



Reprinted
March 3, 2020

ENGROSSED HOUSE BILL No. 1244

DIGEST OF HB 1244 (Updated March 2, 2020 6:38 pm - DI 132)

Citations Affected: IC 22-4; noncode.

Synopsis: Unemployment hearings and appeals. Provides that, in unemployment appeals, the proceedings before an administrative law judge are de novo. Provides that an administrative law judge, review board member, or other individual who adjudicates claims can consider as evidence and include in the record those records of the department of workforce development (department) that are material to the issues being considered in the hearing if the records are made available to the interested parties prior to the hearing through (1) the United States mail or (2) the department's electronic portal. Removes the provision that
(Continued next page)

Effective: Upon passage; July 1, 2020.

Vermilion, Leonard

(SENATE SPONSORS — BOOTS, PERFECT, RANDOLPH LONNIE M)

January 13, 2020, read first time and referred to Committee on Employment, Labor and Pensions.

January 28, 2020, reported — Do Pass.

January 30, 2020, read second time, ordered engrossed. Engrossed.

February 3, 2020, read third time, passed. Yeas 89, nays 0.

SENATE ACTION

February 17, 2020, read first time and referred to Committee on Pensions and Labor.

February 27, 2020, amended, reported favorably — Do Pass.

March 2, 2020, read second time, amended, ordered engrossed.

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Digest Continued

provides that the department shall define the term "effort to secure full-time work". Provides that an individual has made an effort to secure full-time work with respect to any week in which the individual has completed certain activities directed by the department and affirmed that the individual has made an effort to secure full-time work. Requires the department, not later than December 31, 2021, to adopt rules to define (1) the acceptable types of work search activities, (2) the number of work search activities required to be completed in any week, (3) the requirements for producing documentation, and (4) the requirement to apply to, and accept if offered, suitable jobs referred by the department. Provides that 646 IAC 5-9-3 is void and directs the publisher of the Indiana Administrative Code and the Indiana Register to remove the section from the Indiana Administrative Code.

EH 1244—LS 6605/DI 128



Reprinted
March 3, 2020

Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1244

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-4-14-3, AS AMENDED BY P.L.171-2016,
2 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 3. (a) An individual who is receiving benefits
4 as determined under IC 22-4-15-1(c)(8) may restrict the individual's
5 availability because of the individual's need to address the physical,
6 psychological, or legal effects of being a victim of domestic or family
7 violence (as defined in IC 31-9-2-42).
8 (b) An unemployed individual shall be eligible to receive benefits
9 with respect to any week only if the individual:
10 (1) is physically and mentally able to work;
11 (2) is available for work;
12 (3) is found by the department to be making an effort to secure
13 full-time work; and
14 (4) participates in reemployment services and reemployment and
15 eligibility assessment activities as required by section 3.2 of this
16 chapter or when directed by the department as provided under
17 section 3.5 of this chapter, unless the department determines that:

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- 1 (A) the individual has completed the reemployment services;
2 or
3 (B) failure by the individual to participate in or complete the
4 reemployment services is excused by the director under
5 IC 22-4-14-2(b).

6 The term "effort to secure full-time work" shall be defined by the
7 department through rule which shall take into consideration whether
8 such individual has a reasonable assurance of reemployment and, if so,
9 the length of the prospective period of unemployment. However, if an
10 otherwise eligible individual is unable to work or unavailable for work
11 on any normal work day of the week the individual shall be eligible to
12 receive benefits with respect to such week reduced by one-third (1/3)
13 of the individual's weekly benefit amount for each day of such inability
14 to work or unavailability for work.

15 (c) For the purpose of this article, unavailability for work of an
16 individual exists in, but is not limited to, any case in which, with
17 respect to any week, it is found:

- 18 (1) that such individual is engaged by any unit, agency, or
19 instrumentality of the United States, in charge of public works or
20 assistance through public employment, or any unit, agency, or
21 instrumentality of this state, or any political subdivision thereof,
22 in charge of any public works or assistance through public
23 employment;
24 (2) that such individual is in full-time active military service of
25 the United States, or is enrolled in civilian service as a
26 conscientious objector to military service;
27 (3) that such individual is suspended for misconduct in
28 connection with the individual's work; or
29 (4) that such individual is in attendance at a regularly established
30 public or private school during the customary hours of the
31 individual's occupation or is in any vacation period intervening
32 between regular school terms during which the individual is a
33 student. However, this subdivision does not apply to any
34 individual who is attending a regularly established school, has
35 been regularly employed and upon becoming unemployed makes
36 an effort to secure full-time work and is available for suitable
37 full-time work with the individual's last employer, or is available
38 for any other full-time employment deemed suitable.

39 (d) Notwithstanding any other provisions in this section or
40 IC 22-4-15-2, no otherwise eligible individual shall be denied benefits
41 for any week because the individual is in training with the approval of
42 the department, nor shall such individual be denied benefits with



1 respect to any week in which the individual is in training with the
 2 approval of the department by reason of the application of the
 3 provisions of this section with respect to the availability for work or
 4 active search for work or by reason of the application of the provisions
 5 of IC 22-4-15-2 relating to failure to apply for, or the refusal to accept,
 6 suitable work. The department shall by rule prescribe the conditions
 7 under which approval of such training will be granted.

8 (e) Notwithstanding subsection (b), (c), or (d), or IC 22-4-15-2, an
 9 otherwise eligible individual shall not be denied benefits for any week
 10 or determined not able, available, and actively seeking work, because
 11 the individual is responding to a summons for jury service. The
 12 individual shall:

13 (1) obtain from the court proof of the individual's jury service;
 14 and

15 (2) provide to the department, in the manner the department
 16 prescribes by rule, proof of the individual's jury service.

17 **(f) If an otherwise eligible individual is unable to work or**
 18 **unavailable for work on any normal work day of the week, the**
 19 **individual shall be eligible to receive benefits with respect to such**
 20 **week reduced by one-third (1/3) of the individual's weekly benefit**
 21 **amount for each day of such inability to work or unavailability for**
 22 **work.**

23 **(g) An individual has made an effort to secure full-time work**
 24 **with respect to any week in which the individual has:**

25 **(1) completed activities directed by the department under**
 26 **sections 3.2 and 3.5 of this chapter;**

27 **(2) completed any work search activities as directed by the**
 28 **department under rules adopted by the department under**
 29 **subsection (h); and**

30 **(3) affirmed the individual has made an effort to secure**
 31 **full-time work.**

32 **(h) Not later than December 31, 2021, the department shall**
 33 **adopt rules under IC 4-22-2, including emergency rules adopted in**
 34 **the same manner provided under IC 4-22-2-37.1, to define:**

35 **(1) the acceptable types of work search activities;**

36 **(2) the number of work search activities required to be**
 37 **completed in any week;**

38 **(3) the requirements for producing documentation; and**

39 **(4) the requirement to apply to, and accept if offered, suitable**
 40 **jobs referred by the department.**

41 **(i) The rules adopted by the department under subsection (h)**
 42 **shall:**



1 **(1) take into consideration whether an individual has a**
 2 **reasonable assurance of reemployment and, if so, the length**
 3 **of the prospective period of unemployment; and**
 4 **(2) be consistent with the guidance provided by the United**
 5 **States Department of Labor in Training and Employment**
 6 **Notice No. 17-19, dated February 10, 2020.**

7 SECTION 2. IC 22-4-17-6, AS AMENDED BY P.L.122-2019,
 8 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2020]: Sec. 6. (a) The manner in which disputed claims shall
 10 be presented and the conduct of hearings and appeals, including the
 11 conduct of administrative law judges, review board members, and other
 12 individuals who adjudicate claims during a hearing or other
 13 adjudicative process, shall be in accordance with rules adopted by the
 14 department for determining the rights of the parties, whether or not the
 15 rules conform to common law or statutory rules of evidence and other
 16 technical rules of procedure.

17 **(b) The proceedings before an administrative law judge are de**
 18 **novo, except as provided in subsection (c).**

19 **(c) Administrative law judges, review board members, and**
 20 **other individuals who adjudicate claims during a hearing or other**
 21 **adjudicative process may consider as evidence and include in the**
 22 **record described in subsection (d) records of the department that**
 23 **are material to the issues being considered in the hearing if the**
 24 **records are made available to the interested parties prior to the**
 25 **hearing through the following:**

26 **(1) The United States mail.**

27 **(2) The department's electronic portal.**

28 ~~(b)~~ **(d)** A full and complete record shall be kept of all proceedings
 29 in connection with a disputed claim. The testimony at any hearing upon
 30 a disputed claim need not be transcribed unless the disputed claim is
 31 further appealed.

32 ~~(c)~~ **(e)** Each party to a hearing before an administrative law judge
 33 held under section 3 of this chapter shall be sent a notice of the hearing
 34 at least ten (10) days before the date of the hearing specifying the date,
 35 place, and time of the hearing, identifying the issues to be decided, and
 36 providing complete information about the rules of evidence and
 37 standards of proof that the administrative law judge will use to
 38 determine the validity of the claim.

39 ~~(d)~~ **(f)** If a hearing so scheduled has not commenced within at least
 40 sixty (60) minutes of the time for which it was scheduled, then a party
 41 involved in the hearing may request a continuance of the hearing. Upon
 42 submission of a request for continuance of a hearing under



1 circumstances provided in this section, the continuance shall be
2 granted unless the party requesting the continuance was responsible for
3 the delay in the commencement of the hearing as originally scheduled.
4 In the latter instance, the continuance shall be discretionary with the
5 administrative law judge. Testimony or other evidence introduced by
6 a party at a hearing before an administrative law judge or the review
7 board that another party to the hearing:

8 (1) is not prepared to meet; and

9 (2) by ordinary prudence could not be expected to have
10 anticipated;

11 shall be good cause for continuance of the hearing and upon motion
12 such continuance shall be granted.

13 SECTION 3. [EFFECTIVE UPON PASSAGE] (a) 646 IAC 5-9-3
14 is void.

15 (b) The publisher of the Indiana Administrative Code and the
16 Indiana Register shall remove the rule voided by subsection (a)
17 from the Indiana Administrative Code.

18 (c) This SECTION expires January 1, 2021.

19 SECTION 4. An emergency is declared for this act.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred House Bill 1244, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1244 as introduced.)

VANNATTER

Committee Vote: Yeas 9, Nays 2

COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred House Bill No. 1244, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 16, delete "those".

Page 1, line 17, delete "hearing." and insert "**hearing if the records are made available to the interested parties at least seven (7) days prior to the hearing through the following:**

(1) The United States mail.

(2) The department's electronic portal."

and when so amended that said bill do pass.

(Reference is to HB 1244 as printed January 28, 2020.)

BOOTS, Chairperson

Committee Vote: Yeas 9, Nays 0.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1244 be amended to read as follows:

Page 2, line 1, delete "at least seven".

Page 2, line 2, delete "(7) days".

(Reference is to EHB 1244 as printed February 28, 2020.)

BOOTS

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SENATE MOTION

Madam President: I move that Engrossed House Bill 1244 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 22-4-14-3, AS AMENDED BY P.L.171-2016, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) An individual who is receiving benefits as determined under IC 22-4-15-1(c)(8) may restrict the individual's availability because of the individual's need to address the physical, psychological, or legal effects of being a victim of domestic or family violence (as defined in IC 31-9-2-42).

(b) An unemployed individual shall be eligible to receive benefits with respect to any week only if the individual:

- (1) is physically and mentally able to work;
- (2) is available for work;
- (3) is found by the department to be making an effort to secure full-time work; and
- (4) participates in reemployment services and reemployment and eligibility assessment activities as required by section 3.2 of this chapter or when directed by the department as provided under section 3.5 of this chapter, unless the department determines that:
 - (A) the individual has completed the reemployment services; or
 - (B) failure by the individual to participate in or complete the reemployment services is excused by the director under IC 22-4-14-2(b).

The term "effort to secure full-time work" shall be defined by the department through rule which shall take into consideration whether such individual has a reasonable assurance of reemployment and, if so, the length of the prospective period of unemployment. However, if an otherwise eligible individual is unable to work or unavailable for work on any normal work day of the week the individual shall be eligible to receive benefits with respect to such week reduced by one-third (1/3) of the individual's weekly benefit amount for each day of such inability to work or unavailability for work.

(c) For the purpose of this article, unavailability for work of an individual exists in, but is not limited to, any case in which, with respect to any week, it is found:

- (1) that such individual is engaged by any unit, agency, or instrumentality of the United States, in charge of public works or



assistance through public employment, or any unit, agency, or instrumentality of this state, or any political subdivision thereof, in charge of any public works or assistance through public employment;

(2) that such individual is in full-time active military service of the United States, or is enrolled in civilian service as a conscientious objector to military service;

(3) that such individual is suspended for misconduct in connection with the individual's work; or

(4) that such individual is in attendance at a regularly established public or private school during the customary hours of the individual's occupation or is in any vacation period intervening between regular school terms during which the individual is a student. However, this subdivision does not apply to any individual who is attending a regularly established school, has been regularly employed and upon becoming unemployed makes an effort to secure full-time work and is available for suitable full-time work with the individual's last employer, or is available for any other full-time employment deemed suitable.

(d) Notwithstanding any other provisions in this section or IC 22-4-15-2, no otherwise eligible individual shall be denied benefits for any week because the individual is in training with the approval of the department, nor shall such individual be denied benefits with respect to any week in which the individual is in training with the approval of the department by reason of the application of the provisions of this section with respect to the availability for work or active search for work or by reason of the application of the provisions of IC 22-4-15-2 relating to failure to apply for, or the refusal to accept, suitable work. The department shall by rule prescribe the conditions under which approval of such training will be granted.

(e) Notwithstanding subsection (b), (c), or (d), or IC 22-4-15-2, an otherwise eligible individual shall not be denied benefits for any week or determined not able, available, and actively seeking work, because the individual is responding to a summons for jury service. The individual shall:

(1) obtain from the court proof of the individual's jury service; and

(2) provide to the department, in the manner the department prescribes by rule, proof of the individual's jury service.

(f) If an otherwise eligible individual is unable to work or unavailable for work on any normal work day of the week, the individual shall be eligible to receive benefits with respect to such



week reduced by one-third (1/3) of the individual's weekly benefit amount for each day of such inability to work or unavailability for work.

(g) An individual has made an effort to secure full-time work with respect to any week in which the individual has:

- (1) completed activities directed by the department under sections 3.2 and 3.5 of this chapter;
- (2) completed any work search activities as directed by the department under rules adopted by the department under subsection (h); and
- (3) affirmed the individual has made an effort to secure full-time work.

(h) Not later than December 31, 2021, the department shall adopt rules under IC 4-22-2, including emergency rules adopted in the same manner provided under IC 4-22-2-37.1, to define:

- (1) the acceptable types of work search activities;
- (2) the number of work search activities required to be completed in any week;
- (3) the requirements for producing documentation; and
- (4) the requirement to apply to, and accept if offered, suitable jobs referred by the department.

(i) The rules adopted by the department under subsection (h) shall:

- (1) take into consideration whether an individual has a reasonable assurance of reemployment and, if so, the length of the prospective period of unemployment; and
- (2) be consistent with the guidance provided by the United States Department of Labor in Training and Employment Notice No. 17-19, dated February 10, 2020."

Page 2, after line 31, begin a new paragraph and insert:

"SECTION 3. [EFFECTIVE UPON PASSAGE] (a) 646 IAC 5-9-3 is void. (b) The publisher of the Indiana Administrative Code and the Indiana Register shall remove the rule voided by subsection (a) from the Indiana Administrative Code.

(c) This SECTION expires January 1, 2021.

SECTION 4. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1244 as printed February 28, 2020.)

BOOTS

