

House Bill 312

By: Representatives Schofield of the 63rd, Scott of the 76th, McClain of the 109th, and Davis of the 87th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 7 of Chapter 8 of Title 34 of the Official Code of Georgia Annotated,
2 relating to employment security benefits, so as to allow applicants for benefits to obtain their
3 personnel files when their claims are contested by their former employers; to provide for
4 definitions; to require the Department of Labor to modify the separation notice; to sanction
5 employers who fail to timely deliver personnel files; to prohibit the admissibility of certain
6 separation notices; to require the Commissioner of Labor to enact rules or regulations; to
7 provide for related matters; to provide for a short title; to provide for an effective date; to
8 repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 This Act shall be known and may be cited as the "Employee Empowerment and
12 Transparency Act."

13 **SECTION 2.**

14 Article 7 of Chapter 8 of Title 34 of the Official Code of Georgia Annotated, relating to
15 employment security benefits, is amended by adding a new Code section to read as follows:

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16 "34-8-200.

17 (a) As used in this Code section, the term:

18 (1) 'Claimant' means a separated employee whose employer that separated him or her
19 from employment is a contesting employer.

20 (2) 'Contesting employer' means an employer that has indicated on a separation notice
21 that it contends that the separated employee cannot establish the existence of any of the
22 statutory grounds set forth in subparagraph (B) of paragraph (2) of Code
23 Section 34-8-194.

24 (3) 'Contesting employer's representative' means the individual who signed the separation
25 notice on behalf of the contesting employer.

26 (4) 'Deficiency notice' means a claimant's written notice contending that the personnel
27 file that is the subject of the written demand was not timely delivered.

28 (5) 'Mailing address' means a street or route address or post office box address.

29 (6) 'Personnel file' means:

30 (A) The entire unredacted personnel or employment record made or kept by a
31 contesting employer relating to a claimant, including, but not limited to, records
32 required to be maintained under Code Section 34-2-11, in addition to records relating
33 to hiring, promotion, demotion, transfer, layoff, separation, and termination; or

34 (B) A portion of such personnel or employment record made or kept by the contesting
35 employer when a written demand requests such designated portion of the personnel or
36 employment record.

37 Such term shall not include any documents separately maintained by an employer in a
38 medical file.

39 (7) 'Proof of delivery' means documentary proof that a contesting employer has sent the
40 claimant's personnel file via the delivery method specified in the written demand.

41 (8) 'Proof of payment' means a copy of a money order receipt, bank transaction, or
42 confirmation of a payment by credit card or debit card.

43 (9) 'Separated employee' means an employee who is separated from employment
44 whether voluntarily or involuntarily.

45 (10) 'Separation notice' means the form that must be completed pursuant to
46 subsection (c) of Code Section 34-8-190 for each employee who leaves an employer's
47 employment regardless of the reason for separation. Such term shall not include any
48 forms that are completed for reasons of partial unemployment or mass separation.

49 (11) 'Signed writing' means either an email with the claimant's name in the body of the
50 email or a paper document with the claimant's signature affixed thereto.

51 (12) 'Statutory fee' means payment in the form of a money order, bank transaction, debit
52 card, or credit card in the amount of \$30.00 when a claimant requests delivery of his or
53 her personnel file via electronic means and \$40.00 when a claimant requests delivery of
54 his or her personnel file to a mailing address.

55 (13) 'Written demand' means a signed writing by the claimant that demands a copy of the
56 claimant's personnel file as designated by the claimant and that specifies the method of
57 delivery.

58 (b) Any claimant separated from employment on and after October 1, 2025, shall be
59 entitled to receive from the contesting employer a copy of his or her personnel file.

60 (c) No later than September 30, 2025, the department shall modify the separation notice
61 to include:

62 (1) A section where an employer can indicate whether it contends that the separated
63 employee can or cannot establish the existence of any of the statutory grounds set forth
64 in subparagraph (B) of paragraph (2) of Code Section 34-8-194; and

65 (2) An obvious notation that a separated employee is entitled to demand delivery of his
66 or her personnel file pursuant to this Code section if the employer has indicated on the
67 separation form that it contends that the separated employee cannot establish the
68 existence of any of the statutory grounds set forth in subparagraph (B) of paragraph (2)

69 of Code Section 34-8-194. Such notation shall advise the separated employee of the
70 deadline established in subsection (e) of this Code section.

71 (d) On and after October 1, 2025, a separated employee shall be deemed to have
72 established the existence of one or more of the statutory grounds set forth in
73 subparagraph (B) of paragraph (2) of Code Section 34-8-194 if the completed separation
74 notice relating to the separated employee does not indicate that the employer contends that
75 the separated employee cannot establish the existence of any such statutory grounds.

76 (e) To be entitled to receive his or her personnel file from a contesting employer, a
77 claimant shall send a written demand to the contesting employer's representative. Such
78 written demand shall be sent no later than ten calendar days after the claimant's receipt of
79 the separation notice.

80 (f) The written demand shall:

81 (1) Indicate whether the claimant desires to receive his or her personnel file in electronic
82 format via email or in paper format via delivery to a mailing address; and

83 (2) Include the applicable statutory fee.

84 (g) Within five business days of receiving a written demand and the applicable statutory
85 fee, a contesting employer shall be required to deliver the claimant's personnel file via the
86 delivery method specified in the written demand and to maintain such proof of delivery.

87 (h) A claimant who contends that a contesting employer failed to timely deliver his or her
88 personnel file shall simultaneously send a deficiency notice to the contesting employer's
89 representative and to the department no later than 14 calendar days after the date on which
90 the personnel file was required to be delivered. The deficiency notice shall include proof
91 of payment. A failure to timely and simultaneously send a deficiency notice to the
92 contesting employer's representative and the department or a failure to include proof of
93 payment shall extinguish a claimant's ability under this Code section to obtain his or her
94 personnel file.

- 95 (i) Within seven business days of receiving a deficiency notice, the contesting employer
96 shall be required to provide proof of delivery to the claimant and to the department. The
97 date of receipt of the deficiency notice shall be deemed to be three business days after the
98 date the claimant sends a copy of the deficiency notice to the contesting employer's
99 representative whether by email or mail.
- 100 (j) Provided that a claimant's deficiency notice complies with subsection (h) of this Code
101 section, a contesting employer shall, in connection with a claim for benefits filed by the
102 claimant, be prohibited from applying for reconsideration of the initial determination of
103 benefits pursuant to Code Section 34-8-192 or otherwise appealing a determination that the
104 claimant is entitled to benefits if the contesting employer:
- 105 (1) Fails to produce proof of delivery by the deadline specified in subsection (i) of this
106 Code section; or
- 107 (2) Proof of delivery establishes that the contesting employer failed to deliver to the
108 claimant the personnel file within the time period established in subsection (g) of this
109 Code section.
- 110 (k) A separation notice indicating that an employer contends that a separated employee can
111 establish one or more of the statutory grounds set forth in subparagraph (B) of
112 paragraph (2) of Code Section 34-8-194 shall not be admissible against the employer in any
113 proceeding before a court of this state or the United States or before any local, state, or
114 federal administrative agency, other than a proceeding instituted under this chapter.
- 115 (l) The Commissioner shall promulgate rules and regulations necessary to implement and
116 effectuate the provisions of this Code section."

117 **SECTION 3.**

118 This Act shall become effective upon its approval by the Governor or upon its becoming law
119 without such approval.

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SECTION 4.

121 All laws and parts of laws in conflict with this Act are repealed.