

House File 2321 - Introduced

HOUSE FILE 2321
BY COMMITTEE ON LABOR

(SUCCESSOR TO HSB 615)

A BILL FOR

1 An Act relating to the duties of the department of workforce
2 development regarding criminal history checks and certain
3 state unemployment insurance law matters and including
4 effective date provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

CRIMINAL HISTORY CHECKS

Section 1. NEW SECTION. 84A.12 Criminal history checks.

An applicant for employment with the department of workforce development shall be subject to a national criminal history check through the federal bureau of investigation. A contractor, vendor, employee, or any other individual performing work for the department of workforce development shall be subject to a national criminal history check through the federal bureau of investigation at least once every ten years. The department of workforce development shall request the national criminal history check and shall provide the individual's fingerprints to the department of public safety for submission through the state criminal history repository to the federal bureau of investigation. The individual shall authorize release of the results of the national criminal history check to the department of workforce development. The department of workforce development shall pay the actual cost of the fingerprinting and national criminal history check, if any. The results of a criminal history check conducted pursuant to this section shall not be considered a public record under chapter 22.

DIVISION II

UNEMPLOYMENT INSURANCE

Sec. 2. Section 96.5, subsection 5, paragraph a, subparagraph (3), Code 2018, is amended to read as follows:
(3) A governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment made under a plan maintained or contributed to by a base period or chargeable employer where, except for benefits under the federal Social Security Act or the federal Railroad Retirement Act of 1974 or the corresponding provisions of prior law, the plan's eligibility requirements or benefit payments are affected by the base period employment or the remuneration for the base period employment. However, ~~if an individual's~~

1 ~~benefits are reduced due to the receipt of a payment under this~~
2 ~~subparagraph, the reduction shall be decreased by the same~~
3 ~~percentage as the percentage contribution of the individual~~
4 ~~to the plan under which the payment is made~~ shall only be
5 applicable if the base period employer has made one hundred
6 percent of the contributions to the plan.

7 Sec. 3. Section 96.5, subsection 7, paragraphs b, c, and d,
8 Code 2018, are amended to read as follows:

9 *b.* When, in connection with a separation or layoff of
10 an individual, the individual's employer makes a payment or
11 payments to the individual, or becomes obligated to make a
12 payment to the individual as, or in the nature of, vacation
13 pay, or vacation pay allowance, or as pay in lieu of vacation,
14 ~~and within ten calendar days after notification of the filing~~
15 ~~of the individual's claim, designates by notice in writing~~
16 ~~to the department the period to which the payment shall be~~
17 ~~allocated; provided, that if such designated period is extended~~
18 ~~by the employer, the individual may again similarly designate~~
19 ~~an extended period, by giving notice in writing to the~~
20 ~~department not later than the beginning of the extension of the~~
21 ~~period, with the same effect as if the period of extension were~~
22 ~~included in the original designation.~~ The amount of a payment
23 or obligation to make payment, is deemed "wages" as defined in
24 section 96.19, subsection 41, and shall be applied as provided
25 in paragraph "c" of this [subsection 7](#).

26 *c.* Of the wages described in paragraph "a" (whether or not
27 the employer has designated the period therein described),
28 or of the wages described in paragraph "b", if the period
29 therein described has been designated by the employer as
30 therein provided, a sum equal to the wages of such individual
31 for a normal workday shall be attributed to, or deemed to
32 be payable to the individual with respect to, the first and
33 each subsequent workday in such period until such amount so
34 paid or owing is exhausted, not to exceed five workdays. Any
35 individual receiving or entitled to receive wages as provided

1 herein shall be ineligible for benefits for any week in which
2 the sums, ~~so designated or attributed to such normal workdays,~~
3 equal or exceed the individual's weekly benefit amount. If
4 the amount ~~so designated or attributed as wages~~ is less than
5 the weekly benefit amount of such individual, the individual's
6 benefits shall be reduced by such amount.

7 *d.* Notwithstanding contrary provisions in paragraphs "a",
8 "b", and "c", if an individual is separated from employment and
9 is scheduled to receive vacation payments during the period of
10 unemployment attributable to the employer ~~and if the employer~~
11 ~~does not designate the vacation period pursuant to paragraph~~
12 ~~"b",~~ then payments made by the employer to the individual or an
13 obligation to make a payment by the employer to the individual
14 for vacation pay, vacation pay allowance or pay in lieu of
15 vacation shall not be deemed wages as defined in section 96.19,
16 subsection 41, for any period in excess of ~~one week~~ five
17 workdays and such payments or the value of such obligations
18 shall not be deducted for any period in excess of one week from
19 the unemployment benefits the individual is otherwise entitled
20 to receive under **this chapter**. ~~However, if the employer~~
21 ~~designates more than one week as the vacation period pursuant~~
22 ~~to paragraph "b", the vacation pay, vacation pay allowance, or~~
23 ~~pay in lieu of vacation shall be considered wages and shall be~~
24 ~~deducted from benefits.~~

25 Sec. 4. Section 96.6, subsection 3, paragraph a, Code 2018,
26 is amended to read as follows:

27 *a.* Unless the appeal is withdrawn, an administrative law
28 judge, after affording the parties reasonable opportunity for
29 fair hearing, shall affirm or modify the findings of fact
30 and decision of the representative. The hearing shall be
31 conducted pursuant to the provisions of **chapter 17A** relating
32 to hearings for contested cases. Before the hearing is
33 scheduled, the parties shall be afforded the opportunity to
34 choose either a telephone hearing or an in-person hearing.
35 A request for an in-person hearing shall be approved unless

1 the in-person hearing would be impractical because of the
2 distance between the parties to the hearing. A The notice for
3 a telephone or in-person hearing shall not be scheduled before
4 the seventh sent to all the parties at least ten calendar day
5 after the parties receive notice of days before the hearing
6 date. Reasonable requests for the postponement of a hearing
7 shall be granted. The parties shall be duly notified of
8 the administrative law judge's decision, together with the
9 administrative law judge's reasons for the decision, which is
10 the final decision of the department, unless within fifteen
11 days after the date of notification or mailing of the decision,
12 further appeal is initiated pursuant to [this section](#).

13 Sec. 5. Section 96.7, subsection 8, Code 2018, is amended by
14 adding the following new paragraphs:

15 NEW PARAGRAPH. c. (1) In the discretion of the department,
16 a nonprofit organization employing fifteen or more full-time
17 individuals that elects to become liable for payments in lieu
18 of contributions shall be required, within fifteen days after
19 the effective date of its election, to execute and file with
20 the department a bond or security approved by the department.
21 The amount of the bond or security shall be determined by rule
22 pursuant to chapter 17A.

23 (2) A bond or security deposited under this subsection shall
24 be in force for a period of not less than two calendar years and
25 shall be renewed with the approval of the department, at such
26 times as the department may require, but not less frequently
27 than at two-year intervals as long as the organization
28 continues to be liable for payments in lieu of contributions.
29 The department shall require adjustments to be made in a
30 previously filed bond or security as it deems appropriate. If
31 the bond or security is to be increased, the adjusted bond or
32 security shall be filed by the organization within fifteen days
33 after the date notice of the required adjustment was provided.
34 Failure by an organization covered by such bond or security
35 to pay the full amount of payments in lieu of contributions

1 when due, together with any applicable interest and penalties,
2 shall render the surety liable on said bond or security to the
3 extent of the bond or security, as though the surety were such
4 an organization.

5 (3) If a nonprofit organization fails to file a bond or
6 security or to file a bond or security in an increased amount
7 as required under this paragraph "c", the department may
8 terminate the organization's election to make payments in lieu
9 of contributions, and the termination shall continue for a
10 period of not less than four consecutive calendar quarters
11 beginning with the quarter in which the termination becomes
12 effective, but the department may, for good cause, extend the
13 applicable filing or adjustment period by not more than fifteen
14 days.

15 NEW PARAGRAPH. d. If a nonprofit organization is
16 delinquent in making payments in lieu of contributions as
17 required under this subsection, the department may terminate
18 the organization's election to make payments in lieu of
19 contributions as of the beginning of the next calendar year.

20 Sec. 6. Section 96.16, subsection 4, paragraph a, Code 2018,
21 is amended to read as follows:

22 a. An individual who, by reason of the nondisclosure or
23 misrepresentation by the individual or by another of a material
24 fact, has received any sum as benefits under **this chapter**
25 while any conditions for the receipt of benefits imposed by
26 this chapter were not fulfilled in the individual's case, or
27 while the individual was disqualified from receiving benefits,
28 shall, ~~in the discretion of the department, either be liable~~
29 ~~to have the sum deducted from any future benefits payable to~~
30 ~~the individual under **this chapter** or shall be liable to repay~~
31 to the department for the unemployment compensation fund, a
32 sum equal to the amount so received by the individual. If
33 the department seeks to recover the amount of the benefits by
34 having the individual pay to the department a sum equal to that
35 amount, the department may file a lien with the county recorder

1 in favor of the state on the individual's property and rights
2 to property, whether real or personal. The amount of the lien
3 shall be collected in a manner similar to the provisions for
4 the collection of past-due contributions in section 96.14,
5 subsection 3.

6 Sec. 7. Section 96.19, subsection 16, paragraph a, Code
7 2018, is amended to read as follows:

8 a. For purposes of **this chapter** with respect to any calendar
9 year after December 31, ~~1971~~ 2018, any employing unit which
10 in any calendar quarter in either the current or preceding
11 calendar year paid wages for service in employment ~~wages of~~
12 ~~one thousand five hundred dollars or more excluding wages paid~~
13 ~~for domestic service or for some portion of a day in each of~~
14 ~~twenty different calendar weeks, whether or not such weeks were~~
15 ~~consecutive, in either the current or the preceding calendar~~
16 ~~year, had in employment at least one individual irrespective~~
17 ~~of whether the same individual was in employment in each such~~
18 ~~day.~~ An employing unit treated as a domestic service employer
19 shall not be treated as an employer with respect to wages paid
20 for service other than domestic service unless such employing
21 unit is treated as an employer under this paragraph or as an
22 agricultural labor employer.

23 Sec. 8. EFFECTIVE DATE. The following takes effect January
24 1, 2019:

25 The section of this division of this Act amending section
26 96.19.

27

EXPLANATION

28 The inclusion of this explanation does not constitute agreement with
29 the explanation's substance by the members of the general assembly.

30 Division I of this bill relates to criminal history checks to
31 be carried out by the department of workforce development.

32 The division provides that an applicant for employment
33 with the department shall be subject to a national criminal
34 history check through the federal bureau of investigation. The
35 division provides that a contractor, vendor, employee, or any

1 other individual performing work for the department shall be
2 subject to such a check at least once every 10 years.

3 The division directs the department to request the
4 national criminal history check and provide the individual's
5 fingerprints to the department of public safety for submission
6 through the state criminal history repository to the federal
7 bureau of investigation. The department shall pay the actual
8 cost of the check. The results of the check shall not be
9 considered a public record.

10 Division II of the bill relates to unemployment insurance.

11 Under current law, the amount of certain pension payments
12 received by a claimant is deducted from the claimant's
13 unemployment benefits. However, the reduction in benefits
14 is decreased by the percentage of contributions the claimant
15 made to the pension plan. The division instead provides that
16 a reduction in unemployment benefits due to pension payments
17 received will only occur if the claimant's base period employer
18 has made 100 percent of the contributions to the pension plan.

19 The division strikes language requiring employers to
20 designate a period for the allocation of vacation pay that is
21 paid out to an employee in connection with a separation or
22 layoff. The division provides that vacation pay paid out to
23 an employee shall only be considered wages for purposes of
24 unemployment benefits for a maximum of five workdays.

25 The division strikes language providing that a telephone or
26 in-person hearing for an appeal of a determination regarding
27 eligibility for unemployment benefits shall not be scheduled
28 before seven days after the parties receive notice of the
29 hearing. The division instead provides that a notice for such
30 a hearing shall be sent to all parties at least 10 days before
31 the hearing date.

32 The division permits the department in its discretion
33 to require a nonprofit organization employing 15 or more
34 full-time individuals that elects to become liable for payments
35 reimbursing the department for unemployment benefits in

1 lieu of contributions to file with the department a bond or
2 security approved by the department, in an amount determined
3 by rule, within 15 days after the effective date of its
4 election. Failure by the organization to pay the full amount
5 of payments in lieu of contributions when due shall render the
6 surety liable for the bond or security. The division permits
7 the department to terminate the organization's election to
8 become liable for payments in lieu of contributions if the
9 organization fails to file the bond or security. Such bonds or
10 securities shall be in force for a period of not less than two
11 calendar years and shall be renewed with the approval of the
12 department. The division permits the department to adjust the
13 required amount of a previously filed bond or security.

14 The division permits the department to terminate a nonprofit
15 organization's election to become liable for payments in lieu
16 of contributions if the organization is delinquent in making
17 such payments.

18 The division strikes language permitting the department
19 in its discretion to allow an individual who, by reason of
20 the nondisclosure or misrepresentation of a material fact,
21 receives unemployment benefits without meeting the conditions
22 of eligibility or while disqualified from benefits to have the
23 sum of the benefits received deducted from future benefits
24 payments. Language requiring such an individual to repay
25 the department an amount equal to the benefits received is
26 unchanged.

27 The division amends the definition of employer for purposes
28 of unemployment benefits effective for calendar years beginning
29 after December 31, 2018, by striking language excluding from
30 the definition of employer those who did not pay at least
31 \$1,500 in wages for service in employment or who did not have
32 at least one individual in employment for some portion of a
33 day in each of 20 different calendar weeks in the current or
34 preceding calendar year.