

1 State of Arkansas
2 95th General Assembly
3 Regular Session, 2025
4

A Bill

SENATE BILL 598

5 By: Senator J. English
6 By: Representative Cozart
7

For An Act To Be Entitled

8
9 AN ACT TO AMEND VARIOUS LAWS RELATED TO THE DIVISION
10 OF WORKFORCE SERVICES; TO ALTER THE TEST USED FOR
11 DETERMINING THE EMPLOYMENT STATUS OF INDIVIDUALS; TO
12 AMEND THE DEFINITION OF "EMPLOYEE" UNDER THE WORKERS'
13 COMPENSATION LAW RESULTING FROM INITIATED ACT 4 OF
14 1948; TO STREAMLINE THE OPERATIONS OF THE DIVISION OF
15 WORKFORCE SERVICES; TO REFLECT THE REMOVAL OF THE
16 DEPARTMENT OF COMMERCE FROM ADMINISTRATION OF THE
17 TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM; TO
18 ALTER THE DISTRIBUTION OF PROCEEDS FROM
19 ADMINISTRATIVE ASSESSMENTS; AND FOR OTHER PURPOSES.
20

Subtitle

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22
23 TO AMEND VARIOUS LAWS RELATED TO THE
24 DIVISION OF WORKFORCE SERVICES; AND TO
25 AMEND THE DEFINITION OF "EMPLOYEE" UNDER
26 THE WORKERS' COMPENSATION LAW RESULTING
27 FROM INITIATED ACT 4 OF 1948.
28

29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
30

31 SECTION 1. Arkansas Code § 11-1-204 is amended to read as follows:
32 11-1-204. Determination of employment status.

33 For purposes of this title, an employer or agency charged with
34 determining the employment status of an individual shall use the ~~twenty-~~
35 ~~factor test~~ factors enumerated by the Internal Revenue Service in ~~Rev. Rul.~~
36 ~~87-41, 1987-1 C.B. 296~~ 26 C.F.R. § 31.3121(d)-1, as it existed on January 1,



1 ~~2025~~, in making its determination and shall consider whether:

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

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

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

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

10 (C) ~~Attending meetings; or~~

11 (D) ~~Other training methods;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30
31 SECTION 2. Arkansas Code § 11-4-103 is amended to read as follows:

32 11-4-103. Employment status.

33 For purposes of this chapter, employment status as an employee or
34 independent contractor is determined by consideration of the ~~twenty-factor~~
35 ~~test~~ factors required by the Empower Independent Contractors Act of 2019, §
36 11-1-201 et seq.

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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

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

4
5 SECTION 7. Arkansas Code § 11-10-301(a), concerning the creation of
6 the Division of Workforce Services, is amended to read as follows:

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

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

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

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

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

17
18 SECTION 8. Arkansas Code § 11-10-507(a)(3)(E), concerning the amount
19 of time considered as a short-term layoff related to being able and available
20 to work under the Division of Workforce Services Law related to eligibility
21 for unemployment compensation benefits, is amended to read as follows:

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

27
28 SECTION 9. Arkansas Code § 11-10-507(b), concerning the work search
29 contacts required under the Division of Workforce Services Law, is amended to
30 add an additional subdivision to read as follows:

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

33
34 SECTION 10. Arkansas Code § 11-10-519(a)(1)(A), concerning the
35 disqualification of benefits for false statements, is amended to read as
36 follows:

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

8
9 SECTION 11. Arkansas Code § 11-10-521(b)(1)(A), concerning a notice of
10 the filing of an initial claim under the Division of Workforce Services Law
11 to the last employer, is amended to read as follows:

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

16
17 SECTION 12. Arkansas Code § 11-10-532, concerning recovery of amounts
18 paid under the Division of Workforce Services Law, is amended to add an
19 additional subsection to read as follows:

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

23
24 SECTION 13. Arkansas Code § 11-10-720(a)(2)(A), concerning the
25 certification of assessment after ten (10) days related to delinquent
26 contributions, interest, or penalties under the Division of Workforce
27 Services Law, is amended to read as follows:

28 (2)(A) At the end of ten (10) days thereafter, the assessment
29 shall become prima facie correct, and the director shall certify the amount
30 of the delinquent contributions, interest, and penalties to the clerk of the
31 circuit court of the county wherein the employer is domiciled or has a place
32 of business, and it shall be the duty of the clerk to file the certificate of
33 record and to enter it in the record of the circuit court for judgment and
34 decree under the procedure prescribed for filing ~~transcripts of judgments by~~
35 ~~§ 16-19-1011 [repealed]~~.

36

1 SECTION 14. Arkansas Code § 15-4-3705 is amended to read as follows:
2 15-4-3705. Arkansas Workforce Development Board committees.

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

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

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

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

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

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

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

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

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

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

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

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

26 and

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

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

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

32
33 SECTION 15. Arkansas Code § 19-5-984(b)(2), concerning the use of the
34 Division of Workforce Services Special Fund, is amended to read as follows:

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

1 of the Division of Workforce Services under §§ 11-10-532 and 11-10-716 – 11-
2 10-723 to be necessary to the proper administration of the following:

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

5 (B) The Arkansas Workforce Innovation and Opportunity Act,
6 § 15-4-3701 et seq., or its successor;

7 ~~(C) The Temporary Assistance for Needy Families Program, §~~
8 ~~20-76-101 et seq., or its successor;~~

9 ~~(D) The Arkansas Health and Opportunity for Me Act of~~
10 ~~2021, § 23-61-1001 et seq., or its successor;~~ and

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

14
15 SECTION 16. Arkansas Code § 19-5-1131(b), concerning the use of the
16 Division of Workforce Services Training Trust Fund, is amended to read as
17 follows:

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

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

24
25 SECTION 17. Arkansas Code § 20-76-106(a)(2), concerning the statewide
26 implementation plan related to transitional employment assistance, is amended
27 to read as follows:

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

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

33
34 SECTION 18. Arkansas Code § 20-76-704(a)(2), concerning the powers and
35 duties of the Department of Human Services under the Drug Screening and
36 Testing Act of 2015, is amended to read as follows:

1 (2) Develop appropriate screening techniques and processes to
2 establish reasonable cause that an applicant or recipient is using a drug and
3 to establish the necessary criteria ~~to permit the Division of Workforce~~
4 ~~Services, in coordination with the department,~~ to require the applicant or
5 recipient to undergo no less than a five-panel drug test;
6

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

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

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

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

17 (3) For an execution on a certificate of indebtedness filed by
18 the Department of Finance and Administration or a certificate of overpayment
19 or a certificate of assessment filed by the Division of Workforce Services
20 10.00.

21
22 SECTION 20. Arkansas Code § 23-115-1004(c), concerning the priority of
23 liens by a claimant agency on winnings under the Arkansas Scholarship Lottery
24 Act, is amended to read as follows:

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

27 (1) Taxes due the state;

28 (2) Delinquent child support; ~~and~~

29 (3) Overpayment of unemployment insurance benefits; and

30 ~~(3)(4)~~ All other judgments and liens in order of the date
31 entered or perfected.
32

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

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

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APPROVED: 4/17/25