As Introduced

133rd General Assembly
Regular Session
2019-2020
S. B. No. 299

Senator Craig

A BILL

To enact sections 4143.01, 4143.02, 4143.03, 4143.04, 4143.05, 4143.06, 4143.07, 4143.08, 4143.09, and 4143.99 of the Revised Code to require paid leave for an employee who is unable to work due to quarantine or mandatory isolation, to create a grant program to compensate contract workers who cannot perform services during public health emergencies, to make an appropriation, and to declare an emergency.

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

Section 1. That sections 4143.01, 4143.02, 4143.03, 4143.04, 4143.05, 4143.06, 4143.07, 4143.08, 4143.09, and 4143.99 of the Revised Code be enacted to read as follows:

Sec. 4143.01. (A) "Average weekly wage," "employment," "employer," and "remuneration" have the same meanings as in section 4141.01 of the Revised Code.

(B) "Contract worker" means an individual who performs services for remuneration under any contract of hire, written or oral, express or implied, free from the control and direction of
the hiring entity in connection with the performance of the
work, except that "contract worker" does not include a person
who performs work on a casual basis as defined in section
4111.14 of the Revised Code.

(C) "Duration of inability to contract" means the full
period of an individual's inability to contract next ensuing
after a separation from any base period, as defined in rules
adopted under section 4143.03 of the Revised Code, or subsequent
work and until an individual has become reengaged in contracts
for hire subject to this chapter or employment subject to the
unemployment compensation laws of this or any other state or of
the United States, and until the individual has worked six weeks
and for those weeks has earned or been paid remuneration equal
to six times an average weekly wage of not less than the amount
as determined in the rules adopted by the director of job and
family services under section 4143.03 of the Revised Code.

(D) "Grant year," with respect to an individual, means the
fifty-two week period beginning with the first day of that week
with respect to which the individual first files a valid
application for a grant under this chapter, and thereafter the
fifty-two week period beginning with the first day of that week
with respect to which the individual next files a valid
application after the termination of the individual's last
preceding grant year, except that the application shall not be
considered valid unless the individual has had work in six weeks
and has, since the beginning of the individual's previous grant
year, earned three times the average weekly wage determined for
the previous grant year.

(E) "Qualifying week" means any calendar week in an
individual's base period with respect to which the individual
earns or is paid remuneration as a contract worker.

(F) "Unemployment compensation" has the same meaning as in section 4141.284 of the Revised Code.

Sec. 4143.02. There is created the contract worker compensation grant program to provide compensation to an individual who is unable to perform contract work due to an order or regulation described in section 4143.04 of the Revised Code. The director of job and family services shall administer the program in accordance with the requirements of this chapter.

Sec. 4143.03. (A) With respect to the contract worker compensation grant program created in section 4143.02 of the Revised Code, the director of job and family services, in accordance with Chapter 119. of the Revised Code, shall adopt rules that establish all of the following:

(1) Eligibility requirements an individual shall satisfy to receive a grant under section 4143.04 of the Revised Code, including the definition of an individual's "base period," which shall be similar to the requirements an individual must satisfy to receive unemployment compensation under Chapter 4141. of the Revised Code;

(2) Procedures for an individual to follow to apply for a grant and procedures for the awarding and payment of grants in accordance with section 4143.04 of the Revised Code, which shall be similar to the manner in which claims for unemployment compensation are applied for, awarded, and paid pursuant to Chapter 4141. of the Revised Code;

(3) Requirements to determine an individual's duration of inability to contract;

(4) Requirements for the reduction in grant amounts, that
shall be similar to the requirements specified in sections 4141.31 and 4141.312 of the Revised Code;

(5) Procedures and requirements addressing child support obligations, which shall be similar to the procedures and requirements described in section 4141.284 of the Revised Code;

(6) Procedures to allow an individual to appeal a determination made by the director under this chapter in accordance with Chapter 119. of the Revised Code, including the time limits in which the individual has to file an appeal;

(7) Penalties for overpayments, and procedures to collect those overpayments, which shall be similar to penalties and procedures described in section 4141.35 of the Revised Code.

(B) The director, in accordance with Chapter 119. of the Revised Code, may adopt any other rules as the director determines necessary to administer and enforce this chapter. Any rules adopted under this division shall be consistent with any similar provision addressed in Chapter 4141. of the Revised Code.

(C) The director may apply any agreement the director has entered into pursuant to section 4141.43 of the Revised Code, to the extent permitted under an agreement, in administering this chapter, or the director may enter into similar agreements as the director determines necessary. The director shall cooperate with other agencies as described in division (A) of section 4141.43 of the Revised Code in the administration of this chapter.

Sec. 4143.04. (A) An individual is eligible to receive a grant under the contract worker compensation grant program created in section 4143.02 of the Revised Code for a week in
which the individual satisfies all of the following requirements:

(1) The individual is unable to perform services as a contract worker because the individual or an immediate family member has been quarantined or isolated or the entity for which the individual performs services ceases operations under an order or regulation made or issued by any of the following:

(a) The governor;

(b) The board of health of a city health district pursuant to section 3709.20 of the Revised Code;

(c) The board of health of a general health district pursuant to section 3709.21 of the Revised Code;

(d) A health commissioner pursuant to section 3707.34 of the Revised Code;

(e) The department of health pursuant to section 3701.13 of the Revised Code;

(f) The director of the United States centers for disease control and prevention pursuant to 42 C.F.R. part 70 or 71 or any other federal agency pursuant to federal law.

(2) The individual is not otherwise eligible for unemployment compensation.

(3) The individual satisfies the eligibility requirements established by the director of job and family services in the rules the director adopts under section 4143.03 of the Revised Code.

(B) The director may use the information the director obtains under section 4141.162 of the Revised Code to determine
an individual's eligibility for a grant under this section.

(C) All grants shall be paid through public employment offices in accordance with the rules the director adopts under section 4143.03 of the Revised Code. The director shall use eligible funds to issue grants established in this section, except from the unemployment compensation fund established in section 4141.09 of the Revised Code.

(D) A grant is payable to an eligible and qualified individual who is unable to perform services as a contract worker for the reasons described in division (A) of this section for each week the individual is unable to perform the services at the weekly grant amount determined by the following:

(1) Computing the individual's average weekly wage;

(2) Determining the individual's dependency class under division (F) of this section;

(3) Computing the individual's weekly grant amount to be fifty per cent of the individual's average weekly wage, that shall not exceed the following amounts:

(a) For dependency class A, fifty per cent of the statewide average weekly wage as calculated under section 4141.30 of the Revised Code;

(b) For dependency class B, sixty per cent of the statewide average weekly wage;

(c) For dependency class C, sixty-six and two-thirds per cent of the statewide average weekly wage.

(E) The total amount of a grant to which an individual is entitled in any grant year shall not exceed the lesser of the following two amounts:
(1) An amount equal to twenty-six times the individual's weekly grant amount determined in accordance with division (B) of this section and this division;

(2) An amount computed by taking the sum of twenty times the individual's weekly grant amount for the first twenty base period qualifying weeks plus one times the weekly grant amount for each additional qualifying week beyond the first twenty qualifying weeks in the individual's base period.

(F)(1) As used in this division, "dependent" has the same meaning as in section 4141.30 of the Revised Code.

(2) Each eligible and qualified individual shall be assigned a dependency class in accordance with the following schedule:

<table>
<thead>
<tr>
<th>Class</th>
<th>Description of dependents</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>No dependents, or has insufficient wages to qualify for more than the maximum weekly grant amount as provided under dependency class A</td>
</tr>
<tr>
<td>B</td>
<td>One or two dependents</td>
</tr>
<tr>
<td>C</td>
<td>Three or more dependents</td>
</tr>
</tbody>
</table>

(G) Any weekly grant amount that is not a multiple of one dollar shall be rounded to the next lower multiple of one dollar. Any grant paid under this section shall be calculated against the maximum total unemployment compensation payable to
the individual in a benefit year under section 4141.30 of the Revised Code.

Sec. 4143.05. The director of job and family services shall reduce the amount of any weekly grant amount paid under section 4143.04 of the Revised Code in accordance with the rules the director adopts under section 4143.03 of the Revised Code. The director shall make any deduction from such a grant for purposes of federal income tax payment in a similar manner as the director makes that deduction under section 4141.321 of the Revised Code with respect to unemployment compensation.

Sec. 4143.06. An individual may appeal a determination made by the director of job and family services in accordance with the rules the director adopts under section 4143.03 of the Revised Code. The determination made on completion of that appeals process is a final determination that may be appealed pursuant to section 119.12 of the Revised Code.

Sec. 4143.07. (A) Except with respect to the rules adopted by the director of job and family services under section 4143.03 of the Revised Code concerning child support obligations:

(1) No agreement by an individual to waive the individual's right to a grant under this chapter is valid, nor shall a grant be assigned, released, or commuted.

(2) A grant is exempt from all claims of creditors and from levy, execution, garnishment, attachment, and all other process or remedy for recovery or collection of a debt, and that exemption may not be waived.

(B) No individual claiming a grant under this chapter shall be charged fees of any kind by the director in any proceeding under this chapter. Any individual claiming a grant...
may represent the individual's self personally or be represented by a person admitted to the practice of law or by a person not admitted to the practice of law in any proceeding under this chapter before the director, but the counsel or agent representing an individual claiming a grant shall not either charge or receive for those services more than an amount approved by the director. No person recklessly shall charge or receive anything of value in violation of this division.

(C)(1) No person shall recklessly do any of the following:

(a) Violate this chapter;

(b) Do any act prohibited by this chapter;

(c) Fail to perform any duty lawfully enjoined, within the time prescribed by the director, for which no penalty has been specifically provided;

(d) Fail to obey any lawful order given or made by the director or any judgment or decree made by any court in connection with this chapter.

(2) Every day during which any person fails to comply with any order of the director or to perform any duty enjoined by this chapter constitutes a separate violation of the order or of this chapter.

Sec. 4143.08. The director of job and family services shall enforce this chapter in accordance with the rules the director adopts under section 4143.03 of the Revised Code. In administering and enforcing this chapter, the director shall give great weight and deference to decisions made under Chapter 4141. of the Revised Code with respect to unemployment compensation.
The director may administer oaths, certify to official acts, take depositions, issue subpoenas, and compel the attendance and testimony of witnesses and the production of documents and testimony in connection with the administration of this chapter. In case of the refusal of a witness to attend or testify, or to produce documents, as to any matter regarding which the witness might be lawfully interrogated in the administration of this chapter, the court of common pleas of the county in which the person resides or is found, the court of appeals that has jurisdiction over the county in which the person resides or is found, or a judge thereof, on application of the director, shall compel obedience by proceedings as for contempt as in case of like refusal to obey a similar order of the court.

Sec. 4143.09. This chapter shall be liberally construed.

Sec. 4143.99. (A) Whoever violates division (B) of section 4143.07 of the Revised Code is guilty of a misdemeanor of the first degree.

(B) Whoever violates division (C) of section 4143.07 of the Revised Code shall be fined not more than five hundred dollars for the first offense, and for each subsequent offense, the person shall be fined not less than twenty-five dollars nor more than one thousand dollars.

Section 2. On the effective date of this section, or as soon as possible thereafter, the Director of Job and Family Services shall certify to the Director of Budget and Management the amount necessary to provide grants under Chapter 4143. of the Revised Code, as enacted by this act, through the remainder of fiscal year 2020 and for fiscal year 2021. The Director of Budget and Management shall transfer cash from the Budget
Stabilization Fund (Fund 7013) to the General Revenue Fund in
the amount certified, but the amount shall not exceed the
balance of Fund 7013. The amount transferred is hereby
appropriated to appropriation item 600551, Job and Family
Services Program Support.

On July 1, 2020, or as soon as possible thereafter, the
Director of Job and Family Services may certify to the Director
of Budget and Management an amount up to the unexpended,
unencumbered balance of the foregoing appropriation item 600551,
Job and Family Services Program Support, at the end of fiscal
year 2020 to be reappropriated to fiscal year 2021. The amount
certified is hereby reappropriated to the same appropriation
item for fiscal year 2021.

If the Director of Job and Family Services determines that
there are not sufficient funds available to provide full
benefits as specified in this act, the Director shall
proportionately reduce benefits so as not to exceed available
funds.

Section 3. Within the limits set forth in this act, the
Director of Budget and Management shall establish accounts
indicating the source and amount of funds for each appropriation
made in this act, and shall determine the form and manner in
which appropriation accounts shall be maintained. Expenditures
from appropriations contained in this act shall be accounted for
as though made in the main operating appropriations act of the
133rd General Assembly.

The appropriations made in this act are subject to all
provisions of H.B. 166 of the 133rd General Assembly that are
generally applicable to such appropriations.
Section 4. (A) As used in this section and Sections 5 to 9 of this act:

(1) "Employee" means an individual performing services for an employer in the business of the employer under either of the following circumstances:

(a) An appointment;

(b) A contract or multiple contracts of hire under which the nature of the relationship between the employer and individual causes the employer and individual to reasonably expect the individual's continued service with the employer for an indefinite time period because of the continuing nature of the relationship, regardless of a single contract's duration or scope.

(2) "Employer" means an individual or entity that employs one or more individuals in this state.

(3) "Quarantine or isolation pay" means payment of an amount equal to an employee's normal rate of pay for every hour during which the employee would normally be scheduled to work.

(4) "Sick leave" means payment of an amount equal to an employee's normal rate of pay for every hour during which the employee would normally be scheduled to work.

(5) "Paid leave" includes paid sick leave, paid vacation leave, paid personal leave, other paid time off, and any combination of those types of leave.

(6) "School" means a school operated by a school district, other public school as defined in section 3301.0711 of the Revised Code, or chartered nonpublic school.

(7) "Domestic violence" means an offense of violence, as
defined in section 2901.01 of the Revised Code, committed
against a family or household member as defined in division (F)
of section 2919.25 of the Revised Code.

(8) "Sexual battery" means the commission of one of the
acts listed under division (A) of section 2907.03 of the Revised
Code.

(9) "Menacing by stalking" means the commission of one of
the acts listed under division (A) of section 2903.211 of the
Revised Code.

(10) "Child" means a biological, foster, or adopted child,
a stepchild, a child of a domestic partner, a legal ward, or
child of a person standing in loco parentis under eighteen years
of age.

(11) "Serious health condition" means an illness, injury,
impairment, or other condition resulting from COVID-19 that
involves continuing treatment or continuing supervision by
another individual.

Section 5. (A) Every employer shall provide quarantine or
isolation pay to an employee in an amount equal to fourteen
days. An employer is not required to provide quarantine or
isolation pay to an employee on or after the ninety-first day
after the emergency declared by Executive Order 2020-01D, issued
on March 9, 2020, ends.

(B) An employee is entitled to use the quarantine or
isolation pay under division (A) of this section immediately on
and after the effective date of this section during the period
of the emergency declared by Executive Order 2020-01D, issued on
March 9, 2020, if the employee is unable to work because of any
one of the following reasons:
(1) The employee is experiencing a serious health condition and is being quarantined or isolated because the employee's presence in the community may jeopardize the health of others.

(2) The employee is obtaining professional medical diagnosis or care or preventive medical care.

(3) The employee is being quarantined or isolated because the employee's presence in the community may jeopardize the health of others due to the employee's exposure to COVID-19, regardless of whether the employee has contracted COVID-19.

(4) The employee is caring for an individual who is experiencing a serious health condition and is being quarantined or isolated because the employee's presence in the community may jeopardize the health of others.

(5) The employee's place of employment has been closed because of the state of emergency due to COVID-19, including at the employer's discretion.

(6) The child care provider or school that a child of the employee attends has been closed because of the state of emergency due to COVID-19, and the employee must remain home to care for the child.

(7) The employee must remain home to care for a family member who has a physical or mental disability because the family member's normal care provider is closed or unavailable because of the state of emergency due to COVID-19.

(8) The employee is seeking assistance because of domestic violence, sexual assault, or stalking.

(C) No employer shall require an employee to use paid
leave accrued by the employee until the employee has received quarantine or isolation pay under this section.

(D) Leave granted under this section that is not used by the ninety-first day after the emergency declared by Executive Order 2020-01D, issued on March 9, 2020, ends, is forfeited.

Section 6. (A) As used in this section, notwithstanding the definition of "employer" in Section 4 of this act, "employer" means any person who has one or more employees. "Employer" does not include the state or any agency or instrumentality of the state, any municipal corporation, county, township, school district, or other political subdivision or any agency or instrumentality thereof.

(B) Every employer shall immediately provide to an employee on the effective date of this section sick leave that is equal to one hour for each completed thirty hours of service performed in the employer's employ during the one-year period before the effective date of this section. An employer is not required to provide an employee with more than fifty-six hours of sick leave under this section and is not required to provide an employee with sick leave under this section on or after the ninety-first day after the period of the emergency declared by Executive Order 2020-01D, issued on March 9, 2020, ends.

(C) An employee is entitled to use sick leave provided under this section for the reasons described in division (B) of Section 5 of this act immediately on and after the effective date of this section. Leave granted under this section that is not used by the ninety-first day after the emergency declared by Executive Order 2020-01D, issued on March 9, 2020, ends is forfeited.
(D) No employer shall require an employee to use paid leave accrued by the employee until the employee has received sick leave under this section.

(E) Nothing in this section limits the ability of an employer to provide an employee with sick leave in an amount that exceeds fifty-six hours.

Section 7. (A) No employer shall fail to comply with Sections 5 and 6 of this act.

(B) No employer shall terminate the employment, discipline, suspend, constructively discharge, demote, unfavorably reassign, refuse to promote, or take other adverse employment action against an employee because the employee has done either of the following:

(1) Failed to report to work for a reason described in division (B) of Section 5 of this act;

(2) Requested to receive quarantine or isolation pay or sick leave under Section 5 or 6 of this act.

Section 8. (A) Any employee who believes the employee has been injured by a violation of Section 7 of this act may file a complaint with the Director of Job and Family Services alleging a violation of that section. The employee shall file the complaint within one year after the alleged violation occurred.

(B) On receiving a complaint filed under division (A) of this section, the Director may conduct an investigation to determine whether it is probable that the employer has violated Section 7 of this act.

(C) If, after the investigation, the Director has reasonable cause to believe that a violation has occurred, the
Director shall issue notice to the employer and employee and hold a hearing pursuant to section 119.09 of the Revised Code to determine whether a violation has occurred.

(D) If, after the hearing, the Director determines that the employer has violated Section 7 of this act, the Director may order all appropriate relief from the employer, including all of the following:

(1) Rehiring or reinstatement of the employee to the employee's previous position;
(2) Payment of back wages;
(3) Reestablishment of employee benefits to which the employee otherwise would have been entitled.

(E) Any party may appeal an order of the Director issued under division (D) of this section to the court of common pleas of the county in which the violation is alleged to have occurred.

Section 9. Any employee who believes the employee has been injured by a violation of Section 7 of this act may file a civil action in the court of common pleas of the county in which the violation allegedly occurred. The employee shall bring the action within one year after the alleged violation occurred.

A court of common pleas that finds that a violation of Section 7 of this act has occurred may order all appropriate relief including damages, injunctive relief, or a civil penalty in an amount fixed by the court.

An employee who believes the employee has been injured by an alleged violation of Section 7 of this act is not required to file a complaint with the Director of Job and Family Services or
to otherwise exhaust the employee's remedies under Section 8 of this act before filing a civil action under this section.

Section 10. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is to minimize the impact to Ohio citizens from the COVID-19 outbreak and help protect further spread of the disease. Therefore, this act shall go into immediate effect.