

# HOUSE BILL NO. 6182

June 09, 2022, Introduced by Reps. LaFave and Steven Johnson and referred to the Committee on Oversight.

A bill to amend 1936 (Ex Sess) PA 1, entitled  
"Michigan employment security act,"  
by amending section 62 (MCL 421.62), as amended by 2017 PA 231, and  
by adding section 28n.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 28n. (1) Notwithstanding any other provision of this act,  
2 each week the unemployment agency shall verify that each claimant  
3 who is receiving benefits is eligible to receive benefits by  
4 reviewing the information in all of the following:

1 (a) The Integrity Data Hub operated by the National  
2 Association of State Workforce Agencies.

3 (b) The National Directory of New Hires operated by the United  
4 States Department of Health and Human Services.

5 (c) The database prepared by the department of corrections and  
6 transmitted to the unemployment agency under section 7b of the  
7 corrections code of 1953, 1953 PA 232, MCL 791.207b.

8 (d) The death records for this state.

9 (e) Any other source of information that the unemployment  
10 agency determines is relevant.

11 (2) By February 1 of each year, the unemployment agency shall  
12 provide a written report regarding the verifications performed  
13 under subsection (1) to the chairpersons of the standing committees  
14 and the appropriations subcommittees of the house of  
15 representatives and senate that have jurisdiction over legislation  
16 that pertains to employment security. The report must include all  
17 of the following information from the immediately preceding  
18 calendar year in a form that does not identify an individual,  
19 claimant, or employer:

20 (a) Whether the unemployment agency complied with subsection  
21 (1) for each week covered by the report and, if not, an explanation  
22 as to why the unemployment agency did not comply with subsection  
23 (1).

24 (b) The total dollar amount of improper payments that were  
25 discovered because of the weekly verifications, delineated between  
26 payments for benefits and payments for extended benefits.

27 (c) The total dollar amount of improper payments that would  
28 have been paid but for the weekly verifications, delineated between  
29 payments for benefits and payments for extended benefits.

1       Sec. 62. (a) If the unemployment agency determines that an  
2 individual has obtained benefits to which the individual is not  
3 entitled, or a subsequent determination by the agency or a decision  
4 of an appellate authority reverses a prior qualification for  
5 benefits, the agency may, **not later than 60 days after the issuance**  
6 **of benefits**, recover a sum equal to the amount received plus  
7 interest pursuant to section 15(a) by 1 or more of the following  
8 methods: deduction from benefits or wages payable to the  
9 individual, payment by the individual in cash, or deduction from a  
10 tax refund payable to the individual as provided under section 30a  
11 of 1941 PA 122, MCL 205.30a. **However, if after the 60-day period**  
12 **the unemployment agency determines that an individual has obtained**  
13 **benefits to which the individual is not entitled, and if the**  
14 **individual obtained the benefits solely because the individual**  
15 **overstated his or her earnings by \$500.00 or more in the**  
16 **individual's application for benefits, the unemployment agency may**  
17 **recover only the sum equal to the amount received as a result of**  
18 **the individual's overstatement of his or her earnings plus interest**  
19 **pursuant to section 15(a).** Deduction from benefits or wages payable  
20 to the individual is limited to not more than 50% of each payment  
21 due the claimant. The unemployment agency shall issue a  
22 determination requiring restitution within 3 years after the date  
23 of finality of a determination, redetermination, or decision  
24 reversing a previous finding of benefit entitlement. Except in the  
25 case of benefits improperly paid because of suspected identity  
26 fraud, the unemployment agency shall not initiate administrative or  
27 court action to recover improperly paid benefits from an individual  
28 more than 3 years after the date that the last determination,  
29 redetermination, or decision establishing restitution is final.

1 Except in the case of benefits improperly paid because of suspected  
2 identity fraud, the unemployment agency shall issue a restitution  
3 determination on an issue within 3 years from the date the claimant  
4 first received benefits in the benefit year in which the issue  
5 arose, or in the case of an issue of intentional false statement,  
6 misrepresentation, or concealment of material information in  
7 violation of section 54(a) or (b) or sections 54a to 54c, within 3  
8 years after the receipt of the improperly paid benefits unless the  
9 unemployment agency filed a civil action in a court within the 3-  
10 year period; the individual made an intentional false statement,  
11 misrepresentation, or concealment of material information to obtain  
12 the benefits; or the unemployment agency issued a determination  
13 requiring restitution within the 3-year period. The time limits in  
14 this section do not prohibit the unemployment agency from pursuing  
15 collection methods to recover the amounts found to have been  
16 improperly paid. Except in a case of an intentional false  
17 statement, misrepresentation, or concealment of material  
18 information, the unemployment agency ~~shall~~**may** waive recovery of an  
19 improperly paid benefit if repayment would be contrary to equity  
20 and good conscience and ~~shall~~**may** waive any interest. If the agency  
21 or an appellate authority waives collection of restitution and  
22 interest, except as provided in subdivision (ii), the waiver is  
23 prospective and does not apply to restitution and interest payments  
24 already made by the individual. As used in this subsection,  
25 "contrary to equity and good conscience" means any of the  
26 following:

27 (i) The claimant provided incorrect wage information without  
28 the intent to misrepresent, and the employer provided either no  
29 wage information upon request or provided inaccurate wage

1 information that resulted in the overpayment.

2 (ii) The claimant's average net household income and household  
3 cash assets, exclusive of social welfare benefits, were, during the  
4 6 months immediately preceding the date of the application for  
5 waiver, at or below ~~150%~~ **125%** of the annual update of the poverty  
6 guidelines most recently published in the Federal Register by the  
7 United States Department of Health and Human Services under the  
8 authority of 42 USC 9902(2), and the claimant has applied for a  
9 waiver under this subsection. The unemployment agency shall not  
10 consider a new application for a waiver from a claimant within 6  
11 months after receiving an application for a waiver from the  
12 claimant. A waiver granted under the conditions described in this  
13 subdivision applies from the date the application is filed. If the  
14 waiver is granted, the unemployment agency shall promptly refund  
15 any restitution or interest payments made by the individual after  
16 the date of the application for waiver. As used in this  
17 subdivision:

18 (A) "Cash assets" means cash on hand and funds in a checking  
19 or savings account.

20 (B) "Dependent" means that term as defined in section  
21 27(b)(4).

22 (C) "Household" means a claimant and the claimant's  
23 dependents.

24 (iii) The improper payments **were less than a total of \$5,000.00**  
25 **and** resulted from an administrative or clerical error by the  
26 unemployment agency. A requirement to repay benefits as the result  
27 of a change in judgment at any level of administrative adjudication  
28 or court decision concerning the facts or application of law to a  
29 claim adjudication is not an administrative or clerical error for

1 purposes of this subdivision.

2 (b) If the unemployment agency determines that a claimant has  
3 intentionally made a false statement or misrepresentation or has  
4 concealed material information to obtain benefits, whether or not  
5 the claimant obtains benefits by or because of the intentional  
6 false statement, misrepresentation, or concealment of material  
7 information, the unemployment agency shall, in addition to any  
8 other applicable interest and penalties, cancel his or her rights  
9 to benefits for the benefit year in which the act occurred as of  
10 the date the claimant made the false statement or misrepresentation  
11 or concealed material information, and shall not use wages used to  
12 establish that benefit year to establish another benefit year. A  
13 chargeable employer may protest a claim filed after October 1, 2014  
14 to establish a successive benefit year under section 46(c), if  
15 there was a determination by the unemployment agency or decision of  
16 a court or administrative tribunal finding that the claimant made a  
17 false statement, made a misrepresentation, or concealed material  
18 information related to his or her report of earnings for a  
19 preceding benefit year claim. If a protest is made, the  
20 unemployment agency shall not use any unreported earnings from the  
21 preceding benefit year that were falsely stated, misrepresented, or  
22 concealed to establish a benefit year for a successive claim.  
23 Before receiving benefits in a benefit year established within 4  
24 years after cancellation of rights to benefits under this  
25 subsection, the claimant, in addition to making the restitution of  
26 benefits established under subsection (a), may be liable for an  
27 additional amount as otherwise determined by the unemployment  
28 agency under this act, which may be paid by cash, deduction from  
29 benefits, or deduction from a tax refund. The claimant is liable

1 for any fee the federal government imposes with respect to  
2 instituting a deduction from a federal tax refund. Restitution  
3 resulting from the intentional false statement, misrepresentation,  
4 or concealment of material information is not subject to the 50%  
5 limitation provided in subsection (a).

6 (c) Any determination made by the unemployment agency under  
7 this section is final unless an application for a redetermination  
8 is filed in accordance with section 32a.

9 (d) The unemployment agency shall take the action necessary to  
10 recover all benefits improperly obtained or paid under this act,  
11 and to enforce all interest and penalties under subsection (b). The  
12 unemployment agency may conduct an amnesty program for a designated  
13 period under which penalties and interest assessed against an  
14 individual owing restitution for improperly paid benefits may be  
15 waived if the individual pays the full amount of restitution owing  
16 within the period specified by the agency.

17 (e) Interest recovered under this section must be deposited in  
18 the contingent fund.

19 (f) The unemployment agency shall not make a determination  
20 that a claimant made an intentional false statement,  
21 misrepresentation, or concealment of material information that is  
22 subject to sanctions under this section based solely on a computer-  
23 identified discrepancy in information supplied by the claimant or  
24 employer. An unemployment agency employee or agent must examine the  
25 facts and independently determine that the claimant or the employer  
26 is responsible for a willful or intentional violation before the  
27 agency makes a determination under this section.

28 (g) By January 31 each year, beginning in 2019, the  
29 unemployment agency shall provide a written report regarding

1 waivers under subsection (a) (ii) to the chairpersons of the standing  
2 committees and the appropriations subcommittees of the house of  
3 representatives and senate having jurisdiction over legislation  
4 pertaining to employment security. The report must include all of  
5 the following information from the immediately preceding calendar  
6 year in a form that does not identify an individual, claimant, or  
7 employer:

8 (i) The procedures relating to waivers that the unemployment  
9 agency used or adopted.

10 (ii) The number of applications for a waiver the unemployment  
11 agency received.

12 (iii) The number of individuals who submitted an application for  
13 a waiver.

14 (iv) The number of waivers that were granted by each of the  
15 following methods:

16 (A) An unemployment agency determination.

17 (B) An unemployment agency redetermination.

18 (C) An administrative law judge order.

19 (D) A Michigan compensation appellate commission order.

20 (E) A court order.

21 (v) The number of waivers that were denied, tabulated by the  
22 reason for the denial, by each of the following methods:

23 (A) An unemployment agency determination.

24 (B) An unemployment agency redetermination.

25 (C) An administrative law judge order.

26 (D) A Michigan compensation appellate commission order.

27 (E) A court order.

28 (vi) The total amount of restitution waived.

29 Enacting section 1. This amendatory act does not take effect



- 1 unless Senate Bill No.\_\_\_\_ or House Bill No. 6181 (request no.
- 2 03457'21 a) of the 101st Legislature is enacted into law.