

HOUSE BILL No. 5165

October 24, 2017, Introduced by Rep. Graves and referred to the Committee on Oversight.

A bill to amend 1936 (Ex Sess) PA 1, entitled
"Michigan employment security act,"
(MCL 421.1 to 421.75) by adding sections 54f, 54g, and 54h.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 54F. (1) AN EMPLOYER THAT IS AN INTERESTED PARTY TO A**
2 **CLAIM FOR BENEFITS MAY REPORT TO THE UNEMPLOYMENT AGENCY THAT THE**
3 **CLAIM IS FRAUDULENT BECAUSE THE INDIVIDUAL WHO FILED THE CLAIM IS**
4 **AN IMPOSTOR. THE UNEMPLOYMENT AGENCY SHALL ACCEPT REPORTS SUBMITTED**
5 **UNDER THIS SUBSECTION BY MAIL, FAX, AND ANY OTHER MEANS APPROVED BY**
6 **THE UNEMPLOYMENT AGENCY AND SHALL MAINTAIN A WEBSITE FOR EMPLOYERS**
7 **TO SUBMIT REPORTS. A REPORT SUBMITTED UNDER THIS SUBSECTION MUST**
8 **INCLUDE ALL OF THE FOLLOWING:**

9 **(A) A STATEMENT THAT THE EMPLOYER BELIEVES THAT THE CLAIM IS**

1 FRAUDULENT BECAUSE THE INDIVIDUAL WHO FILED THE CLAIM IS AN
2 IMPOSTOR AND THE FACTS OR EVIDENCE SUPPORTING ITS BELIEF.

3 (B) THE NAME AND LAST KNOWN ADDRESS OF THE AFFECTED INDIVIDUAL
4 AND, IF AVAILABLE, THE AFFIDAVIT SIGNED BY THE AFFECTED INDIVIDUAL
5 UNDER SUBSECTION (2).

6 (C) A STATEMENT THAT THE EMPLOYER IS NOT MAKING THE REPORT
7 FRIVOLOUSLY AND THAT THE INFORMATION CONTAINED IN THE REPORT IS, TO
8 THE BEST OF THE EMPLOYER'S KNOWLEDGE, COMPLETE AND ACCURATE.

9 (D) THE NAME, ADDRESS, ELECTRONIC MAIL ADDRESS, AND TELEPHONE
10 NUMBER OF THE INDIVIDUAL SUBMITTING THE REPORT.

11 (E) THE SIGNATURE OF THE INDIVIDUAL SUBMITTING THE REPORT.

12 (2) AN AFFECTED INDIVIDUAL MAY SUBMIT AN AFFIDAVIT TO AN
13 EMPLOYER OR THE UNEMPLOYMENT AGENCY. THE UNEMPLOYMENT AGENCY SHALL
14 INCLUDE ON ITS WEBSITE AN AFFIDAVIT FORM THAT MEETS THE
15 REQUIREMENTS OF THIS SUBSECTION. AN AFFIDAVIT SUBMITTED UNDER THIS
16 SUBSECTION MUST INCLUDE ALL OF THE FOLLOWING:

17 (A) THE NAME, ADDRESS, AND SOCIAL SECURITY NUMBER OF THE
18 AFFECTED INDIVIDUAL.

19 (B) A STATEMENT THAT THE AFFECTED INDIVIDUAL DID NOT FILE THE
20 CLAIM FOR BENEFITS WITH THE UNEMPLOYMENT AGENCY.

21 (C) A STATEMENT THAT THE INFORMATION IN THE AFFIDAVIT IS
22 COMPLETE AND ACCURATE.

23 (D) THE SIGNATURE OF THE AFFECTED INDIVIDUAL.

24 (3) UPON RECEIVING BOTH A REPORT SUBMITTED UNDER SUBSECTION
25 (1) AND AN AFFIDAVIT SUBMITTED UNDER SUBSECTION (2), THE
26 UNEMPLOYMENT AGENCY SHALL DO BOTH OF THE FOLLOWING:

27 (A) CANCEL ALL BENEFIT PAYMENTS ON THE CLAIM.

1 (B) MAKE A DETERMINATION WITHIN 2 BUSINESS DAYS REGARDING
2 WHETHER THE CLAIM IS FRAUDULENT AND WHETHER THE IMPOSTOR COMMITTED
3 IDENTITY THEFT AND MAIL THE DETERMINATION TO ALL INTERESTED
4 PARTIES. IF THE UNEMPLOYMENT AGENCY DETERMINES THAT THE IMPOSTOR
5 COMMITTED IDENTITY THEFT, THE DETERMINATION MUST STATE THAT THE
6 CLAIM IS CANCELED AND IS NULL AND VOID.

7 (4) UPON RECEIVING ONLY A REPORT SUBMITTED UNDER SUBSECTION
8 (1) OR UPON RECEIVING ONLY AN AFFIDAVIT SUBMITTED UNDER SUBSECTION
9 (2), THE UNEMPLOYMENT AGENCY SHALL DO ALL OF THE FOLLOWING:

10 (A) NOTIFY THE IMPOSTOR BY MAIL THAT THE IMPOSTOR MUST, WITHIN
11 10 DAYS AFTER THE DATE OF THE NOTICE, PROVIDE PROOF OF HIS OR HER
12 IDENTITY BY PROVIDING THE UNEMPLOYMENT AGENCY WITH COPIES OF THE
13 ACCEPTABLE DOCUMENTS AS PROVIDED IN THE FORM I-9. AS USED IN THIS
14 SUBDIVISION, "FORM I-9" MEANS THE EMPLOYMENT VERIFICATION FORM THAT
15 FULFILLS THE EMPLOYMENT VERIFICATION OBLIGATIONS UNDER 8 CFR
16 274A.2.

17 (B) IF THE IMPOSTOR DOES NOT PROVIDE PROOF OF HIS OR HER
18 IDENTITY PURSUANT TO SUBDIVISION (A), THE UNEMPLOYMENT AGENCY SHALL
19 DO ALL OF THE FOLLOWING:

20 (i) CANCEL ALL BENEFIT PAYMENTS ON THE CLAIM AND ISSUE A
21 DETERMINATION OF THE CANCELLATION TO ALL INTERESTED PARTIES.

22 (ii) CONDUCT AN INVESTIGATION TO DETERMINE WHETHER THE CLAIM
23 IS FRAUDULENT AND WHETHER THE IMPOSTOR COMMITTED IDENTITY THEFT.

24 (iii) MAKE A DETERMINATION REGARDING WHETHER THE CLAIM IS
25 FRAUDULENT AND WHETHER THE IMPOSTOR COMMITTED IDENTITY THEFT AND
26 MAIL THE DETERMINATION TO ALL INTERESTED PARTIES. IF THE
27 UNEMPLOYMENT AGENCY DETERMINES THAT THE IMPOSTOR COMMITTED IDENTITY

1 THEFT, THE DETERMINATION MUST STATE THAT THE CLAIM IS CANCELED AND
2 IS NULL AND VOID.

3 (C) IF THE IMPOSTOR PROVIDES PROOF OF HIS OR HER IDENTITY
4 PURSUANT TO SUBDIVISION (A), THE UNEMPLOYMENT AGENCY SHALL DO BOTH
5 OF THE FOLLOWING:

6 (i) CONDUCT AN INVESTIGATION TO DETERMINE WHETHER THE CLAIM IS
7 FRAUDULENT AND WHETHER THE IMPOSTOR COMMITTED IDENTITY THEFT.

8 (ii) MAKE A DETERMINATION REGARDING WHETHER THE CLAIM IS
9 FRAUDULENT AND WHETHER THE IMPOSTOR COMMITTED IDENTITY THEFT AND
10 MAIL THE DETERMINATION TO ALL INTERESTED PARTIES.

11 (5) AN INTERESTED PARTY MAY APPEAL A DETERMINATION MADE UNDER
12 SUBSECTION (3) OR (4) PURSUANT TO SECTION 32A.

13 (6) IF THE UNEMPLOYMENT AGENCY DETERMINES UNDER SUBSECTION (3)
14 OR (4) THAT AN IMPOSTOR COMMITTED IDENTITY THEFT TO OBTAIN
15 BENEFITS, THE UNEMPLOYMENT AGENCY SHALL, WITHIN 60 DAYS AFTER THE
16 DETERMINATION BECOMES FINAL, CREDIT THE EMPLOYER'S ACCOUNT FOR THE
17 BENEFITS PAID TO THE IMPOSTOR THAT WERE CHARGED TO THE EMPLOYER'S
18 ACCOUNT.

19 (7) UPON THE REQUEST OF AN INDIVIDUAL, THE UNEMPLOYMENT AGENCY
20 SHALL PROVIDE THE INDIVIDUAL WITH ANY DETERMINATIONS THE
21 UNEMPLOYMENT AGENCY MADE REGARDING A CLAIM SUBMITTED BY AN IMPOSTOR
22 TO WHICH THE INDIVIDUAL WAS AN INTERESTED PARTY.

23 (8) AN EMPLOYER THAT SUBMITS A FRIVOLOUS REPORT OR OTHERWISE
24 INTENTIONALLY MISREPRESENTS INFORMATION IN A REPORT SUBMITTED UNDER
25 SUBSECTION (1), OR AN INDIVIDUAL WHO INTENTIONALLY MISREPRESENTS
26 INFORMATION IN AN AFFIDAVIT SUBMITTED UNDER SUBSECTION (2), IS
27 SUBJECT TO THE SANCTIONS AND PENALTIES AS PROVIDED IN SECTION 54.

1 (9) AN AFFECTED INDIVIDUAL IS AN INTERESTED PARTY FOR PURPOSES
2 OF THIS SECTION AND ANY APPEALS MADE UNDER SECTION 32A RELATED TO A
3 DETERMINATION MADE UNDER THIS SECTION.

4 (10) AS USED IN THIS SECTION:

5 (A) "AFFECTED INDIVIDUAL" MEANS AN INDIVIDUAL WHOSE IDENTITY
6 WAS OR IS ALLEGED TO HAVE BEEN STOLEN BY AN IMPOSTOR.

7 (B) "IDENTITY THEFT" MEANS THAT TERM AS DEFINED IN SECTION 24
8 OF CHAPTER VII OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL
9 767.24.

10 (C) "IMPOSTOR" MEANS AN INDIVIDUAL WHO COMMITTED OR IS ALLEGED
11 TO HAVE COMMITTED IDENTITY THEFT TO OBTAIN BENEFITS.

12 SEC. 54G. (1) BY JANUARY 31 EACH YEAR, BEGINNING IN 2019, THE
13 UNEMPLOYMENT AGENCY SHALL PROVIDE A WRITTEN REPORT REGARDING CLAIMS
14 SUBMITTED BY IMPOSTORS UNDER THIS ACT TO THE CHAIRPERSONS OF THE
15 STANDING COMMITTEES AND THE APPROPRIATIONS SUBCOMMITTEES OF THE
16 HOUSE OF REPRESENTATIVES AND SENATE HAVING JURISDICTION OVER
17 LEGISLATION PERTAINING TO EMPLOYMENT SECURITY. THE REPORT MUST
18 INCLUDE ALL OF THE FOLLOWING INFORMATION FROM THE IMMEDIATELY
19 PRECEDING CALENDAR YEAR IN A FORM THAT DOES NOT IDENTIFY AN
20 INDIVIDUAL, CLAIMANT, OR EMPLOYER:

21 (A) THE PROCEDURES THE UNEMPLOYMENT AGENCY HAS ADOPTED TO
22 MITIGATE THE INCIDENCE OF CLAIMS SUBMITTED BY IMPOSTORS.

23 (B) THE TOTAL NUMBER OF REPORTS SUBMITTED UNDER SECTION 54F(1)
24 AND THE NUMBER OF REPORTS SUBMITTED UNDER SECTION 54F(1) THAT THE
25 UNEMPLOYMENT AGENCY DETERMINED MET THE REQUIREMENTS OF SECTION
26 54F(8).

27 (C) THE TOTAL NUMBER OF AFFIDAVITS SUBMITTED UNDER SECTION

1 54F(2) AND THE NUMBER OF AFFIDAVITS SUBMITTED UNDER SECTION 54F(2)
2 THAT THE UNEMPLOYMENT AGENCY DETERMINED MET THE REQUIREMENTS OF
3 SECTION 54F(8).

4 (D) THE NUMBER OF DETERMINATIONS MADE UNDER SECTION 54F(3) AND
5 (4) WHERE THE UNEMPLOYMENT AGENCY DETERMINED THAT AN IMPOSTOR
6 COMMITTED IDENTITY THEFT.

7 (E) THE NUMBER OF DETERMINATIONS MADE UNDER SECTION 54F(3) AND
8 (4) WHERE THE UNEMPLOYMENT AGENCY DETERMINED THAT AN IMPOSTOR DID
9 NOT COMMIT IDENTITY THEFT.

10 (F) THE TOTAL AMOUNT OF BENEFITS PAID TO IMPOSTORS AND THE
11 TOTAL AMOUNT RECOVERED FROM IMPOSTORS.

12 (2) AS USED IN THIS SECTION:

13 (A) "IDENTITY THEFT" MEANS THAT TERM AS DEFINED IN SECTION 24
14 OF CHAPTER VII OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL
15 767.24.

16 (B) "IMPOSTOR" MEANS THAT TERM AS DEFINED IN SECTION 54F.

17 SEC. 54H. (1) THE DIRECTOR SHALL APPOINT AN INDIVIDUAL TO
18 PERFORM ACTIVITIES THAT INCLUDE, BUT ARE NOT LIMITED TO:

19 (A) MAKING REFERRALS FOR CRIMINAL, CIVIL, AND ADMINISTRATIVE
20 ACTION AND DISPOSITION OF APPROPRIATE CASES INVOLVING IMPOSTORS.

21 (B) REVIEWING ADMINISTRATIVE POLICIES, PRACTICES, AND
22 PROCEDURES.

23 (C) REVIEWING PROCEDURES THE UNEMPLOYMENT AGENCY HAS ADOPTED
24 TO MITIGATE THE INCIDENCE OF CLAIMS SUBMITTED BY IMPOSTORS, AND
25 MAKING RECOMMENDATIONS TO IMPROVE THOSE PROCEDURES.

26 (D) MAKING RECOMMENDATIONS TO IMPROVE INTEGRITY AND
27 ACCOUNTABILITY WITHIN THE UNEMPLOYMENT AGENCY.

1 **(E) WORKING WITH THE AUDITOR GENERAL TO ENSURE EFFECTIVE AND**
2 **EFFICIENT PROCESSES WITHIN THE UNEMPLOYMENT AGENCY.**

3 **(2) AS USED IN THIS SECTION, "IMPOSTOR" MEANS THAT TERM AS**
4 **DEFINED IN SECTION 54F.**

5 Enacting section 1. This amendatory act takes effect 90 days
6 after the date it is enacted into law.

7 Enacting section 2. This amendatory act does not take effect
8 unless all of the following bills of the 99th Legislature are
9 enacted into law:

10 (a) Senate Bill No. _____ or House Bill No. 5169 (request no.
11 03872'17).

12 (b) Senate Bill No. _____ or House Bill No. 5167 (request no.
13 03873'17).

14 (c) Senate Bill No. _____ or House Bill No. 5172 (request no.
15 03874'17).

16 (d) Senate Bill No. _____ or House Bill No. 5170 (request no.
17 03876'17).

18 (e) Senate Bill No. _____ or House Bill No. 5168 (request no.
19 03878'17).

20 (f) Senate Bill No. _____ or House Bill No. 5166 (request no.
21 03879'17).

22 (g) Senate Bill No. _____ or House Bill No. 5171 (request no.
23 03880'17).