiving notice from the
8 unemployment agency of the availability of that work or failed to
9 apply for work with employers that could reasonably be expected to
10 have suitable work available.

11 (d) Failed without good cause while unemployed to report to
12 the individual's former employer or employing unit within a
13 reasonable time after that employer or employing unit provided
14 notice of the availability of an interview concerning available
15 suitable work with the former employer or employing unit.

16 (e) Failed without good cause to accept suitable work offered
17 to the individual or to return to the individual's customary self-
18 employment, if any, when directed by the employment office or the
19 unemployment agency. An employer that receives a monetary
20 determination under section 32 may notify the unemployment agency
21 regarding the availability of suitable work with the employer on
22 the monetary determination or other form provided by the
23 unemployment agency. Upon receipt of the notice of the availability
24 of suitable work, the unemployment agency shall notify the claimant
25 of the availability of suitable work.

26 (f) Lost ~~his or her~~ **the individual's** job due to absence from
27 work resulting from a violation of law for which the individual was
28 convicted and sentenced to jail or prison. This subdivision does
29 not apply if conviction of an individual results in a sentence to

1 county jail under conditions of day parole as provided in 1962 PA
2 60, MCL 801.251 to 801.258, or if the conviction was for a traffic
3 violation that resulted in an absence of less than 10 consecutive
4 work days from the individual's place of employment.

5 (g) Is discharged, whether or not the discharge is
6 subsequently reduced to a disciplinary layoff or suspension, for
7 participation in either of the following:

8 (i) A strike or other concerted action in violation of an
9 applicable collective bargaining agreement that results in
10 curtailment of work or restriction of or interference with
11 production.

12 (ii) A wildcat strike or other concerted action not authorized
13 by the individual's recognized bargaining representative.

14 (h) Was discharged for an act of assault and battery connected
15 with the individual's work.

16 (i) Was discharged for theft connected with the individual's
17 work.

18 (j) Was discharged for willful destruction of property
19 connected with the individual's work.

20 (k) Committed a theft after receiving notice of a layoff or
21 discharge, but before the effective date of the layoff or
22 discharge, resulting in loss or damage to the employer who would
23 otherwise be chargeable for the benefits, regardless of whether the
24 individual qualified for the benefits before the theft.

25 (l) Was employed by a temporary help firm, which as used in
26 this section means an employer whose primary business is to provide
27 a client with the temporary services of 1 or more individuals under
28 contract with the employer, to perform services for a client of
29 that firm if each of the following conditions is met:

1 (i) The temporary help firm provided the employee with a
2 written notice before the employee began performing services for
3 the client stating in substance both of the following:

4 (A) That within 7 days after completing services for a client
5 of the temporary help firm, the employee is under a duty to notify
6 the temporary help firm of the completion of those services.

7 (B) That a failure to provide the temporary help firm with
8 notice of the employee's completion of services pursuant to sub-
9 subparagraph (A) constitutes a voluntary quit that will affect the
10 employee's eligibility for unemployment compensation if the
11 employee seeks unemployment compensation following completion of
12 those services.

13 (ii) The employee did not provide the temporary help firm with
14 notice that the employee had completed ~~his or her~~ **the employee's**
15 services for the client within 7 days after completion of ~~his or~~
16 ~~her~~ **the employee's** services for the client.

17 (m) Was discharged for illegally ingesting, injecting,
18 inhaling, or possessing a controlled substance on the premises of
19 the employer; refusing to submit to a drug test that was required
20 to be administered in a nondiscriminatory manner; or testing
21 positive on a drug test, if the test was administered in a
22 nondiscriminatory manner. If the worker disputes the result of the
23 testing, and if a generally accepted confirmatory test has not been
24 administered on the same sample previously tested, then a generally
25 accepted confirmatory test must be administered on that sample. If
26 the confirmatory test also indicates a positive result for the
27 presence of a controlled substance, the worker who is discharged as
28 a result of the test result ~~will be~~ **is** disqualified under this
29 subdivision. A report by a drug testing facility showing a positive

1 result for the presence of a controlled substance is conclusive
2 unless there is substantial evidence to the contrary. As used in
3 this subdivision:

4 (i) "Controlled substance" means that term as defined in
5 section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

6 (ii) "Drug test" means a test designed to detect the illegal
7 use of a controlled substance.

8 (iii) "Nondiscriminatory manner" means administered impartially
9 and objectively in accordance with a collective bargaining
10 agreement, rule, policy, a verbal or written notice, or a labor-
11 management contract.

12 (n) Theft from the employer that resulted in the employee's
13 conviction, within 2 years of the date of the discharge, of theft
14 or a lesser included offense.

15 (2) A disqualification under subsection (1) begins the week in
16 which the act or discharge that caused the disqualification occurs
17 and continues until the disqualified individual requalifies under
18 subsection (3).

19 (3) After the week in which the disqualifying act or discharge
20 described in subsection (1) occurs, an individual who seeks to
21 requalify for benefits is subject to all of the following:

22 (a) For benefit years established before October 1, 2000, the
23 individual must complete 6 requalifying weeks if ~~he or she~~ **the**
24 **individual** was disqualified under subsection (1)(c), (d), (e), (f),
25 (g), or (l), or 13 requalifying weeks if ~~he or she~~ **the individual**
26 was disqualified under subsection (1)(h), (i), (j), (k), or (m). A
27 requalifying week required under this subdivision is each week in
28 which the individual does any of the following:

29 (i) Earns or receives remuneration in an amount at least equal

1 to an amount needed to earn a credit week, as that term is defined
2 in section 50.

3 (ii) Otherwise meets all of the requirements of this act to
4 receive a benefit payment if the individual were not disqualified
5 under subsection (1).

6 (iii) Receives a benefit payment based on credit weeks
7 subsequent to the disqualifying act or discharge.

8 (b) For benefit years established before October 1, 2000, if
9 the individual is disqualified under subsection (1)(a) or (b), ~~he~~
10 ~~or she~~ **the individual** must requalify, after the week in which the
11 disqualifying discharge occurred by earning in employment for an
12 employer liable under this act or the unemployment compensation act
13 of another state an amount equal to, or in excess of, 7 times the
14 individual's potential weekly benefit rate, calculated on the basis
15 of employment with the employer involved in the disqualification,
16 or by earning in employment for an employer liable under this act
17 or the unemployment compensation act of another state an amount
18 equal to, or in excess of, 40 times the state minimum hourly wage
19 times 7, whichever is the lesser amount.

20 (c) For benefit years established before October 1, 2000, a
21 benefit payable to an individual disqualified under subsection
22 (1)(a) or (b) must be charged to the nonchargeable benefits
23 account, and not to the account of the employer with whom the
24 individual was involved in the disqualification.

25 (d) For benefit years beginning on or after October 1, 2000,
26 after the week in which the disqualifying act or discharge
27 occurred, an individual must complete 13 requalifying weeks if ~~he~~
28 ~~or she~~ **the individual** was disqualified under subsection (1)(c),
29 (d), (e), (f), (g), or (l), or 26 requalifying weeks if ~~he or she~~

1 **the individual** was disqualified under subsection (1)(h), (i), (j),
2 (k), (m), or (n). A requalifying week required under this
3 subdivision is each week in which the individual does any of the
4 following:

5 (i) Earns or receives remuneration in an amount equal to at
6 least 1/13 of the minimum amount needed in a calendar quarter of
7 the base period for an individual to qualify for benefits, rounded
8 down to the nearest whole dollar.

9 (ii) Otherwise meets all of the requirements of this act to
10 receive a benefit payment if the individual was not disqualified
11 under subsection (1).

12 (e) For benefit years beginning on or after October 1, 2000
13 and beginning before April 26, 2002, if the individual is
14 disqualified under subsection (1)(a) or (b), ~~he or she~~ **the**
15 **individual** must requalify, after the week in which the
16 disqualifying act or discharge occurred by earning in employment
17 for an employer liable under this act or the unemployment
18 compensation law of another state at least the lesser of the
19 following:

20 (i) Seven times the individual's weekly benefit rate.

21 (ii) Forty times the state minimum hourly wage times 7.

22 (f) For benefit years beginning on or after April 26, 2002, if
23 the individual is disqualified under subsection (1)(a), ~~he or she~~
24 **the individual** must requalify, after the week in which the
25 disqualifying act or discharge occurred by earning in employment
26 for an employer liable under this act or the unemployment
27 compensation law of another state at least 12 times the
28 individual's weekly benefit rate.

29 (g) For benefit years beginning on or after April 26, 2002, if

1 the individual is disqualified under subsection (1)(b), ~~he or she~~
2 **the individual** must requalify, after the week in which the
3 disqualifying act or discharge occurred by earning in employment
4 for an employer liable under this act or the unemployment
5 compensation law of another state at least 17 times the
6 individual's weekly benefit rate.

7 (h) A benefit payable to the individual disqualified or
8 separated under disqualifying circumstances under subsection (1)(a)
9 or (b) must be charged to the nonchargeable benefits account, and
10 not to the account of the employer with whom the individual was
11 involved in the separation. Benefits payable to an individual
12 determined by the unemployment agency to be separated under
13 disqualifying circumstances must not be charged to the account of
14 the employer involved in the disqualification for any period after
15 the employer notifies the unemployment agency of the claimant's
16 possible ineligibility or disqualification. However, an individual
17 filing a new claim for benefits who reports the reason for
18 separation from a base period employer as a voluntary leaving is
19 presumed to have voluntarily left without good cause attributable
20 to the employer and is disqualified unless the individual provides
21 substantial evidence to rebut the presumption. If a disqualifying
22 act or discharge occurs during the individual's benefit year, any
23 benefits that may become payable to the individual in a later
24 benefit year based on employment with the employer involved in the
25 disqualification must be charged to the nonchargeable benefits
26 account.

27 (4) The maximum amount of benefits otherwise available under
28 section 27(d) to an individual disqualified under subsection (1) is
29 subject to all of the following conditions:

1 (a) For benefit years established before October 1, 2000, if
2 the individual is disqualified under subsection (1)(c), (d), (e),
3 (f), (g), or (l) and the maximum amount of benefits is based on
4 wages and credit weeks earned from an employer before an act or
5 discharge involving that employer, the amount must be reduced by an
6 amount equal to the individual's weekly benefit rate as to that
7 employer multiplied by the lesser of either of the following:

8 (i) The number of requalifying weeks required of the individual
9 under this section.

10 (ii) The number of weeks of benefit entitlement remaining with
11 that employer.

12 (b) If the individual has insufficient or no potential benefit
13 entitlement remaining with the employer involved in the
14 disqualification in the benefit year in existence on the date of
15 the disqualifying determination, a reduction of benefits described
16 in this subsection applies in a succeeding benefit year with
17 respect to any benefit entitlement based ~~upon~~**on** credit weeks
18 earned with the employer before the disqualifying act or discharge.

19 (c) For benefit years established before October 1, 2000, an
20 individual disqualified under subsection (1)(h), (i), (j), (k), or
21 (m) is not entitled to benefits based on wages and credit weeks
22 earned before the disqualifying act or discharge with the employer
23 involved in the disqualification.

24 (d) The benefit entitlement of an individual disqualified
25 under subsection (1)(a) or (b) is not subject to reduction as a
26 result of that disqualification.

27 (e) A denial or reduction of benefits under this subsection
28 does not apply to benefits based ~~upon~~**on** multiemployer credit
29 weeks.

1 (f) For benefit years established on or after October 1, 2000,
2 if the individual is disqualified under subsection (1)(c), (d),
3 (e), (f), (g), or (l), the maximum number of weeks otherwise
4 applicable in calculating benefits for the individual under section
5 27(d) must be reduced by the lesser of the following:

6 (i) The number of requalifying weeks required of the individual
7 under this section.

8 (ii) The number of weeks of benefit entitlement remaining on
9 the claim.

10 (g) For benefit years beginning on or after October 1, 2000,
11 the benefits of an individual disqualified under subsection (1)(h),
12 (i), (j), (k), (m), or (n) must be reduced by 13 weeks and any
13 weekly benefit payments made to the claimant thereafter must be
14 reduced by the portion of the payment attributable to base period
15 wages paid by the base period employer involved in a
16 disqualification under subsection (1)(h), (i), (j), (k), (m), or
17 (n).

18 (5) Subject to subsection (11), if an individual leaves work
19 to accept permanent full-time work with another employer or to
20 accept a referral to another employer from the individual's union
21 hiring hall and performs services for that employer, or if an
22 individual leaves work to accept a recall from a former employer,
23 all of the following apply:

24 (a) Subsection (1) does not apply.

25 (b) Wages earned with the employer whom the individual last
26 left, including wages previously transferred under this subsection
27 to the last employer, for the purpose of computing and charging
28 benefits, are wages earned from the employer with whom the
29 individual accepted work or recall, and benefits paid based upon

1 those wages must be charged to that employer.

2 (c) When issuing a determination covering the period of
3 employment with a new or former employer described in this
4 subsection, the unemployment agency shall advise the chargeable
5 employer of the name and address of the other employer, the period
6 covered by the employment, and the extent of the benefits that may
7 be charged to the account of the chargeable employer.

8 (6) In determining whether work is suitable for an individual,
9 the unemployment agency shall consider the degree of risk involved
10 to the individual's health, safety, and morals, the individual's
11 physical fitness and prior training, the individual's length of
12 unemployment and prospects for securing local work in the
13 individual's customary occupation, and the distance of the
14 available work from the individual's residence. Additionally, the
15 unemployment agency shall consider the individual's experience and
16 prior earnings, but an unemployed individual who refuses an offer
17 of work determined to be suitable under this section must be denied
18 benefits if the pay rate for that work is at least 70% of the gross
19 pay rate ~~he or she~~ **the unemployed individual** received immediately
20 before becoming unemployed. Beginning January 15, 2012, after an
21 individual has received benefits for 50% of the benefit weeks in
22 the individual's benefit year, work is not considered unsuitable
23 because ~~it~~ **the work** is outside of the individual's training or
24 experience or unsuitable as to pay rate if the pay rate for that
25 work meets or exceeds the minimum wage; is at least the prevailing
26 mean wage for similar work in the locality for the most recent full
27 calendar year for which data are available as published by the
28 department of technology, management, and budget as "wages by job
29 title", by standard metropolitan statistical area; and is 120% or

1 more of the individual's weekly benefit amount.

2 (7) Work is not suitable and benefits must not be denied under
3 this act to an otherwise eligible individual for refusing to accept
4 new work under any of the following conditions:

5 (a) If the position offered is vacant due directly to a
6 strike, lockout, or other labor dispute.

7 (b) If the remuneration, hours, or other conditions of the
8 work offered are substantially less favorable to the individual
9 than those prevailing for similar work in the locality.

10 (c) If as a condition of being employed, the individual would
11 be required to join a company union or to resign from or refrain
12 from joining a bona fide labor organization.

13 (8) All of the following apply to an individual who seeks
14 benefits under this act:

15 (a) An individual is disqualified from receiving benefits for
16 a week in which the individual's total or partial unemployment is
17 due to either of the following:

18 (i) A labor dispute in active progress at the place at which
19 the individual is or was last employed, or a shutdown or start-up
20 operation caused by that labor dispute.

21 (ii) A labor dispute, other than a lockout, in active progress
22 or a shutdown or start-up operation caused by that labor dispute in
23 any other establishment within the United States that is both
24 functionally integrated with the establishment described in
25 subparagraph (i) and operated by the same employing unit.

26 (b) An individual's disqualification imposed or imposable
27 under this subsection is terminated if the individual performs
28 services in employment with an employer in at least 2 consecutive
29 weeks falling wholly within the period of the individual's total or

1 partial unemployment due to the labor dispute, and in addition
2 earns wages in each of those weeks in an amount equal to or greater
3 than the individual's actual or potential weekly benefit rate.

4 (c) An individual is not disqualified under this subsection if
5 the individual is not directly involved in the labor dispute. An
6 individual is not directly involved in a labor dispute unless any
7 of the following are established:

8 (i) At the time or in the course of a labor dispute in the
9 establishment in which the individual was then employed, the
10 individual in concert with 1 or more other employees voluntarily
11 stopped working other than at the direction of the individual's
12 employing unit.

13 (ii) The individual is participating in, financing, or directly
14 interested in the labor dispute that causes the individual's total
15 or partial unemployment. The payment of regular union dues, in
16 amounts and for purposes established before the inception of the
17 labor dispute, is not financing a labor dispute within the meaning
18 of this subparagraph.

19 (iii) At any time a labor dispute in the establishment or
20 department in which the individual was employed does not exist, and
21 the individual voluntarily stops working, other than at the
22 direction of the individual's employing unit, in sympathy with
23 employees in some other establishment or department in which a
24 labor dispute is in progress.

25 (iv) The individual's total or partial unemployment is due to a
26 labor dispute that was or is in progress in a department, unit, or
27 group of workers in the same establishment.

28 (d) As used in this subsection, "directly interested" must be
29 construed and applied so as not to disqualify individuals

1 unemployed as a result of a labor dispute the resolution of which
2 may not reasonably be expected to affect their wages, hours, or
3 other conditions of employment, and to disqualify individuals whose
4 wages, hours, or conditions of employment may reasonably be
5 expected to be affected by the resolution of the labor dispute. A
6 "reasonable expectation" of an effect on an individual's wages,
7 hours, or other conditions of employment exists, in the absence of
8 a substantial preponderance of evidence to the contrary, in any of
9 the following situations:

10 (i) If it is established that there is in the particular
11 establishment or employing unit a practice, custom, or contractual
12 obligation to extend within a reasonable period to members of the
13 individual's grade or class of workers in the establishment in
14 which the individual is or was last employed changes in terms and
15 conditions of employment that are substantially similar or related
16 to some or all of the changes in terms and conditions of employment
17 that are made for the workers among whom there exists the labor
18 dispute that has caused the individual's total or partial
19 unemployment.

20 (ii) If it is established that 1 of the issues in or purposes
21 of the labor dispute is to obtain a change in the terms and
22 conditions of employment for members of the individual's grade or
23 class of workers in the establishment in which the individual is or
24 was last employed.

25 (iii) If a collective bargaining agreement covers both the
26 individual's grade or class of workers in the establishment in
27 which the individual is or was last employed and the workers in
28 another establishment of the same employing unit who are actively
29 participating in the labor dispute, and that collective bargaining

1 agreement is subject by its terms to modification, supplementation,
2 or replacement, or has expired or been opened by mutual consent at
3 the time of the labor dispute.

4 (e) In determining the scope of the grade or class of workers,
5 evidence of the following is relevant:

6 (i) Representation of the workers by the same national or
7 international organization or by local affiliates of that national
8 or international organization.

9 (ii) Whether the workers are included in a single, legally
10 designated, or negotiated bargaining unit.

11 (iii) Whether the workers are or within the past 6 months have
12 been covered by a common master collective bargaining agreement
13 that sets forth all or any part of the terms and conditions of the
14 workers' employment, or by separate agreements that are or have
15 been bargained as a part of the same negotiations.

16 (iv) Any functional integration of the work performed by those
17 workers.

18 (v) Whether the resolution of those issues involved in the
19 labor dispute as to some of the workers could directly or
20 indirectly affect the advancement, negotiation, or settlement of
21 the same or similar issues in respect to the remaining workers.

22 (vi) Whether the workers are currently or have been covered by
23 the same or similar demands by their recognized or certified
24 bargaining agent or agents for changes in their wages, hours, or
25 other conditions of employment.

26 (vii) Whether issues on the same subject matter as those
27 involved in the labor dispute have been the subject of proposals or
28 demands made upon the employing unit that would by their terms have
29 applied to those workers.

1 (9) Notwithstanding subsections (1) to (8), if the employing
2 unit submits notice to the unemployment agency of possible
3 ineligibility or disqualification beyond the time limits prescribed
4 by unemployment agency rule and the unemployment agency concludes
5 that benefits should not have been paid, the claimant shall repay
6 the benefits paid during the entire period of ineligibility or
7 disqualification. The unemployment agency shall not charge interest
8 on repayments required under this subsection.

9 (10) An individual is disqualified from receiving benefits for
10 any week or part of a week in which the individual has received, is
11 receiving, or is seeking unemployment benefits under an
12 unemployment compensation law of another state or of the United
13 States. If the appropriate agency of the other state or of the
14 United States finally determines that the individual is not
15 entitled to unemployment benefits, the disqualification described
16 in this subsection does not apply.

17 (11) Beginning on May 1, 2020, and until ~~the effective date of~~
18 ~~the amendatory act that added this subsection,~~ **October 20, 2020**, if
19 an individual leaves work to accept permanent full-time work with
20 another employer, the individual is considered to have met the
21 requirements of subsection (5) regardless of whether the individual
22 actually performed services for the other employer or whether the
23 work was permanent full-time work. Benefits payable to the
24 individual must be charged to the nonchargeable benefits account.

25 Sec. 29a. (1) Notwithstanding any other provision of this act,
26 ~~subject to subsection (5),~~ an otherwise eligible individual, as
27 described in section 29(1)(a)(iv), is not disqualified from
28 receiving benefits if the individual demonstrates to the commission
29 that the reason for the individual's leaving work is due to

1 domestic violence, including 1 or more of the following:

2 (a) The individual's reasonable fear of future domestic
3 violence at or en route to or from the individual's place of
4 employment.

5 (b) The individual's need to relocate to another geographic
6 area to avoid future domestic violence.

7 (c) The individual's need to address the physical,
8 psychological, or legal effects of domestic violence.

9 (d) The individual's need to leave employment as a condition
10 of receiving services or shelter from an agency that provides
11 support services or shelter to victims of domestic violence.

12 (e) The individual's reasonable belief that termination of
13 employment is necessary for the future safety of the individual or
14 the individual's family because of domestic violence.

15 (2) An individual may demonstrate to the unemployment agency
16 the existence of domestic violence by providing 1 or more
17 documents, including, but not limited to, the following:

18 (a) A restraining order or other documentation of equitable
19 relief issued by a court of competent jurisdiction in a domestic
20 violence case.

21 (b) A police record documenting domestic violence.

22 (c) Documentation that the perpetrator of the domestic
23 violence against the individual making a claim for benefits under
24 this act has been convicted of a crime involving domestic violence.

25 (d) Medical documentation of domestic violence.

26 (e) A statement provided on business or organization
27 letterhead by a counselor, social worker, health worker, member of
28 the clergy, shelter worker, attorney, or other professional who has
29 assisted the individual in addressing the effects of the domestic

1 violence on the individual or the individual's family.

2 (3) The unemployment agency shall not disclose evidence of
3 domestic violence experienced by an individual, including the
4 individual's statement or corroborating evidence.

5 (4) As used in this section:

6 (a) "Domestic violence" means any of the following that are
7 not acts of self-defense:

8 (i) Causing or attempting to cause physical or mental harm to a
9 family or household member.

10 (ii) Placing a family or household member in fear of physical
11 or mental harm.

12 (iii) Causing or attempting to cause a family or household
13 member to engage in involuntary sexual activity by force, threat of
14 force, or duress.

15 (iv) Engaging in activity toward a family or household member
16 that would cause a reasonable person to feel terrorized,
17 frightened, intimidated, threatened, harassed, or molested.

18 (b) "Family or household member" includes any of the
19 following:

20 (i) A spouse or former spouse.

21 (ii) An individual with whom the person resides or has resided.

22 (iii) An individual with whom the person has or has had a dating
23 relationship.

24 (iv) An individual with whom the person is or has engaged in a
25 sexual relationship.

26 (v) An individual to whom the person is related or was
27 formerly related by marriage.

28 (vi) An individual with whom the person has a child in common.

29 (vii) The minor child of an individual described in

1 subparagraphs (i) to (vi).

2 ~~(5) This section does not apply after March 31, 2021.~~

3 Sec. 33. (1) An appeal from a redetermination issued by the
 4 agency in accordance with section 32a or a matter transferred for
 5 hearing and decision in accordance with section 32a ~~shall~~**must** be
 6 referred to the Michigan administrative hearing system for
 7 assignment to an administrative law judge. If the agency transfers
 8 a matter, or an interested party requests a hearing before an
 9 administrative law judge on a redetermination, all matters
 10 pertinent to the claimant's benefit rights or to the liability of
 11 the employing unit under this act ~~shall~~**must** be referred to the
 12 administrative law judge. The administrative law judge shall afford
 13 all interested parties a reasonable opportunity for a fair hearing
 14 and, unless the appeal is withdrawn, the administrative law judge
 15 shall decide the rights of the interested parties and shall notify
 16 the interested parties of the decision, setting forth the findings
 17 of fact upon which the decision is based, together with the reasons
 18 for the decision. With respect to an appeal from a denial of
 19 redetermination, if the administrative law judge finds that there
 20 was good cause for ~~the issuance of~~**issuing** a redetermination, the
 21 denial ~~shall be~~**is** a redetermination affirming the determination
 22 and the appeal from the denial ~~shall be~~**is** an appeal from that
 23 affirmance. Unless an interested party would be unduly prejudiced,
 24 an administrative law judge may consolidate cases involving the
 25 same or substantially similar evidence or issues, hear the
 26 consolidated cases at the same date and time, create a single
 27 record of proceedings, and consider evidence introduced in 1 of
 28 those cases in the other cases. If the appellant fails to appear or
 29 prosecute the appeal, the administrative law judge may dismiss the

1 proceedings or take other action considered advisable. An
 2 administrative law judge may, either upon application for rehearing
 3 by an interested party or on ~~his or her~~ **the administrative law**
 4 **judge's** own motion, proceed to rehear, affirm, modify, set aside,
 5 or reverse a prior decision on the basis of the evidence previously
 6 submitted in the case, or on the basis of additional evidence. The
 7 application or motion ~~shall~~ **must** be made within 30 days after the
 8 date of mailing of the decision. The administrative law judge may,
 9 for good cause, reopen and review a prior decision and issue a new
 10 decision after the 30-day appeal period has expired. A request for
 11 review ~~shall~~ **must** be made within 1 year after the date of mailing
 12 of the prior decision. An administrative law judge shall not
 13 participate in a case in which ~~he or she~~ **the administrative law**
 14 **judge** has a direct or indirect interest.

15 (2) Within 30 days after the mailing of a copy of a decision
 16 of the administrative law judge or of a denial of a motion for
 17 rehearing, an interested party may file an appeal to the Michigan
 18 compensation appellate commission, and unless such an appeal is
 19 filed, the decision or denial by the administrative law judge is
 20 final.

21 (3) **If 1 or more matters are transferred under this section,**
 22 **the administrative law judge may consider and rule on all matters**
 23 **pertinent to the claimant's benefit rights or to the liability of**
 24 **the employing unit under this act, regardless of whether that**
 25 **particular matter has been transferred under this section.**

26 Sec. 62. (a) ~~If~~ **Subject to subsection (h), if** the unemployment
 27 agency determines that an individual has obtained benefits to which
 28 the individual is not entitled, or a subsequent determination by
 29 the agency or a decision of an appellate authority reverses a prior

1 qualification for benefits, the agency may recover a sum equal to
2 the amount received plus interest pursuant to section 15(a) by 1 or
3 more of the following methods: deduction from benefits or wages
4 payable to the individual, payment by the individual in cash, or
5 deduction from a tax refund payable to the individual as provided
6 under section 30a of 1941 PA 122, MCL 205.30a. Deduction from
7 benefits or wages payable to the individual is limited to not more
8 than 50% of each payment due the claimant. The unemployment agency
9 shall issue a determination requiring restitution within 3 years
10 after the date of finality of a determination, redetermination, or
11 decision reversing a previous finding of benefit entitlement.
12 Except in the case of benefits improperly paid because of suspected
13 identity fraud, the unemployment agency shall not initiate
14 administrative or court action to recover improperly paid benefits
15 from an individual more than 3 years after the date that the last
16 determination, redetermination, or decision establishing
17 restitution is final. Except in the case of benefits improperly
18 paid because of suspected identity fraud, the unemployment agency
19 shall issue a restitution determination on an issue within 3 years
20 from the date the claimant first received benefits in the benefit
21 year in which the issue arose, or in the case of an issue of
22 intentional false statement, misrepresentation, or concealment of
23 material information in violation of section 54(a) or (b) or
24 sections 54a to 54c, within 3 years after the receipt of the
25 improperly paid benefits unless the unemployment agency filed a
26 civil action in a court within the 3-year period; the individual
27 made an intentional false statement, misrepresentation, or
28 concealment of material information to obtain the benefits; or the
29 unemployment agency issued a determination requiring restitution

1 within the 3-year period. The time limits in this section do not
 2 prohibit the unemployment agency from pursuing collection methods
 3 to recover the amounts found to have been improperly paid. Except
 4 in a case of an intentional false statement, misrepresentation, or
 5 concealment of material information, the unemployment agency shall
 6 waive recovery of an improperly paid benefit if repayment would be
 7 contrary to equity and good conscience and shall waive any
 8 interest. ~~If the agency or an appellate authority waives collection~~
 9 ~~of restitution and interest, except as provided in subdivision (ii),~~
 10 ~~the waiver is prospective and does not apply to restitution and~~
 11 ~~interest payments already made by the individual. As used in this~~
 12 subsection, "contrary to equity and good conscience" means any of
 13 the following:

14 (i) The claimant provided incorrect wage information without
 15 the intent to misrepresent, and the employer provided either no
 16 wage information upon request or provided inaccurate wage
 17 information that resulted in the overpayment.

18 (ii) The claimant's average net household income and household
 19 cash assets, exclusive of social welfare benefits, were, during the
 20 6 months immediately preceding the date of the application for
 21 waiver, at or below 150% of the annual update of the poverty
 22 guidelines most recently published in the Federal Register by the
 23 United States Department of Health and Human Services under the
 24 authority of 42 USC 9902(2), and the claimant has applied for a
 25 waiver under this subsection. The unemployment agency shall not
 26 consider a new application for a waiver from a claimant within 6
 27 months **more than 5 additional hardship waiver applications from a**
 28 **claimant in a calendar year** after receiving an application for a
 29 waiver from the claimant. A waiver granted under the conditions

1 described in this subdivision applies from the date the application
2 is filed. If the waiver is granted, the unemployment agency shall
3 promptly refund any restitution or interest payments made by the
4 individual after the date of the application for waiver. **The**
5 **unemployment agency shall not deny or refuse to consider an**
6 **application for a waiver submitted by a claimant solely because the**
7 **claimant has a pending appeal of 1 or more matters that generated**
8 **the overpayment under consideration to be waived.** As used in this
9 subdivision:

10 (A) "Cash assets" means cash ~~on hand and funds in a~~ **in excess**
11 **of \$100,000.00 in a** checking or savings account, **not including**
12 **wages reported during that period.**

13 (B) "Dependent" means that term as defined in section
14 27(b)(4).

15 (C) "Household" means a claimant and the claimant's
16 dependents.

17 (iii) The improper payments resulted from an administrative or
18 clerical error by the unemployment agency. A requirement to repay
19 benefits as the result of a change in judgment at any level of
20 administrative adjudication or court decision concerning the facts
21 or application of law to a claim adjudication is not an
22 administrative or clerical error for purposes of this subdivision.

23 (b) If the unemployment agency determines that a claimant has
24 intentionally made a false statement or misrepresentation or has
25 concealed material information to obtain benefits, whether or not
26 the claimant obtains benefits by or because of the intentional
27 false statement, misrepresentation, or concealment of material
28 information, the unemployment agency shall, in addition to any
29 other applicable interest and penalties, cancel ~~his or her~~ **the**

1 **claimant's** rights to benefits for the benefit year in which the act
2 occurred as of the date the claimant made the false statement or
3 misrepresentation or concealed material information, and shall not
4 use wages used to establish that benefit year to establish another
5 benefit year. A chargeable employer may protest a claim filed after
6 October 1, 2014 to establish a successive benefit year under
7 section 46(c), if there was a determination by the unemployment
8 agency or decision of a court or administrative tribunal finding
9 that the claimant made a false statement, made a misrepresentation,
10 or concealed material information related to ~~his or her~~ **the**
11 **claimant's** report of earnings for a preceding benefit year claim.
12 If a protest is made, the unemployment agency shall not use any
13 unreported earnings from the preceding benefit year that were
14 falsely stated, misrepresented, or concealed to establish a benefit
15 year for a successive claim. Before receiving benefits in a benefit
16 year established within 4 years after cancellation of rights to
17 benefits under this subsection, the claimant, in addition to making
18 the restitution of benefits established under subsection (a), may
19 be liable for an additional amount as otherwise determined by the
20 unemployment agency under this act, which may be paid by cash,
21 deduction from benefits, or deduction from a tax refund. The
22 claimant is liable for any fee the federal government imposes with
23 respect to instituting a deduction from a federal tax refund.
24 Restitution resulting from the intentional false statement,
25 misrepresentation, or concealment of material information is not
26 subject to the 50% limitation provided in subsection (a).

27 (c) Any determination made by the unemployment agency under
28 this section is final unless an application for a redetermination
29 is filed in accordance with section 32a.

1 (d) The unemployment agency shall take the action necessary to
2 recover all benefits improperly obtained or paid under this act,
3 and to enforce all interest and penalties under subsection (b). The
4 unemployment agency may conduct an amnesty program for a designated
5 period under which penalties and interest assessed against an
6 individual owing restitution for improperly paid benefits may be
7 waived if the individual pays the full amount of restitution owing
8 within the period specified by the agency.

9 (e) Interest recovered under this section must be deposited in
10 the contingent fund.

11 (f) The unemployment agency shall not make a determination
12 that a claimant made an intentional false statement,
13 misrepresentation, or concealment of material information that is
14 subject to sanctions under this section based solely on a computer-
15 identified discrepancy in information supplied by the claimant or
16 employer. An unemployment agency employee or agent must examine the
17 facts and independently determine that the claimant or the employer
18 is responsible for a willful or intentional violation before the
19 agency makes a determination under this section.

20 (g) By January 31 each year, beginning in 2019, the
21 unemployment agency shall provide a written report regarding
22 waivers under subsection (a) (ii) to the chairpersons of the standing
23 committees and the appropriations subcommittees of the house of
24 representatives and senate having jurisdiction over legislation
25 pertaining to employment security. The report must include all of
26 the following information from the immediately preceding calendar
27 year in a form that does not identify an individual, claimant, or
28 employer:

29 (i) The procedures relating to waivers that the unemployment

1 agency used or adopted.

2 (ii) The number of applications for a waiver the unemployment
3 agency received.

4 (iii) The number of individuals who submitted an application for
5 a waiver.

6 (iv) The number of waivers that were granted by each of the
7 following methods:

8 (A) An unemployment agency determination.

9 (B) An unemployment agency redetermination.

10 (C) An administrative law judge order.

11 (D) A Michigan compensation appellate commission order.

12 (E) A court order.

13 (v) The number of waivers that were denied, tabulated by the
14 reason for the denial, by each of the following methods:

15 (A) An unemployment agency determination.

16 (B) An unemployment agency redetermination.

17 (C) An administrative law judge order.

18 (D) A Michigan compensation appellate commission order.

19 (E) A court order.

20 (vi) The total amount of restitution waived.

21 **(h) The unemployment agency shall not initiate recovery of**
22 **improperly paid benefits under subsection (a) until the**
23 **unemployment agency has reviewed the claim for all possible waivers**
24 **to which the claimant may be entitled and issued a notice to the**
25 **claimant that includes all of the following information:**

26 (i) A list of the waivers for which eligibility was considered.

27 (ii) The unemployment agency's determination on the claimant's
28 eligibility for each waiver, or if a determination could not be
29 reached, the information needed to make a determination.

1 (iii) The consequences of each determination on the claimant's
2 benefit rights and any overpayment owed, including the issue or
3 matter generating the overpayment and the weeks of benefits
4 affected.

5 (iv) The claimant's appeal rights with respect to the waivers
6 and the underlying determination that generated the overpayment.