

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 611

97TH GENERAL ASSEMBLY

1384S.05T

2013

AN ACT

To repeal sections 285.300, 288.030, 288.040, 288.050, 288.100, and 288.380, RSMo, and to enact in lieu thereof six new sections relating to employment, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 285.300, 288.030, 288.040, 288.050, 288.100, and 288.380, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 285.300, 288.030, 288.040, 288.050, 288.100, and 288.380, to read as follows:

285.300. 1. Every employer doing business in the state shall require each newly hired employee to fill out a federal W-4 withholding form. A copy of each withholding form or an equivalent form containing data required by section 285.304 which may be provided in an electronic or magnetic format shall be sent to the department of revenue by the employer within twenty days after the date the employer hires the employee or in the case of an employer transmitting a report magnetically or electronically, by two monthly transmissions, if necessary, not less than twelve days nor more than sixteen days apart. For purposes of this section, the date the employer hires the employee shall be the earlier of the date the employee signs the W-4 form or its equivalent, or the first date the employee reports to work, or performs labor or services. Such forms shall be forwarded by the department of revenue to the division of child support enforcement on a weekly basis and the information shall be entered into the database, to be known as the "State Directory of New Hires". The information reported shall be provided to the National Directory of New Hires established in 42 U.S.C. section 653, other state agencies or contractors of the division as required or allowed by federal statutes or regulations. The division

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 of employment security shall cross-check Missouri unemployment compensation recipients
16 against any federal new hire database or any other database containing Missouri or other states'
17 wage information which is maintained by the federal government on a weekly basis. The
18 division of employment security shall cross-check unemployment compensation applicants and
19 recipients with Social Security Administration data maintained by the federal government at least
20 weekly. Effective January 1, 2007, the division of employment security shall cross-check at least
21 monthly unemployment compensation applicants and recipients with department of revenue
22 drivers license databases.

23 2. Any employer that has employees who are employed in two or more states and
24 transmits reports magnetically or electronically may comply with subsection 1 of this section by:

25 (1) Designating one of the states in which the employer has employees as the designated
26 state that such employer shall transmit the reports; and

27 (2) Notifying the secretary of Health and Human Services of such designation.

28 **3. For the purposes of this section, "newly hired employee" means an employee**
29 **who:**

30 **(1) Has not previously been employed by the employer; or**

31 **(2) Was previously employed by the employer but has been separated from such**
32 **prior employment for at least sixty consecutive days.**

288.030. 1. As used in this chapter, unless the context clearly requires otherwise, the
2 following terms mean:

3 (1) "Appeals tribunal", a referee or a body consisting of three referees appointed to
4 conduct hearings and make decisions on appeals from administrative determinations, petitions
5 for reassessment, and claims referred pursuant to subsection 2 of section 288.070;

6 (2) "Base period", the first four of the last five completed calendar quarters immediately
7 preceding the first day of an individual's benefit year;

8 (3) "Benefit year", the one-year period beginning with the first day of the first week with
9 respect to which an insured worker first files an initial claim for determination of such worker's
10 insured status, and thereafter the one-year period beginning with the first day of the first week
11 with respect to which the individual, providing the individual is then an insured worker, next
12 files such an initial claim after the end of the individual's last preceding benefit year;

13 (4) "Benefits", the money payments payable to an insured worker, as provided in this
14 chapter, with respect to such insured worker's unemployment;

15 (5) "Calendar quarter", the period of three consecutive calendar months ending on March
16 thirty-first, June thirtieth, September thirtieth, or December thirty-first;

- 17 (6) "Claimant", an individual who has filed an initial claim for determination of such
18 individual's status as an insured worker, a notice of unemployment, a certification for waiting
19 week credit, or a claim for benefits;
- 20 (7) "Commission", the labor and industrial relations commission of Missouri;
- 21 (8) "Common paymaster", two or more related corporations in which one of the
22 corporations has been designated to disburse remuneration to concurrently employed individuals
23 of any of the related corporations;
- 24 (9) "Contributions", the money payments to the unemployment compensation fund
25 required by this chapter, exclusive of interest and penalties;
- 26 (10) "Decision", a ruling made by an appeals tribunal or the commission after a hearing;
- 27 (11) "Deputy", a representative of the division designated to make investigations and
28 administrative determinations on claims or matters of employer liability or to perform related
29 work;
- 30 (12) "Determination", any administrative ruling made by the division without a hearing;
- 31 (13) "Director", the administrative head of the division of employment security;
- 32 (14) "Division", the division of employment security which administers this chapter;
- 33 (15) "Employing unit", any individual, organization, partnership, corporation, common
34 paymaster, or other legal entity, including the legal representatives thereof, which has or,
35 subsequent to June 17, 1937, had in its employ one or more individuals performing services for
36 it within this state. All individuals performing services within this state for any employing unit
37 which maintains two or more separate establishments within this state shall be deemed to be
38 employed by a single employing unit for all the purposes of this chapter. Each individual
39 engaged to perform or to assist in performing the work of any person in the service of an
40 employing unit shall be deemed to be engaged by such employing unit for all the purposes of this
41 chapter, whether such individual was engaged or paid directly by such employing unit or by such
42 person, provided the employing unit had actual or constructive knowledge of the work;
- 43 (16) "Employment office", a free public employment office operated by this or any other
44 state as a part of a state controlled system of public employment offices including any location
45 designated by the state as being a part of the one-stop career system;
- 46 (17) "Equipment", a motor vehicle, straight truck, tractor, semi-trailer, full trailer, any
47 combination of these and any other type of equipment used by authorized carriers in the
48 transportation of property for hire;
- 49 (18) "Fund", the unemployment compensation fund established by this chapter;
- 50 (19) "Governmental entity", the state, any political subdivision thereof, any
51 instrumentality of any one or more of the foregoing which is wholly owned by this state and one

52 or more other states or political subdivisions and any instrumentality of this state or any political
53 subdivision thereof and one or more other states or political subdivisions;

54 (20) "Initial claim", an application, in a form prescribed by the division, made by an
55 individual for the determination of the individual's status as an insured worker;

56 (21) "Insured work", employment in the service of an employer;

57 (22) (a) As to initial claims filed after December 31, 1990, "insured worker", a worker
58 who has been paid wages for insured work in the amount of one thousand dollars or more in at
59 least one calendar quarter of such worker's base period and total wages in the worker's base
60 period equal to at least one and one-half times the insured wages in that calendar quarter of the
61 base period in which the worker's insured wages were the highest, or in the alternative, a worker
62 who has been paid wages in at least two calendar quarters of such worker's base period and
63 whose total base period wages are at least one and one-half times the maximum taxable wage
64 base, taxable to any one employer, in accordance with subsection 2 of section 288.036. For the
65 purposes of this definition, "wages" shall be considered as wage credits with respect to any
66 benefit year, only if such benefit year begins subsequent to the date on which the employing unit
67 by which such wages were paid has become an employer;

68 (b) As to initial claims filed after December 31, 2004, wages for insured work in the
69 amount of one thousand two hundred dollars or more, after December 31, 2005, one thousand
70 three hundred dollars or more, after December 31, 2006, one thousand four hundred dollars or
71 more, after December 31, 2007, one thousand five hundred dollars or more in at least one
72 calendar quarter of such worker's base period and total wages in the worker's base period equal
73 to at least one and one-half times the insured wages in that calendar quarter of the base period
74 in which the worker's insured wages were the highest, or in the alternative, a worker who has
75 been paid wages in at least two calendar quarters of such worker's base period and whose total
76 base period wages are at least one and one-half times the maximum taxable wage base, taxable
77 to any one employer, in accordance with subsection 2 of section 288.036;

78 (23) "Misconduct", [an act of wanton or willful disregard of the employer's interest, a
79 deliberate violation of the employer's rules, a disregard of standards of behavior which the
80 employer has the right to expect of his or her employee, or negligence in such degree or
81 recurrence as to manifest culpability, wrongful intent or evil design, or show an intentional and
82 substantial disregard of the employer's interest or of the employee's duties and obligations to the
83 employer] **misconduct reasonably related to the job environment and the job performance**
84 **regardless of whether the misconduct occurs at the workplace or during work hours,**
85 **includes:**

86 **(a) Conduct or a failure to act demonstrating knowing disregard of the employer's**
87 **interest or a knowing violation of the standards which the employer expects of his or her**
88 **employee;**

89 **(b) Conduct or a failure to act demonstrating carelessness or negligence in such**
90 **degree or recurrence as to manifest culpability, wrongful intent, or a knowing disregard**
91 **of the employer's interest or of the employee's duties and obligations to the employer;**

92 **(c) Violation of an employer's no-call, no-show policy; chronic absenteeism or**
93 **tardiness in violation of a known policy of the employer; or one or more unapproved**
94 **absences following a written reprimand or warning relating to an unapproved absence;**

95 **(d) A knowing violation of a state standard or regulation by an employee of an**
96 **employer licensed or certified by the state, which would cause the employer to be**
97 **sanctioned or have its license or certification suspended or revoked; or**

98 **(e) A violation of an employer's rule, unless the employee can demonstrate that:**
99 **a. He or she did not know, and could not reasonably know, of the rules**
100 **requirements; or**

101 **b. The rule is not lawful;**

102 (24) "Referee", a representative of the division designated to serve on an appeals
103 tribunal;

104 (25) "State" includes, in addition to the states of the United States of America, the
105 District of Columbia, Puerto Rico, the Virgin Islands, and the Dominion of Canada;

106 (26) "Temporary employee", an employee assigned to work for the clients of a temporary
107 help firm;

108 (27) "Temporary help firm", a firm that hires its own employees and assigns them to
109 clients to support or supplement the clients' workforce in work situations such as employee
110 absences, temporary skill shortages, seasonal workloads, and special assignments and projects;

111 (28) (a) An individual shall be deemed "totally unemployed" in any week during which
112 the individual performs no services and with respect to which no wages are payable to such
113 individual;

114 (b) a. An individual shall be deemed "partially unemployed" in any week of less than
115 full-time work if the wages payable to such individual for such week do not equal or exceed the
116 individual's weekly benefit amount plus twenty dollars;

117 b. Effective for calendar year 2007 and each year thereafter, an individual shall be
118 deemed "partially unemployed" in any week of less than full-time work if the wages payable to
119 such individual for such week do not equal or exceed the individual's weekly benefit amount plus
120 twenty dollars or twenty percent of his or her weekly benefit amount, whichever is greater;

121 (c) An individual's "week of unemployment" shall begin the first day of the calendar
122 week in which the individual registers at an employment office except that, if for good cause the
123 individual's registration is delayed, the week of unemployment shall begin the first day of the
124 calendar week in which the individual would have otherwise registered. The requirement of
125 registration may by regulation be postponed or eliminated in respect to claims for partial
126 unemployment or may by regulation be postponed in case of a mass layoff due to a temporary
127 cessation of work;

128 (29) "Waiting week", the first week of unemployment for which a claim is allowed in
129 a benefit year or if no waiting week has occurred in a benefit year in effect on the effective date
130 of a shared work plan, the first week of participation in a shared work unemployment
131 compensation program pursuant to section 288.500.

132 2. The Missouri average annual wage shall be computed as of June thirtieth of each year,
133 and shall be applicable to the following calendar year. The Missouri average annual wage shall
134 be calculated by dividing the total wages reported as paid for insured work in the preceding
135 calendar year by the average of mid-month employment reported by employers for the same
136 calendar year. The Missouri average weekly wage shall be computed by dividing the Missouri
137 average annual wage as computed in this subsection by fifty-two.

288.040. 1. A claimant who is unemployed and has been determined to be an insured
2 worker shall be eligible for benefits for any week only if the deputy finds that:

3 (1) The claimant has registered for work at and thereafter has continued to report at an
4 employment office in accordance with such regulations as the division may prescribe;

5 (2) The claimant is able to work and is available for work. No person shall be deemed
6 available for work unless such person has been and is actively and earnestly seeking work. Upon
7 the filing of an initial or renewed claim, and prior to the filing of each weekly claim thereafter,
8 the deputy shall notify each claimant of the number of work search contacts required to constitute
9 an active search for work. No person shall be considered not available for work, pursuant to this
10 subdivision, solely because he or she is a substitute teacher or is on jury duty. A claimant shall
11 not be determined to be ineligible pursuant to this subdivision because of not actively and
12 earnestly seeking work if:

13 (a) The claimant is participating in training approved pursuant to Section 236 of the
14 Trade Act of 1974, as amended, (19 U.S.C.A. Sec. 2296, as amended);

15 (b) The claimant is temporarily unemployed through no fault of his or her own and has
16 a definite recall date within eight weeks of his or her first day of unemployment; however, upon
17 application of the employer responsible for the claimant's unemployment, such eight-week period
18 may be extended not to exceed a total of sixteen weeks at the discretion of the director;

19 (3) The claimant has reported [in person] to an office of the division as directed by the
20 deputy, but at least once every four weeks, except that a claimant shall be exempted from the
21 reporting requirement of this subdivision if:

22 (a) The claimant is claiming benefits in accordance with division regulations dealing
23 with partial or temporary total unemployment; or

24 (b) The claimant is temporarily unemployed through no fault of his or her own and has
25 a definite recall date within eight weeks of his or her first day of unemployment; or

26 (c) [The claimant resides in a county with an unemployment rate, as published by the
27 division, of ten percent or more and in which the county seat is more than forty miles from the
28 nearest division office;

29 (d)] The director of the division of employment security has determined that the claimant
30 belongs to a group or class of workers whose opportunities for reemployment will not be
31 enhanced by reporting [in person], or is prevented from reporting due to emergency conditions
32 that limit access by the general public to an office that serves the area where the claimant resides,
33 but only during the time such circumstances exist.

34

35 Ineligibility pursuant to this subdivision shall begin on the first day of the week which the
36 claimant was scheduled to claim and shall end on the last day of the week preceding the week
37 during which the claimant does report [in person] to the division's office;

38 (4) Prior to the first week of a period of total or partial unemployment for which the
39 claimant claims benefits he or she has been totally or partially unemployed for a waiting period
40 of one week. No more than one waiting week will be required in any benefit year. During
41 calendar year 2008 and each calendar year thereafter, the one-week waiting period shall become
42 compensable once his or her remaining balance on the claim is equal to or less than the
43 compensable amount for the waiting period. No week shall be counted as a week of total or
44 partial unemployment for the purposes of this subsection unless it occurs within the benefit year
45 which includes the week with respect to which the claimant claims benefits;

46 (5) The claimant has made a claim for benefits within fourteen days from the last day
47 of the week being claimed. The fourteen-day period may, for good cause, be extended to
48 twenty-eight days;

49 (6) The claimant has reported to an employment office to participate in a reemployment
50 assessment and reemployment services as directed by the deputy or designated staff of an
51 employment office, unless the deputy determines that good cause exists for the claimant's failure
52 to participate in such reemployment assessment and reemployment services. For purposes of this
53 section, "reemployment services" may include, but not be limited to, the following:

54 (a) Providing an orientation to employment office services;

55 (b) Providing job search assistance; and

56 (c) Providing labor market statistics or analysis;

57 Ineligibility under this subdivision shall begin on the first day of the week which the claimant
58 was scheduled to report for the reemployment assessment or reemployment services and shall
59 end on the last day of the week preceding the week during which the claimant does report in
60 person to the employment office for such reemployment assessment or reemployment services;

61 (7) The claimant is participating in reemployment services, such as job search assistance
62 services, as directed by the deputy if the claimant has been determined to be likely to exhaust
63 regular benefits and to need reemployment services pursuant to a profiling system established
64 by the division, unless the deputy determines that:

65 (a) The individual has completed such reemployment services; or

66 (b) There is justifiable cause for the claimant's failure to participate in such
67 reemployment services.

68 2. A claimant shall be ineligible for waiting week credit or benefits for any week for
69 which the deputy finds he or she is or has been suspended by his or her most recent employer for
70 misconduct connected with his or her work. Suspensions of four weeks or more shall be treated
71 as discharges.

72 3. (1) Benefits based on "service in employment", [defined] **described** in subsections
73 7 and 8 of section 288.034, shall be payable in the same amount, on the same terms and subject
74 to the same conditions as compensation payable on the basis of other service subject to this law;
75 except that:

76 (a) With respect to service performed in an instructional, research, or principal
77 administrative capacity for an educational institution, benefits shall not be paid based on such
78 services for any week of unemployment commencing during the period between two successive
79 academic years or terms, or during a similar period between two regular but not successive terms,
80 or during a period of paid sabbatical leave provided for in the individual's contract, to any
81 individual if such individual performs such services in the first of such academic years (or terms)
82 and if there is a contract or a reasonable assurance that such individual will perform services in
83 any such capacity for any educational institution in the second of such academic years or terms;

84 (b) With respect to services performed in any capacity (other than instructional, research,
85 or principal administrative capacity) for an educational institution, benefits shall not be paid on
86 the basis of such services to any individual for any week which commences during a period
87 between two successive academic years or terms if such individual performs such services in the
88 first of such academic years or terms and there is a contract or a reasonable assurance that such
89 individual will perform such services in the second of such academic years or terms;

90 (c) With respect to services described in paragraphs (a) and (b) of this subdivision,
91 benefits shall not be paid on the basis of such services to any individual for any week which
92 commences during an established and customary vacation period or holiday recess if such
93 individual performed such services in the period immediately before such vacation period or
94 holiday recess, and there is reasonable assurance that such individual will perform such services
95 immediately following such vacation period or holiday recess;

96 (d) With respect to services described in paragraphs (a) and (b) of this subdivision,
97 benefits payable on the basis of services in any such capacity shall be denied as specified in
98 paragraphs (a), (b), and (c) of this subdivision to any individual who performed such services at
99 an educational institution while in the employ of an educational service agency, and for this
100 purpose the term "educational service agency" means a governmental agency or governmental
101 entity which is established and operated exclusively for the purpose of providing such services
102 to one or more educational institutions.

103 (2) If compensation is denied for any week pursuant to paragraph (b) or (d) of
104 subdivision (1) of this subsection to any individual performing services at an educational
105 institution in any capacity (other than instructional, research or principal administrative capacity),
106 and such individual was not offered an opportunity to perform such services for the second of
107 such academic years or terms, such individual shall be entitled to a retroactive payment of the
108 compensation for each week for which the individual filed a timely claim for compensation and
109 for which compensation was denied solely by reason of paragraph (b) or (d) of subdivision (1)
110 of this subsection.

111 4. (1) A claimant shall be ineligible for waiting week credit, benefits or shared work
112 benefits for any week for which he or she is receiving or has received remuneration exceeding
113 his or her weekly benefit amount or shared work benefit amount in the form of:

114 (a) Compensation for temporary partial disability pursuant to the workers' compensation
115 law of any state or pursuant to a similar law of the United States;

116 (b) A governmental or other pension, retirement or retired pay, annuity, or other similar
117 periodic payment which is based on the previous work of such claimant to the extent that such
118 payment is provided from funds provided by a base period or chargeable employer pursuant to
119 a plan maintained or contributed to by such employer; but, except for such payments made
120 pursuant to the Social Security Act or the Railroad Retirement Act of 1974 (or the corresponding
121 provisions of prior law), the provisions of this paragraph shall not apply if the services performed
122 for such employer by the claimant after the beginning of the base period (or remuneration for
123 such services) do not affect eligibility for or increase the amount of such pension, retirement or
124 retired pay, annuity or similar payment.

125 (2) If the remuneration referred to in this subsection is less than the benefits which would
126 otherwise be due, the claimant shall be entitled to receive for such week, if otherwise eligible,
127 benefits reduced by the amount of such remuneration, and, if such benefit is not a multiple of one
128 dollar, such amount shall be lowered to the next multiple of one dollar.

129 (3) Notwithstanding the provisions of subdivisions (1) and (2) of this subsection, if a
130 claimant has contributed in any way to the Social Security Act or the Railroad Retirement Act
131 of 1974, or the corresponding provisions of prior law, no part of the payments received pursuant
132 to such federal law shall be deductible from the amount of benefits received pursuant to this
133 chapter.

134 5. A claimant shall be ineligible for waiting week credit or benefits for any week for
135 which or a part of which he or she has received or is seeking unemployment benefits pursuant
136 to an unemployment insurance law of another state or the United States; provided, that if it be
137 finally determined that the claimant is not entitled to such unemployment benefits, such
138 ineligibility shall not apply.

139 6. (1) A claimant shall be ineligible for waiting week credit or benefits for any week for
140 which the deputy finds that such claimant's total or partial unemployment is due to a stoppage
141 of work which exists because of a labor dispute in the factory, establishment or other premises
142 in which such claimant is or was last employed. In the event the claimant secures other
143 employment from which he or she is separated during the existence of the labor dispute, the
144 claimant must have obtained bona fide employment as a permanent employee for at least the
145 major part of each of two weeks in such subsequent employment to terminate his or her
146 ineligibility. If, in any case, separate branches of work which are commonly conducted as
147 separate businesses at separate premises are conducted in separate departments of the same
148 premises, each such department shall for the purposes of this subsection be deemed to be a
149 separate factory, establishment or other premises. This subsection shall not apply if it is shown
150 to the satisfaction of the deputy that:

151 (a) The claimant is not participating in or financing or directly interested in the labor
152 dispute which caused the stoppage of work; and

153 (b) The claimant does not belong to a grade or class of workers of which, immediately
154 preceding the commencement of the stoppage, there were members employed at the premises
155 at which the stoppage occurs, any of whom are participating in or financing or directly interested
156 in the dispute.

157 (2) "Stoppage of work" as used in this subsection means a substantial diminution of the
158 activities, production or services at the establishment, plant, factory or premises of the employing
159 unit. This definition shall not apply to a strike where the employees in the bargaining unit who
160 initiated the strike are participating in the strike. Such employees shall not be eligible for waiting

161 week credit or benefits during the period when the strike is in effect, regardless of diminution,
162 unless the employer has been found guilty of an unfair labor practice by the National Labor
163 Relations Board or a federal court of law for an act or actions preceding or during the strike.

164 7. On or after January 1, 1978, benefits shall not be paid to any individual on the basis
165 of any services, substantially all of which consist of participating in sports or athletic events or
166 training or preparing to so participate, for any week which commences during the period between
167 two successive sport seasons (or similar periods) if such individual performed such services in
168 the first of such seasons (or similar periods) and there is a reasonable assurance that such
169 individual will perform such services in the later of such seasons (or similar periods).

170 8. Benefits shall not be payable on the basis of services performed by an alien, unless
171 such alien is an individual who was lawfully admitted for permanent residence at the time such
172 services were performed, was lawfully present for purposes of performing such services, or was
173 permanently residing in the United States under color of law at the time such services were
174 performed (including an alien who was lawfully present in the United States as a result of the
175 application of the provisions of Section 212(d)(5) of the Immigration and Nationality Act).

176 (1) Any data or information required of individuals applying for benefits to determine
177 whether benefits are not payable to them because of their alien status shall be uniformly required
178 from all applicants for benefits.

179 (2) In the case of an individual whose application for benefits would otherwise be
180 approved, no determination that benefits to such individual are not payable because of such
181 individual's alien status shall be made except upon a preponderance of the evidence.

182 9. A claimant shall be ineligible for waiting week credit or benefits for any week such
183 claimant has an outstanding penalty which was assessed based upon an overpayment of benefits,
184 as provided for in subsection 9 of section 288.380.

185 10. The directors of the division of employment security and the division of workforce
186 development shall submit to the governor, the speaker of the house of representatives, and the
187 president pro tem of the senate no later than October 15, 2006, a report outlining their
188 recommendations for how to improve work search verification and claimant reemployment
189 activities. The recommendations shall include, but not limited to how to best utilize
190 "greathires.org", and how to reduce the average duration of unemployment insurance claims.
191 Each calendar year thereafter, the directors shall submit a report containing their
192 recommendations on these issues by December thirty-first of each year.

193 **11. For purposes of this section, a claimant may satisfy reporting requirements**
194 **provided under this section by reporting by internet communication or any other means**
195 **deemed acceptable by the division of employment security.**

288.050. 1. Notwithstanding the other provisions of this law, a claimant shall be
2 disqualified for waiting week credit or benefits until after the claimant has earned wages for
3 work insured pursuant to the unemployment compensation laws of any state equal to ten times
4 the claimant's weekly benefit amount if the deputy finds:

5 (1) That the claimant has left work voluntarily without good cause attributable to such
6 work or to the claimant's employer. A temporary employee of a temporary help firm will be
7 deemed to have voluntarily quit employment if the employee does not contact the temporary help
8 firm for reassignment prior to filing for benefits. Failure to contact the temporary help firm will
9 not be deemed a voluntary quit unless the claimant has been advised of the obligation to contact
10 the firm upon completion of assignments and that unemployment benefits may be denied for
11 failure to do so. **"Good cause", for the purposes of this subdivision, shall include only that**
12 **cause which would compel a reasonable employee to cease working or which would require**
13 **separation from work due to illness or disability.** The claimant shall not be disqualified:

14 (a) If the deputy finds the claimant quit such work for the purpose of accepting a more
15 remunerative job which the claimant did accept and earn some wages therein;

16 (b) If the claimant quit temporary work to return to such claimant's regular employer; or

17 (c) If the deputy finds the individual quit work, which would have been determined not
18 suitable in accordance with paragraphs (a) and (b) of subdivision (3) of this subsection, within
19 twenty-eight calendar days of the first day worked;

20 (d) As to initial claims filed after December 31, 1988, if the claimant presents evidence
21 supported by competent medical proof that she was forced to leave her work because of
22 pregnancy, notified her employer of such necessity as soon as practical under the circumstances,
23 and returned to that employer and offered her services to that employer as soon as she was
24 physically able to return to work, as certified by a licensed and practicing physician, but in no
25 event later than ninety days after the termination of the pregnancy. An employee shall have been
26 employed for at least one year with the same employer before she may be provided benefits
27 pursuant to the provisions of this paragraph;

28 (e) If the deputy finds that, due to the spouse's mandatory and permanent military change
29 of station order, the claimant quit work to relocate with the spouse to a new residence from
30 which it is impractical to commute to the place of employment and the claimant remained
31 employed as long as was reasonable prior to the move. The claimant's spouse shall be a member
32 of the U.S. Armed Forces who is on active duty, or a member of the National Guard or other
33 reserve component of the U.S. Armed Forces who is on active National Guard or reserve duty.
34 The provisions of this paragraph shall only apply to individuals who have been determined to
35 be an insured worker as provided in subdivision (22) of subsection 1 of section 288.030;

36 (2) That the claimant has retired pursuant to the terms of a labor agreement between the
37 claimant's employer and a union duly elected by the employees as their official representative
38 or in accordance with an established policy of the claimant's employer; or

39 (3) That the claimant failed without good cause either to apply for available suitable
40 work when so directed by a deputy of the division or designated staff of an employment office
41 as defined in subsection 1 of section 288.030, or to accept suitable work when offered the
42 claimant, either through the division or directly by an employer by whom the individual was
43 formerly employed, or to return to the individual's customary self-employment, if any, when so
44 directed by the deputy. An offer of work shall be rebuttably presumed if an employer notifies
45 the claimant in writing of such offer by sending an acknowledgment via any form of certified
46 mail issued by the United States Postal Service stating such offer to the claimant at the claimant's
47 last known address. Nothing in this subdivision shall be construed to limit the means by which
48 the deputy may establish that the claimant has or has not been sufficiently notified of available
49 work.

50 (a) In determining whether or not any work is suitable for an individual, the division
51 shall consider, among other factors and in addition to those enumerated in paragraph (b) of this
52 subdivision, the degree of risk involved to the individual's health, safety and morals, the
53 individual's physical fitness and prior training, the individual's experience and prior earnings, the
54 individual's length of unemployment, the individual's prospects for securing work in the
55 individual's customary occupation, the distance of available work from the individual's residence
56 and the individual's prospect of obtaining local work; except that, if an individual has moved
57 from the locality in which the individual actually resided when such individual was last
58 employed to a place where there is less probability of the individual's employment at such
59 individual's usual type of work and which is more distant from or otherwise less accessible to
60 the community in which the individual was last employed, work offered by the individual's most
61 recent employer if similar to that which such individual performed in such individual's last
62 employment and at wages, hours, and working conditions which are substantially similar to those
63 prevailing for similar work in such community, or any work which the individual is capable of
64 performing at the wages prevailing for such work in the locality to which the individual has
65 moved, if not hazardous to such individual's health, safety or morals, shall be deemed suitable
66 for the individual;

67 (b) Notwithstanding any other provisions of this law, no work shall be deemed suitable
68 and benefits shall not be denied pursuant to this law to any otherwise eligible individual for
69 refusing to accept new work under any of the following conditions:

70 a. If the position offered is vacant due directly to a strike, lockout, or other labor dispute;

71 b. If the wages, hours, or other conditions of the work offered are substantially less
72 favorable to the individual than those prevailing for similar work in the locality;

73 c. If as a condition of being employed the individual would be required to join a
74 company union or to resign from or refrain from joining any bona fide labor organization.

75 2. If a deputy finds that a claimant has been discharged for misconduct connected with
76 the claimant's work, such claimant shall be disqualified for waiting week credit and benefits, and
77 no benefits shall be paid nor shall the cost of any benefits be charged against any employer for
78 any period of employment within the base period until the claimant has earned wages for work
79 insured under the unemployment laws of this state or any other state as prescribed in this section.
80 In addition to the disqualification for benefits pursuant to this provision the division may in the
81 more aggravated cases of misconduct cancel all or any part of the individual's wage credits,
82 which were established through the individual's employment by the employer who discharged
83 such individual, according to the seriousness of the misconduct. A disqualification provided for
84 pursuant to this subsection shall not apply to any week which occurs after the claimant has
85 earned wages for work insured pursuant to the unemployment compensation laws of any state
86 in an amount equal to six times the claimant's weekly benefit amount. Should a claimant be
87 disqualified on a second or subsequent occasion within the base period or subsequent to the base
88 period the claimant shall be required to earn wages in an amount equal to or in excess of six
89 times the claimant's weekly benefit amount for each disqualification.

90 3. [Absenteeism or tardiness may constitute a rebuttable presumption of misconduct,
91 regardless of whether the last incident alone constitutes misconduct, if the discharge was the
92 result of a violation of the employer's attendance policy, provided the employee had received
93 knowledge of such policy prior to the occurrence of any absence or tardy upon which the
94 discharge is based.

95 4.] Notwithstanding the provisions of subsection 1 of this section, a claimant may not
96 be determined to be disqualified for benefits because the claimant is in training approved
97 pursuant to Section 236 of the Trade Act of 1974, as amended, (19 U.S.C.A. Sec. 2296, as
98 amended), or because the claimant left work which was not suitable employment to enter such
99 training. For the purposes of this subsection "suitable employment" means, with respect to a
100 worker, work of a substantially equal or higher skill level than the worker's past adversely
101 affected employment, and wages for such work at not less than eighty percent of the worker's
102 average weekly wage as determined for the purposes of the Trade Act of 1974.

288.100. 1. (1) The division shall maintain a separate account for each employer which
2 is paying contributions, and shall credit each employer's account with all contributions which
3 each employer has paid. A separate account shall be maintained for each employer making
4 payments in lieu of contributions to which shall be credited all such payments made. The

5 account shall also show payments due as provided in section 288.090. The division may close
6 and cancel such separate account after a period of four consecutive calendar years during which
7 such employer has had no employment in this state subject to contributions. Nothing in this law
8 shall be construed to grant any employer or individuals in the employer's service prior claims or
9 rights to the amounts paid by the employer into the fund either on the employer's own behalf or
10 on behalf of such individuals. Except as provided in subdivision (4) of this subsection, regular
11 benefits and that portion of extended benefits not reimbursed by the federal government paid to
12 an eligible individual shall be charged against the accounts of the individual's base period
13 employers who are paying contributions subject to the provisions of subdivision (4) of subsection
14 3 of section 288.090. With respect to initial claims filed after December 31, 1984, for benefits
15 paid to an individual based on wages paid by one or more employers in the base period of the
16 claim, the amount chargeable to each employer shall be obtained by multiplying the benefits paid
17 by a ratio obtained by dividing the base period wages from such employer by the total wages
18 appearing in the base period. Except as provided in this subdivision, the maximum amount of
19 extended benefits paid to an individual and charged against the account of any employer shall
20 not exceed one-half of the product obtained by multiplying the benefits paid by a ratio obtained
21 by dividing the base period wages from such employer by the total wages appearing in the base
22 period. The provisions of this subdivision notwithstanding, with respect to weeks of
23 unemployment beginning after December 31, 1978, the maximum amount of extended benefits
24 paid to an individual and charged against the account of an employer which is an employer
25 pursuant to subdivision (3) of subsection 1 of section 288.032 and which is paying contributions
26 pursuant to subsections 1 and 2 of section 288.090 shall not exceed the calculated entitlement
27 for the extended benefit claim based upon the wages appearing within the base period of the
28 extended benefit claim.

29 (2) Beginning as of June 30, 1951, and as of June thirtieth of each year thereafter, any
30 unassigned surplus in the unemployment compensation fund which is five hundred thousand
31 dollars or more in excess of five-tenths of one percent of the total taxable wages paid by all
32 employers for the preceding calendar year as shown on the division's records on such June
33 thirtieth shall be credited on a pro rata basis to all employer accounts having a credit balance in
34 the same ratio that the balance in each such account bears to the total of the credit balances
35 subject to use for rate calculation purposes for the following year in all such accounts on the
36 same date. As used in this subdivision, the term "unassigned surplus" means the amount by
37 which the total cash balance in the unemployment compensation fund exceeds a sum equal to
38 the total of all employer credit account balances. The amount thus prorated to each separate
39 employer's account shall for tax rating purposes be considered the same as contributions paid by
40 the employer and credited to the employer's account for the period preceding the calculation date

41 except that no such amount can be credited against any contributions due or that may thereafter
42 become due from such employer.

43 (3) At the conclusion of each calendar quarter the division shall, within thirty days,
44 notify each employer by mail of the benefits paid to each claimant by week as determined by the
45 division which have been charged to such employer's account subsequent to the last notice.

46 (4) (a) No benefits based on wages paid for services performed prior to the date of any
47 act for which a claimant is disqualified pursuant to section 288.050 shall be chargeable to any
48 employer directly involved in such disqualifying act.

49 (b) In the event the deputy has in due course determined pursuant to paragraph (a) of
50 subdivision (1) of subsection 1 of section 288.050 that a claimant quit his or her work with an
51 employer for the purpose of accepting a more remunerative job with another employer which the
52 claimant did accept and earn some wages therein, no benefits based on wages paid prior to the
53 date of the quit shall be chargeable to the employer the claimant quit.

54 (c) In the event the deputy has in due course determined pursuant to paragraph (b) of
55 subdivision (1) of subsection 1 of section 288.050 that a claimant quit temporary work in
56 employment with an employer to return to the claimant's regular employer, then, only for the
57 purpose of charging base period employers, all of the wages paid by the employer who furnished
58 the temporary employment shall be combined with the wages actually paid by the regular
59 employer as if all such wages had been actually paid by the regular employer. Further, charges
60 for benefits based on wages paid for part-time work shall be removed from the account of the
61 employer furnishing such part-time work if that employer continued to employ the individual
62 claiming such benefits on a regular recurring basis each week of the claimant's claim to at least
63 the same extent that the employer had previously employed the claimant and so informs the
64 division within thirty days from the date of notice of benefit charges.

65 (d) No charge shall be made against an employer's account in respect to benefits paid an
66 individual if the gross amount of wages paid by such employer to such individual is four hundred
67 dollars or less during the individual's base period on which the individual's benefit payments are
68 based. Further, no charge shall be made against any employer's account in respect to benefits
69 paid any individual unless such individual was in employment with respect to such employer
70 longer than a probationary period of twenty-eight days, if such probationary period of
71 employment has been reported to the division as required by regulation.

72 (e) In the event the deputy has in due course determined pursuant to paragraph (c) of
73 subdivision (1) of subsection 1 of section 288.050 that a claimant is not disqualified, no benefits
74 based on wages paid for work prior to the date of the quit shall be chargeable to the employer
75 the claimant quit.

76 (f) In the event the deputy has in due course determined under paragraph (e) of
77 subdivision (1) of subsection 1 of section 288.050 that a claimant is not disqualified, no benefits
78 based on wages paid for work prior to the date of the quit shall be chargeable to the employer
79 the claimant quit.

80 (g) Nothing in paragraph (b), (c), (d), (e), or (f) of this subdivision shall in any way affect
81 the benefit amount, duration of benefits or the wage credits of the claimant.

82 **2. (1) Notwithstanding any other provisions of this law, no employer's account**
83 **shall be relieved of charges relating to a payment that was erroneously made from the**
84 **unemployment compensation fund if the division determines that:**

85 **(a) The erroneous payment was made because the employer or an agent of the**
86 **employer was at fault for failing to respond timely or adequately to a written request from**
87 **the division for information relating to a claim for unemployment benefits; and**

88 **(b) The employer or an agent of the employer has established a pattern of failing**
89 **to respond timely or adequately to requests made under paragraph (a) of this subdivision.**

90 **(2) For the purpose of this subsection, the following terms shall mean:**

91 **(a) "Erroneous payment", a payment that, but for the failure by the employer or**
92 **the agent of the employer to respond timely and adequately to a written request from the**
93 **division for information with respect to the claim for unemployment benefits, would not**
94 **have been made;**

95 **(b) "Pattern of failing", repeated documented failure on the part of the employer**
96 **or the agent of the employer to respond, taking into consideration the number of instances**
97 **of failure in relation to the total volume of requests. An employer or an agent of the**
98 **employer failing to respond as described under paragraph (a) of subdivision (1) of this**
99 **subsection shall not be determined to have engaged in a pattern of failure if the number**
100 **of the failures during the year prior to the request is fewer than two or less than two**
101 **percent of the requests, whichever is greater.**

102 **(3) Determinations by the division prohibiting the relief of charges under this**
103 **subsection shall be subject to appeal or protest as other determinations of the division with**
104 **respect to the charging of employer accounts.**

105 **(4) This subsection shall apply to erroneous payments established on or after**
106 **October 1, 2013.**

107 **3.** The division may prescribe regulations for the establishment, maintenance, and
108 dissolution of joint accounts by two or more employers, and shall, in accordance with such
109 regulations and upon application by two or more employers to establish such an account, or to
110 merge their several individual accounts in a joint account, maintain such joint account as if it
111 constituted a single employer's account.

112 [3.] 4. The division may by regulation provide for the compilation and publication of
113 such data as may be necessary to show the amounts of benefits not charged to any individual
114 employer's account classified by reason no such charge was made and to show the types and
115 amounts of transactions affecting the unemployment compensation fund.

288.380. 1. Any agreement by a worker to waive, release, or commute such worker's
2 rights to benefits or any other rights pursuant to this chapter or pursuant to an employment
3 security law of any other state or of the federal government shall be void. Any agreement by a
4 worker to pay all or any portion of any contributions required shall be void. No employer shall
5 directly or indirectly make any deduction from wages to finance the employer's contributions
6 required from him or her, or accept any waiver of any right pursuant to this chapter by any
7 individual in his or her employ.

8 2. No employing unit or any agent of an employing unit or any other person shall make
9 a false statement or representation knowing it to be false, nor shall knowingly fail to disclose a
10 material fact to prevent or reduce the payment of benefits to any individual, nor to avoid
11 becoming or remaining an employer, nor to avoid or reduce any contribution or other payment
12 required from any employing unit, nor shall willfully fail or refuse to make any contributions or
13 payments nor to furnish any required reports nor to produce or permit the inspection or copying
14 of required records. Each such requirement shall apply regardless of whether it is a requirement
15 of this chapter, of an employment security law of any other state or of the federal government.

16 3. No person shall make a false statement or representation knowing it to be false or
17 knowingly fail to disclose a material fact, to obtain or increase any benefit or other payment
18 pursuant to this chapter, or under an employment security law of any other state or of the federal
19 government either for himself or herself or for any other person.

20 4. No person shall without just cause fail or refuse to attend and testify or to answer any
21 lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if
22 it is in such person's power so to do in obedience to a subpoena of the director, the commission,
23 an appeals tribunal, or any duly authorized representative of any one of them.

24 5. No individual claiming benefits shall be charged fees of any kind in any proceeding
25 pursuant to this chapter by the division, or by any court or any officer thereof. Any individual
26 claiming benefits in any proceeding before the division or a court may be represented by counsel
27 or other duly authorized agent; but no such counsel or agents shall either charge or receive for
28 such services more than an amount approved by the division.

29 6. No employee of the division or any person who has obtained any list of applicants for
30 work or of claimants for or recipients of benefits pursuant to this chapter shall use or permit the
31 use of such lists for any political purpose.

32 7. Any person who shall willfully violate any provision of this chapter, or of an
33 employment security law of any other state or of the federal government or any rule or
34 regulation, the observance of which is required under the terms of any one of such laws, shall
35 upon conviction be deemed guilty of a misdemeanor and shall be punished by a fine of not less
36 than fifty dollars nor more than one thousand dollars, or by imprisonment in the county jail for
37 not more than six months, or by both such fine and imprisonment, and each such violation or
38 each day such violation continues shall be deemed to be a separate offense.

39 8. In case of contumacy by, or refusal to obey a subpoena issued to, any person, any court
40 of this state within the jurisdiction of which the inquiry is carried on, or within the jurisdiction
41 of which the person guilty of contumacy or refusal to obey is found or resides or transacts
42 business, upon application by the director, the commission, an appeals tribunal, or any duly
43 authorized representative of any one of them shall have jurisdiction to issue to such person an
44 order requiring such person to appear before the director, the commission, an appeals tribunal
45 or any duly authorized representative of any one of them, there to produce evidence if so ordered
46 or there to give testimony touching the matter under investigation or in question; and any failure
47 to obey such order of the court may be punished by the court as a contempt thereof.

48 9. (1) Any individual or employer who receives or denies **state or federal**
49 unemployment benefits by intentionally misrepresenting, misstating, or failing to disclose any
50 material fact has committed fraud. After the discovery of facts indicating fraud, a deputy shall
51 make a written determination that the individual obtained or denied unemployment benefits by
52 fraud and that the individual must promptly repay the unemployment benefits to the fund. In
53 addition, the deputy shall assess a penalty equal to twenty-five percent of the amount fraudulently
54 obtained or denied. If division records indicate that the individual or employer had a prior
55 established overpayment or record of denial due to fraud, the deputy shall, on the present
56 overpayment or determination, assess a penalty equal to one hundred percent of the amount
57 fraudulently obtained.

58 (2) Unless the individual or employer within thirty calendar days after notice of such
59 determination of overpayment by fraud is either delivered in person or mailed to the last known
60 address of such individual or employer files an appeal from such determination, it shall be final.
61 Proceedings on the appeal shall be conducted in accordance with section 288.190.

62 (3) If the individual or employer fails to repay the unemployment benefits and penalty,
63 assessed as a result of the deputy's determination that the individual or employer obtained or
64 denied unemployment benefits by fraud, such sum shall be collectible in the manner provided
65 in sections 288.160 and 288.170 for the collection of past due contributions. If the individual
66 or employer fails to repay the unemployment benefits that the individual or employer denied or
67 obtained by fraud, the division may offset from any future unemployment benefits otherwise

68 payable the amount of the overpayment, or may take such steps as are necessary to effect
69 payment from the individual or employer. Future benefits may not be used to offset the penalty
70 due. Money received in repayment of fraudulently obtained or denied unemployment benefits
71 and penalties shall first be applied to the unemployment benefits overpaid, then to the penalty
72 amount due. **Effective October 1, 2013, regarding payments made toward the penalty amount**
73 **[due] , an amount equal to fifteen percent of the total amount of benefits fraudulently**
74 **obtained shall be immediately deposited into the state's unemployment compensation fund,**
75 **and the remaining penalty amount** shall be credited to the special employment security fund.

76 (4) If fraud or evasion on the part of any employer is discovered by the division, the
77 employer will be subject to the fraud provisions of subsection 4 of section 288.160.

78 (5) The provisions of this subsection shall become effective July 1, 2005.

79 10. An individual who willfully fails to disclose amounts earned during any week with
80 respect to which benefits are claimed by him or her, willfully fails to disclose or has falsified as
81 to any fact which would have disqualified him or her or rendered him or her ineligible for
82 benefits during such week, or willfully fails to disclose a material fact or makes a false statement
83 or representation in order to obtain or increase any benefit pursuant to this chapter shall forfeit
84 all of his or her benefit rights, and all of his or her wage credits accrued prior to the date of such
85 failure to disclose or falsification shall be cancelled, and any benefits which might otherwise
86 have become payable to him or her subsequent to such date based upon such wage credits shall
87 be forfeited; except that, the division may, upon good cause shown, modify such reduction of
88 benefits and cancellation of wage credits. It shall be presumed that such failure or falsification
89 was willful in any case in which an individual signs and certifies a claim for benefits and fails
90 to disclose or falsifies as to any fact relative to such claim.

91 11. (1) Any assignment, pledge, or encumbrance of any rights to benefits which are or
92 may become due or payable pursuant to this chapter shall be void; and such rights to benefits
93 shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for
94 the collection of debt; and benefits received by any individual, so long as they are not mingled
95 with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection
96 of all debts except debts incurred for necessities furnished to such individual or the individual's
97 spouse or dependents during the time such individual was unemployed. Any waiver of any
98 exemption provided for in this subsection shall be void; except that this section shall not apply
99 to:

100 (a) Support obligations, as defined pursuant to paragraph (g) of subdivision (2) of this
101 subsection, which are being enforced by a state or local support enforcement agency against any
102 individual claiming unemployment compensation pursuant to this chapter; or

103 (b) Uncollected overissuances (as defined in Section 13(c)(1) of the Food Stamp Act of
104 1977) of food stamp coupons;

105 (2) (a) An individual filing a new claim for unemployment compensation shall, at the
106 time of filing such claim, disclose whether or not the individual owes support obligations, as
107 defined pursuant to paragraph (g) of this subdivision or owes uncollected overissuances of food
108 stamp coupons (as defined in Section 13(c)(1) of the Food Stamp Act of 1977). If any such
109 individual discloses that he or she owes support obligations or uncollected overissuances of food
110 stamp coupons, and is determined to be eligible for unemployment compensation, the division
111 shall notify the state or local support enforcement agency enforcing the support obligation or the
112 state food stamp agency to which the uncollected food stamp overissuance is owed that such
113 individual has been determined to be eligible for unemployment compensation;

114 (b) The division shall deduct and withhold from any unemployment compensation
115 payable to an individual who owes support obligations as defined pursuant to paragraph (g) of
116 this subdivision or who owes uncollected food stamp overissuances:

117 a. The amount specified by the individual to the division to be deducted and withheld
118 pursuant to this paragraph if neither subparagraph b. nor subparagraph c. of this paragraph is
119 applicable; or

120 b. The amount, if any, determined pursuant to an agreement submitted to the division
121 pursuant to Section 454(20)(B)(i) of the Social Security Act by the state or local support
122 enforcement agency, unless subparagraph c. of this paragraph is applicable; or the amount (if
123 any) determined pursuant to an agreement submitted to the state food stamp agency pursuant to
124 Section 13(c)(3)(a) of the Food Stamp Act of 1977; or

125 c. Any amount otherwise required to be so deducted and withheld from such
126 unemployment compensation pursuant to properly served legal process, as that term is defined
127 in Section 459(i) of the Social Security Act; or any amount otherwise required to be deducted
128 and withheld from the unemployment compensation pursuant to Section 13(c)(3)(b) of the Food
129 Stamp Act of 1977;

130 (c) Any amount deducted and withheld pursuant to paragraph (b) of this subdivision
131 shall be paid by the division to the appropriate state or local support enforcement agency or state
132 food stamp agency;

133 (d) Any amount deducted and withheld pursuant to paragraph (b) of this subdivision
134 shall, for all purposes, be treated as if it were paid to the individual as unemployment
135 compensation and paid by such individual to the state or local support enforcement agency in
136 satisfaction of the individual's support obligations or to the state food stamp agency to which the
137 uncollected overissuance is owed as repayment of the individual's uncollected overissuance;

138 (e) For purposes of paragraphs (a), (b), (c), and (d) of this subdivision, the term
139 "unemployment compensation" means any compensation payable pursuant to this chapter,
140 including amounts payable by the division pursuant to an agreement pursuant to any federal law
141 providing for compensation, assistance, or allowances with respect to unemployment;

142 (f) Deductions will be made pursuant to this section only if appropriate arrangements
143 have been made for reimbursement by the state or local support enforcement agency, or the state
144 food stamp agency, for the administrative costs incurred by the division pursuant to this section
145 which are attributable to support obligations being enforced by the state or local support
146 enforcement agency or which are attributable to uncollected overissuances of food stamp
147 coupons;

148 (g) The term "support obligations" is defined for purposes of this subsection as including
149 only obligations which are being enforced pursuant to a plan described in Section 454 of the
150 Social Security Act which has been approved by the Secretary of Health and Human Services
151 pursuant to Part D of Title IV of the Social Security Act;

152 (h) The term "state or local support enforcement agency", as used in this subsection,
153 means any agency of a state, or political subdivision thereof, operating pursuant to a plan
154 described in paragraph (g) of this subdivision;

155 (i) The term "state food stamp agency" as used in this subsection means any agency of
156 a state, or political subdivision thereof, operating pursuant to a plan described in the Food Stamp
157 Act of 1977;

158 (j) The director may prescribe the procedures to be followed and the form and contents
159 of any documents required in carrying out the provisions of this subsection;

160 (k) The division shall comply with the following priority when deducting and
161 withholding amounts from any unemployment compensation payable to an individual:

162 a. Before withholding any amount for child support obligations or uncollected
163 overissuances of food stamp coupons, the division shall first deduct and withhold from any
164 unemployment compensation payable to an individual the amount, as determined by the division,
165 owed pursuant to subsection 12 or 13 of this section;

166 b. If, after deductions are made pursuant to subparagraph a. of this paragraph, an
167 individual has remaining unemployment compensation amounts due and owing, and the
168 individual owes support obligations or uncollected overissuances of food stamp coupons, the
169 division shall first deduct and withhold any remaining unemployment compensation amounts for
170 application to child support obligations owed by the individual;

171 c. If, after deductions are made pursuant to subparagraphs a. and b. of this paragraph,
172 an individual has remaining unemployment compensation amounts due and owing, and the
173 individual owes uncollected overissuances of food stamp coupons, the division shall deduct and

174 withhold any remaining unemployment compensation amounts for application to uncollected
175 overissuances of food stamp coupons owed by the individual.

176 12. Any person who, by reason of the nondisclosure or misrepresentation by such person
177 or by another of a material fact, has received any sum as benefits pursuant to this chapter while
178 any conditions for the receipt of benefits imposed by this chapter were not fulfilled in such
179 person's case, or while he or she was disqualified from receiving benefits, shall, in the discretion
180 of the division, either be liable to have such sums deducted from any future benefits payable to
181 such person pursuant to this chapter or shall be liable to repay to the division for the
182 unemployment compensation fund a sum equal to the amounts so received by him or her.

183 13. Any person who, by reason of any error or omission or because of a lack of
184 knowledge of material fact on the part of the division, has received any sum of benefits pursuant
185 to this chapter while any conditions for the receipt of benefits imposed by this chapter were not
186 fulfilled in such person's case, or while such person was disqualified from receiving benefits,
187 shall after an opportunity for a fair hearing pursuant to subsection 2 of section 288.190 have such
188 sums deducted from any further benefits payable to such person pursuant to this chapter,
189 provided that the division may elect not to process such possible overpayments where the amount
190 of same is not over twenty percent of the maximum state weekly benefit amount in effect at the
191 time the error or omission was discovered.

192 14. Recovering overpaid unemployment compensation benefits shall be pursued by the
193 division against any person receiving such overpaid unemployment compensation benefits
194 through billing, setoffs against state and federal tax refunds to the extent permitted by federal
195 law, intercepts of lottery winnings under section 313.321, and collection efforts as provided for
196 in sections 288.160, 288.170, and 288.175.

197 15. Any person who has received any sum as benefits under the laws of another state,
198 or under any unemployment benefit program of the United States administered by another state
199 while any conditions for the receipt of benefits imposed by the law of such other state were not
200 fulfilled in his or her case, shall after an opportunity for a fair hearing pursuant to subsection 2
201 of section 288.190 have such sums deducted from any further benefits payable to such person
202 pursuant to this chapter, but only if there exists between this state and such other state a
203 reciprocal agreement under which such entity agrees to recover benefit overpayments, in like
204 fashion, on behalf of this state.

✓