

State of Arkansas
95th General Assembly
Regular Session, 2025

A Bill

SENATE BILL 598

By: Senator J. English
By: Representative Cozart

For An Act To Be Entitled

AN ACT TO AMEND VARIOUS LAWS RELATED TO THE DIVISION OF WORKFORCE SERVICES; TO ALTER THE TEST USED FOR DETERMINING THE EMPLOYMENT STATUS OF INDIVIDUALS; TO AMEND THE DEFINITION OF "EMPLOYEE" UNDER THE WORKERS' COMPENSATION LAW RESULTING FROM INITIATED ACT 4 OF 1948; TO STREAMLINE THE OPERATIONS OF THE DIVISION OF WORKFORCE SERVICES; TO REFLECT THE REMOVAL OF THE DEPARTMENT OF COMMERCE FROM ADMINISTRATION OF THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM; TO ALTER THE DISTRIBUTION OF PROCEEDS FROM ADMINISTRATIVE ASSESSMENTS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND VARIOUS LAWS RELATED TO THE DIVISION OF WORKFORCE SERVICES; AND TO AMEND THE DEFINITION OF "EMPLOYEE" UNDER THE WORKERS' COMPENSATION LAW RESULTING FROM INITIATED ACT 4 OF 1948.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 11-1-204 is amended to read as follows:
11-1-204. Determination of employment status.

For purposes of this title, an employer or agency charged with determining the employment status of an individual shall use the ~~twenty-factor test~~ factors enumerated by the Internal Revenue Service in ~~Rev. Rul. 87-41, 1987-1 C.B. 296~~ 26 C.F.R. § 31.3121(d)-1, as it existed on January 1,



2025, in making its determination ~~and shall consider whether:~~

~~(1) A person for whom a service is performed has the right to require compliance with instructions, including without limitation when, where, and how a worker is to work;~~

~~(2) A worker is required to receive training, including without limitation through:~~

~~(A) Working with an experienced employee;~~

~~(B) Corresponding with the person for whom a service is performed;~~

~~(C) Attending meetings; or~~

~~(D) Other training methods;~~

~~(3) A worker's services are integrated into the business operation of the person for whom a service is performed and are provided in a way that shows the worker's services are subject to the direction and control of the person for whom a service is performed;~~

~~(4) A worker's services are required to be performed personally, indicating an interest in the methods used and the results;~~

~~(5) A person for whom a service is performed hires, supervises, or pays assistants;~~

~~(6) A continuing relationship exists between a worker performing services and a person for whom a service is performed;~~

~~(7) A worker performing a service has hours set by the person for whom a service is performed;~~

~~(8) A worker is required to devote substantially full time to the business of the person for whom a service is performed, indicating the person for whom a service is performed has control over the amount of time the worker spends working and by implication restricts the worker from obtaining other gainful work;~~

~~(9)(A) The work is performed on the premises of the person for whom a service is performed, or the person for whom a service is performed has control over where the work takes place.~~

~~(B) A person for whom a service is performed has control over where the work takes place if the person has the right to:~~

~~(i) Compel the worker to travel a designated route;~~

~~(ii) Compel the worker to canvass a territory within a certain time; or~~

~~(iii) Require that the work be done at a specific place, especially if the work could be performed elsewhere;~~

~~(10) A worker is required to perform services in the order or sequence set by the person for whom a service is performed or the person for whom a service is performed retains the right to set the order or sequence;~~

~~(11) A worker is required to submit regular oral or written reports to the person for whom a service is performed;~~

~~(12) A worker is paid by the hour, week, or month except when he or she is paid by the hour, week, or month only as a convenient way of paying a lump sum agreed upon as the cost of a job;~~

~~(13) A person for whom a service is performed pays the worker's business or traveling expenses;~~

~~(14) A person for whom a service is performed provides significant tools and materials to the worker performing services;~~

~~(15) A worker invests in the facilities used in performing the services;~~

~~(16) A worker realizes a profit or suffers a loss as a result of the services performed that is in addition to the profit or loss ordinarily realized by an employee;~~

~~(17) A worker performs more than de minimis services for more than one (1) person or firm at the same time, unless the persons or firms are part of the same service arrangement;~~

~~(18) A worker makes his or her services available to the general public on a regular and consistent basis;~~

~~(19) A person for whom a service is performed retains the right to discharge the worker; and~~

~~(20) A worker has the right to terminate the relationship with the person for whom a service is performed at any time he or she wishes without incurring liability.~~

SECTION 2. Arkansas Code § 11-4-103 is amended to read as follows:

11-4-103. Employment status.

For purposes of this chapter, employment status as an employee or independent contractor is determined by consideration of the ~~twenty-factor~~ test factors required by the Empower Independent Contractors Act of 2019, § 11-1-201 et seq.

SECTION 3. Arkansas Code § 11-4-607(1)(A), concerning the definition of "employee" under the wage discrimination law, is amended to read as follows:

(1)(A) "Employee" means an individual who performs services for an employer for wages in a lawful business, industry, trade, profession, or enterprise, and the individual's employment status has been determined by consideration of the ~~twenty-factor test~~ factors required by the Empower Independent Contractors Act of 2019, § 11-1-201 et seq.

SECTION 4. Arkansas Code § 11-9-102(9)(A), concerning the definition of "employee" under the Workers' Compensation Law resulting from Initiated Act 4 of 1948, is amended to read as follows:

(9)(A) "Employee" means an individual, including a minor, whether lawfully or unlawfully employed in the service of an employer under a contract of hire or apprenticeship, written or oral, expressed or implied, and the individual's employment status has been determined by consideration of the ~~twenty-factor test~~ factors required by the Empower Independent Contractors Act of 2019, § 11-1-201 et seq.

SECTION 5. Arkansas Code § 11-9-103(d), concerning the applicability of the chapter in the determination of employment status under the Workers' Compensation Law resulting from Initiated Act 4 of 1948, is amended to read as follows:

(d) For purposes of this chapter, employment status as an employee or independent contractor is determined by consideration of the ~~twenty-factor test~~ factors required by the Empower Independent Contractors Act of 2019, § 11-1-201 et seq.

SECTION 6. Arkansas Code § 11-10-210(e), concerning the definition of "employment" related services performed by an individual for an employer for wages, under the Division of Workforce Services Law, is amended to read as follows:

(e) Service performed by an individual for an employer for wages in a lawful business, industry, trade, profession, or enterprise, and the individual's employment status has been determined by consideration of the

~~twenty-factor test~~ factors required by the Empower Independent Contractors Act of 2019, § 11-1-201 et seq., is deemed to be employment under this chapter.

SECTION 7. Arkansas Code § 11-10-301(a), concerning the creation of the Division of Workforce Services, is amended to read as follows:

(a)(1) There is created a division to be known as the “Division of Workforce Services”.

(2) The division shall be administered by a full-time salaried director.

~~(3) The Director of the Division of Workforce Services shall be appointed by and serve at the pleasure of the Governor.~~

~~(4) The director~~ Director of the Division of Workforce Services shall report to the Secretary of the Department of Commerce.

~~(5) The director shall have resided in the state for at least five (5) years and shall be a qualified elector.~~

SECTION 8. Arkansas Code § 11-10-507(a)(3)(E), concerning the amount of time considered as a short-term layoff related to being able and available to work under the Division of Workforce Services Law related to eligibility for unemployment compensation benefits, is amended to read as follows:

(E) An individual on short-term layoff who expects to be recalled by his or her employer to a full-time job and whose employer intends to recall the individual to a full-time job within ~~ten (10)~~ three (3) weeks after the initial date of his or her layoff shall not be required during the layoff to register for work at a division office or to seek other work.

SECTION 9. Arkansas Code § 11-10-507(b), concerning the work search contacts required under the Division of Workforce Services Law, is amended to add an additional subdivision to read as follows:

(4) The director may establish by rule the criteria for the reduction or removal of the work search requirement under this section.

SECTION 10. Arkansas Code § 11-10-519(a)(1)(A), concerning the disqualification of benefits for false statements, is amended to read as follows:

(1)(A) If he or she willfully makes a false statement or misrepresentation of a material fact or willfully fails to disclose a material fact in filing an initial claim or a claim renewal, he or she shall be disqualified from the effective date of the disqualification until he or she has twenty (20) weeks of employment as defined under § 11-10-210 in each of ~~which~~ the weeks he or she has earned wages equal to at least his or her weekly benefit amount.

SECTION 11. Arkansas Code § 11-10-521(b)(1)(A), concerning a notice of the filing of an initial claim under the Division of Workforce Services Law to the last employer, is amended to read as follows:

(b)(1)(A) A notice of the filing of an initial claim shall be immediately mailed or posted online under subsection (c) of this section, or both, to the employing unit known to the claimant as his or her last employer as defined under § 11-10-209.

SECTION 12. Arkansas Code § 11-10-532, concerning recovery of amounts paid under the Division of Workforce Services Law, is amended to add an additional subsection to read as follows:

(h) The director may promulgate rules to establish criteria for the eligibility of claimants for a waiver of penalties and interest for the settlement of overpayments under this section.

SECTION 13. Arkansas Code § 11-10-720(a)(2)(A), concerning the certification of assessment after ten (10) days related to delinquent contributions, interest, or penalties under the Division of Workforce Services Law, is amended to read as follows:

(2)(A) At the end of ten (10) days thereafter, the assessment shall become prima facie correct, and the director shall certify the amount of the delinquent contributions, interest, and penalties to the clerk of the circuit court of the county wherein the employer is domiciled or has a place of business, and it shall be the duty of the clerk to file the certificate of record and to enter it in the record of the circuit court for judgment and decree under the procedure prescribed for filing ~~transcripts of judgments by~~ § 16-19-1011 [repealed].

SECTION 14. Arkansas Code § 15-4-3705 is amended to read as follows:
15-4-3705. Arkansas Workforce Development Board committees.

(a)(1) To comply with the requirements and responsibilities assigned under this subchapter, the Arkansas Workforce Development Board shall select from its membership an executive committee to be composed of at least nine (9) members but no more than eleven (11) members.

(2) The Chair of the Arkansas Workforce Development Board and the Vice Chair of the Arkansas Workforce Development Board shall serve as chair and vice chair of the executive committee, respectively.

(3) The membership of the executive committee shall include:

(A) At least five (5) members representing businesses;

(B) At least one (1) chief elected official; and

(C) At least two (2) representatives from among members appointed under § 15-4-3704(b)(2)(B).

~~(b)(1) The board shall have a standing committee to provide oversight of the Temporary Assistance for Needy Families Program and ensure that all program participants are receiving the assistance, the information, and the services needed to help these low-income parents prepare for and connect with employment that will lead to a self-sufficient wage.~~

~~(2) The membership of the standing committee shall include:~~

~~(A) At least five (5) members representing businesses;~~

~~(B) At least one (1) chief elected official;~~

~~(C) At least one (1) member from among those members appointed under § 15-4-3704(b)(2)(B);~~

~~(D) The Director of the Division of Workforce Services;~~

and

~~(E) The Director of the Division of County Operations, as a standing committee voting member who is also not a member of the board.~~

~~(e)(b)~~ The board may form other committees as needed.

~~(d)(c)~~ Membership on any committee shall not extend beyond the member's term of service on the board.

SECTION 15. Arkansas Code § 19-5-984(b)(2), concerning the use of the Division of Workforce Services Special Fund, is amended to read as follows:

(2) The fund shall be used for refunds of interest and penalties erroneously paid and other additional purposes as determined by the Director

of the Division of Workforce Services under §§ 11-10-532 and 11-10-716 – 11-10-723 to be necessary to the proper administration of the following:

(A) The Division of Workforce Services Law, § 11-10-101 et seq.;

(B) The Arkansas Workforce Innovation and Opportunity Act, § 15-4-3701 et seq., or its successor;

~~(C) The Temporary Assistance for Needy Families Program, § 20-76-101 et seq., or its successor;~~

~~(D) The Arkansas Health and Opportunity for Me Act of 2021, § 23-61-1001 et seq., or its successor; and~~

~~(E)~~(C) Any other programs transferred under the direction and supervision of the Division of Workforce Services, by either executive order or legislative enactment, or their successor programs.

SECTION 16. Arkansas Code § 19-5-1131(b), concerning the use of the Division of Workforce Services Training Trust Fund, is amended to read as follows:

(b)(1) The fund shall consist of the proceeds of the administrative assessment specified in § 11-10-706(c)(3), any interest accruing on these revenues, and any other funds made available by the General Assembly.

(2) The fund shall be used for personnel services, operating expenses, and grants for the administration of worker training programs under rules promulgated by the Director of the Division of Workforce Services.

SECTION 17. Arkansas Code § 20-76-106(a)(2), concerning the statewide implementation plan related to transitional employment assistance, is amended to read as follows:

(2)(A) Ensure that program recipients throughout the state, including those in rural areas, have comparable access to transitional employment assistance benefits.

~~(B) The statewide implementation plan shall be subject to the review and recommendation of the Arkansas Workforce Development Board.~~

SECTION 18. Arkansas Code § 20-76-704(a)(2), concerning the powers and duties of the Department of Human Services under the Drug Screening and Testing Act of 2015, is amended to read as follows:

(2) Develop appropriate screening techniques and processes to establish reasonable cause that an applicant or recipient is using a drug and to establish the necessary criteria ~~to permit the Division of Workforce Services, in coordination with the department,~~ to require the applicant or recipient to undergo no less than a five-panel drug test;

SECTION 19. Arkansas Code § 21-6-402(c), concerning fees to be charged by the circuit court clerks, is amended to read as follows:

(c) The fees to be charged by the circuit court clerks of this state to the Department of Finance and Administration and the Division of Workforce Services shall be as follows:

(1) For filing a certificate of indebtedness issued by the Department of Finance and Administration or a certificate of overpayment or certificate of assessment by the Division of Workforce Services 8.00

(2) For filing a release of a certificate of indebtedness, a certificate of overpayment, or a certificate of assessment 6.00

(3) For an execution on a certificate of indebtedness filed by the Department of Finance and Administration or a certificate of overpayment or a certificate of assessment filed by the Division of Workforce Services 10.00.

SECTION 20. Arkansas Code § 23-115-1004(c), concerning the priority of liens by a claimant agency on winnings under the Arkansas Scholarship Lottery Act, is amended to read as follows:

(c) The liens created by this section are ranked by priority as follows:

- (1) Taxes due the state;
- (2) Delinquent child support; ~~and~~
- (3) Overpayment of unemployment insurance benefits; and
- ~~(3)~~(4) All other judgments and liens in order of the date

entered or perfected.

SECTION 21. Arkansas Code § 25-30-109(a)(1), concerning the creation of the Office of Skills Development, is amended to read as follows:

(a)(1) There is created ~~within the Department of Commerce~~ the Office of Skills Development within the Division of Workforce Services.

APPROVED: 4/17/25