



**Legally Brief Factsheet:
Unemployment Benefits for Victims of
Domestic or Family Violence
Indiana Code 22-4-15-1**

Summary: Indiana legislation provides that separation from employment when a worker has been the victim of domestic or family violence is not a disqualification for unemployment compensation.

- **IC 22-4-15-1(C)(8)**

Survivors may receive unemployment compensation if they voluntarily left employment or were discharged due to circumstances directly caused by domestic or family violence (as defined in IC 31-9-2-42).

It should be noted that when applying for benefits, the address supplied by the Attorney General's address confidentiality program may be used.

- **IC 22-4-15-1(C)(8)(e)**

Verification of the abuse must be provided. To verify that domestic or family violence has occurred, an individual who applies for benefits under this section shall provide one (1) of the following:

- (1) A verifying report of a law enforcement agency (IC 5-2-5-1).
- (2) A protection order issued under IC 34-26-5.
- (3) A foreign protection order (IC 34-6-2-48.5).
- (4) An affidavit from a domestic violence direct service provider verifying that the individual has received services from the provider.

Attached to this factsheet is a draft form verification of abuse which can be reproduced and used to satisfy the affidavit requirement outlined above.

Indiana Statute follows. For more information, or access to legal counsel, please contact ICADV Legal Counsel Kerry Hyatt Bennett at kbennett@icadinc.org

IC 22-4-15 Chapter 15. Disqualification of Benefits

IC 22-4-15-1 Grounds for disqualification; modifications

Sec. 1. (a) Regarding an individual's most recent separation from employment before filing an initial or additional claim for benefits, an individual who voluntarily left the employment without good cause in connection with the work or was discharged from the employment for just cause is ineligible for waiting period or benefit rights for the week in which the disqualifying separation occurred and until:

- (1) the individual has earned remuneration in employment in at least eight (8) weeks; and*
- (2) the remuneration earned equals or exceeds the product of the weekly benefit amount multiplied by eight (8).*

If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(b) When it has been determined that an individual has been separated from employment under disqualifying conditions as outlined in this section, the maximum benefit amount of the individual's current claim, as initially determined, shall be reduced by an amount determined as follows:

(1) For the first separation from employment under disqualifying conditions, the maximum benefit amount of the individual's current claim is equal to the result of:

(A) the maximum benefit amount of the individual's current claim, as initially determined; multiplied by

(B) seventy-five percent (75%);

rounded (if not already a multiple of one dollar (\$1)) to the next higher dollar.

(2) For the second separation from employment under disqualifying conditions, the maximum benefit amount of the individual's current claim is equal to the result of:

(A) the maximum benefit amount of the individual's current claim determined under subdivision (1); multiplied by

(B) eighty-five percent (85%);

rounded (if not already a multiple of one dollar (\$1)) to the next higher dollar.

(3) For the third and any subsequent separation from employment under disqualifying conditions, the maximum benefit amount of the individual's current claim is equal to the result of:

(A) the maximum benefit amount of the individual's current claim determined under subdivision (2); multiplied by

(B) ninety percent (90%);

rounded (if not already a multiple of one dollar (\$1)) to the next higher dollar.

(c) The disqualifications provided in this section shall be subject to the following modifications:

(1) An individual shall not be subject to disqualification because of separation from the individual's employment if:

(A) the individual left to accept with another employer previously secured permanent full-time work which offered reasonable expectation of continued covered employment and betterment of wages or working conditions and thereafter was employed on said job;

(B) having been simultaneously employed by two (2) employers, the individual leaves one (1) such employer voluntarily without good cause in connection with the work but remains in employment with the second employer with a reasonable expectation of continued employment; or

- (C) the individual left to accept recall made by a base period employer.*
- (2) An individual whose unemployment is the result of medically substantiated physical disability and who is involuntarily unemployed after having made reasonable efforts to maintain the employment relationship shall not be subject to disqualification under this section for such separation.*
- (3) An individual who left work to enter the armed forces of the United States shall not be subject to disqualification under this section for such leaving of work.*
- (4) An individual whose employment is terminated under the compulsory retirement provision of a collective bargaining agreement to which the employer is a party, or under any other plan, system, or program, public or private, providing for compulsory retirement and who is otherwise eligible shall not be deemed to have left the individual's work voluntarily without good cause in connection with the work. However, if such individual subsequently becomes reemployed and thereafter voluntarily leaves work without good cause in connection with the work, the individual shall be deemed ineligible as outlined in this section.*
- (5) An otherwise eligible individual shall not be denied benefits for any week because the individual is in training approved under Section 236(a)(1) of the Trade Act of 1974, nor shall the individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this law (or any applicable federal unemployment compensation law), relating to availability for work, active search for work, or refusal to accept work. For purposes of this subdivision, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974), and wages for such work at not less than eighty percent (80%) of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974.*
- (6) An individual is not subject to disqualification because of separation from the individual's employment if:*
- (A) the employment was outside the individual's labor market;*
 - (B) the individual left to accept previously secured full-time work with an employer in the individual's labor market; and*
 - (C) the individual actually became employed with the employer in the individual's labor market.*
- (7) An individual who, but for the voluntary separation to move to another labor market to join a spouse who had moved to that labor market, shall not be disqualified for that voluntary separation, if the individual is otherwise eligible for benefits. Benefits paid to the spouse whose eligibility is established under this subdivision shall not be charged against the employer from whom the spouse voluntarily separated.*
- (8) An individual shall not be subject to disqualification if the individual voluntarily left employment or was discharged due to circumstances directly caused by domestic or family violence (as defined in IC 31-9-2-42). An individual who may be entitled to benefits based on this modification may apply to the office of the attorney general under IC 5-26.5 to have an address designated by the office of the attorney general to serve as the individual's address for purposes of this article.*

As used in this subsection, "labor market" means the area surrounding an individual's permanent residence, outside which the individual cannot reasonably commute on a daily basis. In

determining whether an individual can reasonably commute under this subdivision, the department shall consider the nature of the individual's job.

(d) "Discharge for just cause" as used in this section is defined to include but not be limited to:

- (1) separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge;
- (2) knowing violation of a reasonable and uniformly enforced rule of an employer, including a rule regarding attendance;
- (3) if an employer does not have a rule regarding attendance, an individual's unsatisfactory attendance, if good cause for absences or tardiness is not established;
- (4) damaging the employer's property through willful negligence;
- (5) refusing to obey instructions;
- (6) reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours;
- (7) conduct endangering safety of self or coworkers;
- (8) incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction;
- (9) any breach of duty in connection with work which is reasonably owed an employer by an employee; or
- (10) testing positive on a drug test under IC 16-27-2.5.

(e) To verify that domestic or family violence has occurred, an individual who applies for benefits under subsection (c)(8) shall provide one (1) of the following:

- (1) A report of a law enforcement agency (as defined in IC 10-13-3-10).
- (2) A protection order issued under IC 34-26-5.
- (3) A foreign protection order (as defined in IC 34-6-2-48.5).
- (4) An affidavit from a domestic violence service provider verifying services provided to the individual by the domestic violence service provider.

Indiana Department of Workforce Development

AFFIDAVIT OF DOMESTIC OR FAMILY VIOLENCE SERVICE PROVIDER

I affirm that the individual listed below sought supportive services available to victims of domestic or family violence. I also affirm that the organization listed below provides supportive services to victims of domestic or family violence.

Name _____

Title _____

Organization _____

Telephone _____

Full Name of Individual Seeking Services

Social Security Number

Please return this affidavit to your Local Office by this date:

_____ *so that the Department can issue a determination regarding your eligibility for benefits.*

