

# VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

## CHAPTER 550

*An Act to amend and reenact §§ 63.2-609 and 63.2-1908 of the Code of Virginia and to repeal § 63.2-604 of the Code of Virginia, relating to TANF; family cap.*

[H 690]

Approved March 31, 2020

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 63.2-609 and 63.2-1908 of the Code of Virginia are amended and reenacted as follows:**

**§ 63.2-609. VIEW exemptions.**

The following TANF recipients shall be exempt from mandatory participation in VIEW and shall remain eligible for TANF financial assistance:

1. Any individual, including all minor caretakers, under 16 years of age;
2. Any individual at least 16, but no more than 19 years of age, who is enrolled full-time in elementary or secondary school, including career and technical education programs. The career and technical education program must be equivalent to secondary school. Whenever feasible, such recipients should participate in summer work;
3. Any individual who is unable to participate because of a temporary medical condition that is preventing employment or training, as determined by a physician or other qualified medical professional and certified by a written medical statement. Such an exemption shall be reevaluated every 60 days to determine whether the person is still exempt;
4. Any individual who is disabled, as determined by receipt of Social Security Disability Benefits or Supplemental Security Income;
5. Any individual 60 years of age or older;
6. Any individual who is the sole caregiver of another member of the household who is disabled as determined by receipt of Social Security Disability Benefits or Supplemental Security Income or who is incapacitated by another condition as determined by the Board and whose presence is essential for the care of the other member on a substantially continuous basis;
7. A parent or caretaker-relative of a child under 12 months of age who personally provides care for the child. A parent or caretaker-relative exempt from mandatory participation in VIEW pursuant to this subdivision shall be exempt for a period of no more than 12 months. Months during which a parent or caretaker-relative is exempt may be consecutive or nonconsecutive. ~~A parent of a child not considered part of the TANF public assistance unit under § 63.2-604 may be granted a temporary exemption of not more than six weeks after the birth of such child.~~

In a TANF-UP case, both parents shall be referred for participation unless one meets an exemption; only one parent can be exempt. If both parents meet an exemption criterion, they shall decide who will be referred for participation.

**§ 63.2-1908. Payment of public assistance for child or custodial parent constitutes debt to Department by noncustodial parents; limitations; Department subrogated to rights.**

Any payment of public assistance money made to or for the benefit of any dependent child or children or their custodial parent creates a debt due and owing to the Department by the person or persons who are responsible for support of such children or custodial parent in an amount equal to the amount of public assistance money so paid. ~~However, if a custodial parent receives TANF payments for some of the custodial parent's dependent children but not for other children pursuant to § 63.2-604, the custodial parent shall receive the total amount of support collected for the children for whom no TANF benefits are received. Such support payments shall not create a debt due and owing to the Department and the value of such payments shall not be counted as income for purposes of TANF eligibility and grant determination.~~ Where there has been a court order for support, final decree of divorce ordering support, or administrative order under the provisions of this chapter for support, the debt shall be limited to the amount of such order or decree. The Commissioner, pursuant to § 63.2-1922, shall establish the debt in an amount determined to be consistent with a noncustodial parent's ability to pay. The Department shall have the right to petition the appropriate court for modification of a court order on the same grounds as either party to such cause.

The Department shall be subrogated to the right of such child or children or custodial parent to prosecute or maintain any support action or execute any administrative remedy existing under the laws of the Commonwealth to obtain reimbursement of moneys thus expended and may collect on behalf of any such child, children or custodial parent any amount contained in any court order of support or any administrative order of support regardless of whether or not the amount of such orders exceeds the amount of public assistance paid. Any support paid in excess of the total amount of public assistance paid shall be returned to the custodial parent by the Department. If a court order for support or final

decree of divorce ordering support enters judgment for an amount of support to be paid by such noncustodial parent, the Department shall be subrogated to the debt created by such order, and said money judgment shall be deemed to be in favor of the Department. In any judicial proceeding brought by an attorney on behalf of the Department pursuant to this section to enforce a support obligation in which the Department prevails, attorney's fees shall be assessed pursuant to § 63.2-1960.

The Department shall have the authority to pursue establishment and enforcement actions against the person responsible for support after the closure of the public assistance case unless the custodial parent notifies the Department in writing that child support enforcement services are no longer desired.

Debt created by an administrative support order under this section shall not be incurred by nor at any time be collected from a noncustodial parent who is the recipient of public assistance moneys for the benefit of minor dependent children for the period such person or persons are in such status. Recipients of federal supplemental security income shall not be subject to the establishment of an administrative support order while they receive benefits from that source.

**2. That § 63.2-604 of the Code of Virginia is repealed.**